

RESOLUTION NO. 94-19

A RESOLUTION TO AMEND RESOLUTION NO. 159-18
INCREASING THE 2019 SAND CREEK DRAINAGE BASIN
FEE

WHEREAS, on December 11, 2018, City Council approved Resolution No. 159-18 establishing the 2019 Sand Creek Drainage Basin Fee; and

WHEREAS, at the December 6, 2018 meeting of the City/County Drainage Board, the Board approved a recommendation to increase the Sand Creek Drainage Basin Fee by \$28.08 per acre.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The 2019 Sand Creek Drainage Basin Fee is increased to \$12,673 per acre and adopted by the City Council based on the City/County Drainage Board recommendation as shown on the Fee Schedule attached and incorporated herein as Exhibit A.

Dated at Colorado Springs, Colorado this 8th day of October, 2019.



Council President

ATTEST:


Sarah B. Johnson, City Clerk


Exhibit A

2019 DRAINAGE, BRIDGE AND POND FEES CITY OF COLORADO SPRINGS Proposed

Basin Name	DBPS Year	Drainage Fee/Acre	Bridge Fee/Acre	Pond Land Fee/Acre	Pond Facility Fee/Acre	Surcharge/Acre
19th Street	1964	\$4,030				
21st Street	1977	\$6,151				
Bear Creek	1980	\$3,959	\$373			
Big Johnson, Crews	1991	\$15,316	\$1,259	\$241		
Black Squirrel Creek	1989	\$14,302	\$1,603	\$789		
Camp Creek	1964	\$2,270				
Cottonwood Creek ^{1, 2}	2000	\$13,923	\$1,130			\$723
Douglas Creek	1981	\$12,728	\$285			
Dry Creek ³	1966	\$0.00				
Elkhorn Basin ⁴	n/a	\$0.00				
Fishers Canyon ⁵	1991	\$0.00				
Fountain Creek ⁶	n/a	VAR				
Jimmy Camp Creek	2015	\$7,975			\$2,599	
Kettle Creek ⁷ Old Ranch Trib.	2001	\$0.00				
Little Johnson	1988	\$13,367		\$1,227		
Mesa	1986	\$10,699				
Middle Tributary	1987	\$6,995		\$1,121		
Miscellaneous ⁸	n/a	\$11,905				
Monument Branch ¹²	1987	\$0.00				
North Rockrimmon	1973	\$6,152				
Park Vista (MDDP)	2004	\$17,135				
Peterson Field	1984	\$12,925	\$595			
Pine Creek ⁹	1988	\$0.00				
Pope's Bluff	1976	\$4,096	\$701			
Pulpit Rock	1968	\$6,784				
Sand Creek ¹⁰	1996	\$12,673	\$761	\$1,070	\$3,676	\$1,333
Shooks Run ¹¹	1994	\$0.00				
Smith Creek ¹²	2002	\$0.00				
South Rockrimmon	1976	\$4,810				
Southwest Area	1984	\$13,467				
Spring Creek	1968	\$10,609				
Templeton Gap	1977	\$6,997	\$77			
Windmill Gulch	1992	\$14,594	\$271	\$3,055		

All Drainage, Bridge and Detention Pond Facilities Fees adjusted by 6.7% over 2018 by City Council Resolution No. 159-18 on December 11, 2018 to be effective on January 1, 2019. Land Fees are based on the Park Land Dedication Fee which is currently \$76,602/acre (0% change for inflation in 2018). Increase of \$28.00 to Sand Creek Drainage Fee approved by City Council by Resolution ____ on September ____, 2019.

¹ The 2018 Cottonwood Creek drainage fee consists of a capital improvement fee of \$10,853 per acre and land fee of \$3,069 per acre for a total of \$13,923 per acre. These fees are adjusted annually using different procedures but are combined for collection purposes. **The surcharge fee of \$723/ac is due in cash; credits for prior facility construction cannot be used to offset this fee,** which is deposited into a separate City fund known as the "Cottonwood Creek Surcharge" fund.

² The Wolf Ranch portion of the Cottonwood Creek Drainage Basin was approved as a "no fee" basin as to Drainage Fees only by City Council on August 28, 2018 by Resolution No. 96-18

³ Dry Creek is a closed basin per City Council Resolution No.118-08 on June 24, 2008

⁴ Elkhorn Basin is a closed basin per the Annexation Agreements for the area.

⁵ Fishers Canyon is a closed basin per City Council Resolution No. 74-08 on April 22, 2008.

⁶ Pursuant to the recommendation of the Subdivision Storm Drainage Board adopted at its meeting of September 15, 1977, there are exempted and excluded from the provisions of this part construction of the main Fountain Creek Channel from the confluence of Fountain Creek with Monument Creek northwest to the City limits. Land developments taking place adjacent to Fountain Creek shall remain responsible for dedicating rights of way necessary for the channelization of Fountain Creek, and the developers shall continue to pay to the City as a condition of subdivision plat approval the applicable drainage fees. Drainage fees are required in accordance with the appropriate basin study.

⁷ Kettle Creek Old Ranch Tributary is a closed basin per City Council Resolution 139-02 on August 27, 2002.

⁸ Miscellaneous fee is assessed on unstudied areas and the Roswell and Westside Basins.

⁹ Pine Creek is a closed basin per City Council Resolution No.236-88 on December 13, 1988.

¹⁰ Sand Creek Detention Pond #2 Surcharge (Ridgeview and Indigo Ranch) = \$1,333/ac. for 2019. Sand Creek Pond fees include two components, one for facility construction costs (\$3,676) and one for land dedication costs (\$1,070), the total Pond fee within Sand Creek is \$4,746/ac.

¹¹ Shooks Run is a closed basin pursuant to the recommendation of the Drainage Board, adopted at its meeting on October 15, 1963.

¹² Smith Creek is a closed basin per City Council Resolution 140-02 on August 27, 2002

¹² Monument Branch Basin is a closed basin per City Council Res. 177-10 on October 12, 2010

Exhibit B

2019 DRAINAGE, BRIDGE AND POND FEES CITY OF COLORADO SPRINGS Effective January 1, 2019

Basin Name	DBPS Year	Drainage Fee/Acre	Bridge Fee/Acre	Pond Land Fee/Acre	Pond Facility Fee/Acre	Surcharge/Acre
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**CITY OF COLORADO SPRINGS/EL PASO COUNTY
DRAINAGE BOARD MEETING SUMMARY
DECEMBER 6, 2018**

The City of Colorado Springs/El Paso County Drainage Board held its meeting at 3:00 PM, Thursday, December 6, 2018 in the City Council Chambers at City Hall at 107 N. Nevada Avenue.

MEMBERS PRESENT: Bob Irwin, Jim Houk, Tim McConnell, Darin Moffett, Jonathan Moore and Marc Whorton

MEMBERS ABSENT: Vince Crowell

OTHERS PRESENT: Brian Kelley (City), Erin Powers (City), Anna Bergmark (City), Elizabeth Nijkamp (El Paso County), Gilbert LaForce (El Paso County), Daniel Torres (El Paso County), Beck Grimm (El Paso County), Lois Ruggera (City), Stacey Covington (City), Jessica Hyman (City), Carol Medina (City), Christina Aragon (City), Dave Lethbridge (DRL Bridge Consulting), Kevin Walker (WSDM), Autumn Mason (WSDM), Virgil Sanchez (M& S) and Chaz Collins (C&C Land).

Item 1: Meeting called to order by Bob Irwin at 3:02pm

Item 2: Approval of the minutes from the November 1, 2018 Drainage Board Meeting
Motion was made by *Jim Houk* to **approve** the minutes of November 1, 2018. Motion seconded by *Tim McConnell*.

Motion passed 6-0

Item 3: Old Business – None

Item 4: New Business

a) Sand Creek Drainage Basin Fee Increase and Reimbursement for Forest Meadows Filing No 9 - (City)

ACTION REQUESTED: This action is requested by ESI to increase the drainage fund in Sand Creek by \$149,623.60. This would result in a fee increase of \$28.08 per acre. The subsequent action is to reimburse ESI for drainage facilities constructed in Forest Meadows Filing No 9. The total request from the Sand Creek Drainage Basin fund for drainage facilities is \$149,623.60.

Darren Moffett recused himself for item 4a.

City staff did not support requested reimbursements due to lack of supporting documentation as required by the City of Colorado Springs Engineering Criteria Manual and City Code. A presentation was given to support City staff's position. The relevant code section was referenced:

7.7.907 - B. "Determination Of Credit For Drainage Facilities: The credit to which a subdivider shall be entitled from the appropriate subfund of the basin involved in the subdivision storm drainage fund, as set forth in subsection A of this section, shall be determined on the basis of

the actual cost incurred in constructing the drainage facilities, plus ten percent (10%) for engineering expense. The subdivider shall be responsible for contracting for the construction of the drainage facilities after receiving at least three (3) sealed bids for construction of the drainage facilities. If the subdivider is unable to get at least three (3) sealed bids the City Engineer shall be responsible for determining that the bid or bids received are the lowest responsible bids. The decision of the City Engineer may be appealed to the Drainage Board. Bidders must be on the City's approved contractor list. The subdivider shall award the bid to the lowest responsible bidder within thirty (30) days after receiving the bids."

Additionally, the following procedures from the ECM Section 13.2 were not followed:

"6. The developer then submits this certification along with records of the cost of construction, i.e., a copy of the bid, as-paid bills, a copy of the City's inspection letters, and a cover letter of request for cash reimbursement or credits. This request must be submitted and accepted by EDRD by the first Thursday of the month to be considered at the next month's Drainage Board Meeting."

Actual cost data was missing for a significant part of the system, and the remaining cost data was not presented in a manner that was decipherable to determine reimbursable items. The reimbursement request was based on estimated unit costs from the Final Drainage Report. City staff clarified that the lack of actual cost data was the reason for recommending denial of the requested motions.

Dave Lethbridge, consultant for the applicant, explained that the Filing 9 request was postponed initially because the system had not yet been accepted by the City inspector.

Jonathan Moore read aloud the following statement from the Final Drainage Report completed by M&S Civil Consultants, Inc.:

"Upon completion of the aforementioned improvements, M&S shall submit the actual construction costs to the City of Colorado Springs/ City Drainage Board for reimbursement."

Jonathan Moore asked why actual costs were not submitted.

Virgil Sanchez stated that actual costs were submitted by Dave Lethbridge.

Jonathan Moore asked where the actual costs were.

Dave Lethbridge stated that he submitted a drainage addendum and discussed the addendum with Steve Rossoll. Dave Lethbridge stated that this approach worked for Filing 8.

Bob Irwin tried to clarify

Chaz Collins, with the developer, stated that the developer had negotiated with Steve Rossoll (former City staff) regarding the unit costs that would be used in the report.

City staff clarified that the unit costs were negotiated for the purposes of the drainage report for initial fee deferral. The unit costs were not intended to be a substitute for actual cost documentation after construction.

Jonathan Moore asked Mark Whorton how internal costs were calculated, as Classic performs internal work similar to the Morley company.

Mark Whorton stated that Classic keeps track of invoices for engineering and surveying services for in-house items. Classic does not have in-house construction.

Brian Kelley stated for the record that the Forest Meadows Filing 8 and Filing 9 facility was constructed in lieu of the facility that was to be constructed for Forest Meadows Filing 1 Phase 4. Clarified that the entire drainage system for Forest Meadows Filing 1 Phase 4 is not eligible for reimbursement in City staff's opinion. The entire Forest Meadows Filing 1 Phase 4 system was inadequate to convey flows as required, and was replaced by the Filing 8 and Filing 9 system. Therefore, the entire Forest Meadows Filing 1 Phase 4 system is not reimbursable in City staff's opinion.

Jonathan Moore stated that this is a difficult decision. The drainage report was approved by the engineer, negotiations with Steve are heresay as he is not in attendance to clarify, proper backup documentation should have been provided, and as a result he will not be supporting the reimbursement.

Jim Houk stated that City staff has repeatedly made adequate requests for backup documentation, and that the lack of better records, regardless of in-house work, has caused the current issue. Regardless of how a business is set up, there are still expenses and revenues that must be tracked.

Bob Irwin stated that he believed the board set a precedent by approving the Filing 8 reimbursement.

Jim Houk stated that his understanding was that backup documentation would be provided with the Filing 9 reimbursement request.

Jonathan Moore stated that his understanding from the Filing 8 decision was that they specifically decided to not set a precedent.

Bob Irwin stated that the public facility was built and paid for by a developer.

Jim Houk stated that the board has a responsibility to the basin funds themselves and to all other participants in the drainage basin fee program.

Bob Irwin stated that he did not believe the reimbursement amount was an issue.

Jim Houk stated that it is a matter of following the standards, and that this has not been the case.

Elizabeth Nijkamp also stated that the Forest Meadows Filing 1 Phase 4 system was not reimbursable because it was replaced by the Filing 8 and Filing 9 system. Nijkamp offered to provide additional information to the board if needed.

Tim McConnell stated that this was a difficult decision, and that the intent was not to set a precedent for future projects with this decision.

Bob Irwin suggested requiring email documentation from City staff indicating the negotiation results in the future.

Motion was made by *Bob Irwin* for a Sand Creek Drainage Basin Fee Increase and Reimbursement for Forest Meadows Filing No 9 in the amount of \$149,623.60. Motion seconded by *Tim McConnell*.

Motion passed 4-1

Motion was made by *Tim McConnell* for a Sand Creek Drainage Basin Fee Increase of \$28.08 per acre. Motion seconded by *Jim Houk*.

Motion passed 5-0

b) Drainage Fee Increase in Cottonwood Creek Drainage Basin – (City)

ACTION REQUESTED: To rescind previous City/County Drainage Board approval of a fee increase to the Cottonwood Creek Drainage Basin.

Motion was made by *Tim McConnell* to rescind previous City/County Drainage Board approval of a fee increase to the Cottonwood Creek Drainage Basin. Motion seconded by *Marc Whorton*.

Motion passed 6-0

c) Partial drainage reimbursement, Sand Creek Basin (FOFO4000), Bridge Funds for facilities constructed at Sand Creek and Marksheffel Road – (County)

ACTION REQUESTED: This action is requesting a partial bridge reimbursement within the Sand Creek Basin (FOFO4000) per the Land Development Code section 8.5.5, Resolution 99-383, the Drainage Criteria Manual chapter 3, and the applicable Drainage Basin Planning Study. This request is for a reimbursement in the amount of \$922,149.69 to the Central Marksheffel Metropolitan District (District), Pikes Peak Avenue, suite 100. Colorado Springs, CO 80903.

Elizabeth Nijkamp clarified that the reimbursement request did not include architectural features as they are purely aesthetic and were not a County requirement.

Motion was made by *Tim McConnell* for the Partial drainage reimbursement, Sand Creek Basin (FOFO4000), Bridge Funds for facilities constructed at Sand Creek and Marksheffel Road. Motion seconded by *Jim Houk*.

Motion passed 6-0

d) Housekeeping –

- 2019 Annual Luncheon/Meeting is normally held towards the end of January requesting Drainage Board to settle on a date.

A decision was made to hold the Annual Meeting on January 24th, 2019.

e) Open Discussion –

- Postponing discussion on handling items without proper documentation to the next meeting.
- The Drainage Board thanks Brian Kelley for his many years of dedicated service.

Item 2:

Item 5: Meeting adjourned at 4:20pm.