

SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY  
(SSCAFCA)  
MINUTES OF APRIL 18, 2000  
REGULAR BOARD OF DIRECTORS MEETING

CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by Dub Yarbrough, Chairman, at 1:45 p.m.

Directors in attendance were John Chaney, James Dorn, Guy McDowell and Dub Yarbrough. Bill Joiner was noted as absent. Staff members present were David Stoliker, Executive Director. Bernard Metzgar, SSCAFCA's attorney and members of the public were also present.

APPROVAL OF AGENDA.

Mr. Yarbrough stated that he wanted to make some changes to the Agenda. He stated that he wanted to delete Item V(e) so that a special session could be called to discuss it. A special meeting was scheduled for May 2, 2000 at 1:00 p.m. He stated that he wanted to move Item V(b) to Item VI(3).

A motion was made by John Chaney to approve the Agenda as amended. It was seconded by James Dorn and passed unanimously.

SECRETARY'S REPORT.

1. Approve Minutes from February 15, 2000.

A motion was made by John Chaney to approve the minutes from February 15, 2000 as presented. It was seconded by James Dorn and passed unanimously.

2. Approve Minutes from March 21, 2000.

A motion was made by James Dorn to approve the minutes from March 21, 2000 as presented. It was seconded by Guy McDowell and passed unanimously.

TREASURER'S REPORT.

1. Approve Expenditures for 02/01/00 - 02/29/00.

A motion was made by James Dorn to approve the expenditures for February 1, 2000 through February 29, 2000 as presented. It was seconded by Guy McDowell and passed unanimously.

2. Approve Treasurer's Report for 02/29/00.

A motion was made by James Dorn to approve the Treasurer's Report dated February 29, 2000 as presented. It was seconded by Guy McDowell and passed unanimously.

3. Approve Expenditures for 03/01/00 - 03/31/00.

A motion was made by James Dorn to approve the expenditures for March 1, 2000 through March 31, 2000 as presented. It was seconded by Guy McDowell and passed unanimously.

4. Approve Treasurer's Report for 03/31/00.

A motion was made by James Dorn to approve the Treasurer's Report dated March 31, 2000 as presented. It was seconded by Guy McDowell and passed unanimously.

5. Budget Presentation.

Mr. Stoliker presented the Budget to the Board. The Bond portion of the Budget identifies SSCAFCA's projects. Mr. Yarbrough stated that the Board should not begin any new projects at the moment and make sure nothing comes up that will take away from the unallocated money in the budget. The current projects are very close to being finished and will require time to finish them. Mr. Yarbrough stated that it is also his hope that SSCAFCA would build its own building in the near future.

Mr. Yarbrough stated that SSCAFCA received more than \$1/2 million from the Corrales Watershed District, which was earmarked for a building. CWD required SSCAFCA to hold the principal of the money for approximately 5 years to cover any obligations that might arise from CWD. However, SSCAFCA could use the interest at it sees fit. Mr. Stoliker stated that SSCAFCA will be able to use the CWD money during the next fiscal year.

Mr. Stoliker stated that SSCAFCA has \$2.5 million of unissued bonding capacity for sale. The bonds are programmed for sale next year. Mr. Stoliker stated that, to finish the current projects, it will take either to the end of the calendar year or the end of the new fiscal year, which would be June, 2001. Mr. Yarbrough stated that he does not want to take on the design and construction of a major project at this time. He wants to tie up all the loose ends on all the projects being completed at this time.

Mr. McDowell does not like the idea of spending the public's money on a building. Mr. Yarbrough stated that SSCAFCA will most likely be in perpetual existence and a building would be necessary.

LEGAL COUNSEL REPORT.

1. Update of Colborne Lawsuit.

Mr. Metzgar stated that a trial was held on the Colborne case in March, 2000. The Defendants were asking for approximately \$97,000. SSCAFCA's offer was \$13,600. The jury came in at \$13,600, which had already been deposited in the court registry. The Judge had asked Mr. Metzgar to research the issue of costs to be awarded to SSCAFCA. Since no offer of judgment was made by SSCAFCA, and since SSCAFCA is a condemning authority, research shows that SSCAFCA is not entitled to costs.

2. Tree Farm Pond Land Acquisition Update.

Mr. Metzgar stated that it was originally thought that land would need to be acquired from Intel and from the cemetery for this project. It was later revealed that SSCAFCA did not need the additional land from Intel and, though SSCAFCA would like to have some land from the cemetery, the land from the cemetery is not absolutely necessary at this time. The Tree Farm Pond project was bid with the idea that SSCAFCA would have the cemetery property for purposes of putting in a swale across the berm. That portion of the contract can be deleted. Mr. Metzgar suggested this be done. The main purpose for the cemetery property would be for maintenance to keep erosion down on the slope.

A motion was made by John Chaney to delete from the present contract with Inca Construction the portion of the Tree Farm Pond project relating to the construction on the property of the cemetery land. It was seconded by James Dorn and carried unanimously.

3. Approval/Action on Lot 116 Land Resale and Fencing.

Mr. Metzgar stated that Lot 116 was acquired by negotiation and the purchase has been closed. The building of the pond on Lot 116 will be done as part of the Tree Farm Pond project construction. Mr. Clint Dodge stated that Lot 116 pond is essentially complete. The fencing is the only remaining item. When they went to stake out the project, the adjacent property owner's garage was very close to the property line and the door is oriented toward the property. If the Lot 116 property line was fenced, that property owner could not have gotten into the front part of his garage. Due to time constraints, a field decision was made to shorten the pond. The proposal is to allow the property owner to replat and incorporate the remainder of Lot 116 into his lot and purchase it from SSCAFCA.

Mr. Yarbrough stated that prior to being built, the pond was shortened by about 40 feet to accommodate Fish and Wildlife and the Environmental Department. When SSCAFCA went back out to stake out the pond, the garage was built approximately six feet from the property line. Mr. Yarbrough stated that SSCAFCA is not denying the property owners access because there is a door in the south end of the garage. He further stated that SSCAFCA's property line was well defined. He stated that the property owner also did not pull a permit from the Village of Corrales. If they had, the Village would have told the owner not to build the garage that close to SSCAFCA's property. Mr. Yarbrough stated that he is opposed to selling the property at this time.

Mr. Tony Montoya, the owner of the property, stated that he started off making an RV pad, which turned into a garage, and before he knew it he was closer to the property line than he had ever intended to go. His intention for buying the property from SSCAFCA is so that he would be able to drive straight through into his garage.

Mr. Yarbrough stated that he is worried about capacity of the pond. Mr. Chaney stated that if there is no impact on the project, SSCAFCA should accommodate the public and sell the piece of land to Mr. Montoya. Mr. Yarbrough stated that SSCAFCA does not really know how the project will be impacted, except for Mr. Dodge's "best guess" estimate. Mr. Chaney suggested granting Mr. Montoya a license to use the little piece of land and retain ownership and the ability to withdraw the license if SSCAFCA found out the capacity of the pond was not enough.

Mr. Metzgar stated that there would be some serious statutory problems for the sale of the property. Statutorily, SSCAFCA would first have to declare the property excess in order to sell it. Secondly, because it's within five years of acquisition, it would have to be offered back to the people SSCAFCA bought it from. Next, SSCAFCA would have to get approval from the state to sell the property, which would include the special approval from the state for sale to a specific individual. One alternative is to grant an easement to Mr. Montoya. However, if SSCAFCA grants a perpetual easement, it may not be satisfactory in the future if SSCAFCA finds it needs to do something. Another alternative is to allow an encroachment with the individual being given a year to year license. The licensee would be allowed to use the property until the license is terminated. SSCAFCA would be able to terminate the license at its discretion. Mr. Metzgar stated that the license alternative would be the best for SSCAFCA because it is revocable.

Mr. Montoya stated that he needs about another five feet to be able to bring his RV into the garage directly. Mr. Dodge stated

that there is about 40 feet of space between the garage and the pond. If there is a fence on the property, it would make it more difficult to get into the garage. Mr. Yarbrough stated that if SSCAFCA considers selling the property to Mr. Montoya, he will have to bear all costs, which would include attorney's fees. Mr. Yarbrough stated that Mr. Metzgar's suggestion of a license would be the best for SSCAFCA. Mr. Montoya stated that he would be willing to take a license, in the hopes that if SSCAFCA does not need the property in five or six years, it would consider selling the property to him.

A motion was made by John Chaney that SSCAFCA allow Mr. Montoya a license to use the minimum amount of land to have egress and ingress from his garage to other parts of his property and that the license fee be charged at a certain percentage of fair market value, which would go from year to year; and have the engineers define how much land will be needed. Mr. Chaney further moved that Mr. Montoya pay all expenses for the granting of the license. It was seconded by James Dorn and carried unanimously.

Mr. Dodge stated that normally the fence is put just inside the property line. There is a sixty foot wide easement onto the Lot 116 property and with the pond now built there is not enough space. One option is to put the fence on the property line and access through the easement back to Dam 1. The other option is to put the fence 7 1/2 feet from the fence line. Mr. Stoliker stated that he wants to put the fence on the outside easement line. He stated that Mr. Metzgar has told him not to do it that way because SSCAFCA would be taking property that could be used for other purposes, but that a structure cannot be built on the property. Mr. Yarbrough stated that SSCAFCA should put the fence on property that it owns and drive over the easement.

Mr. Metzgar stated that if SSCAFCA fences the property right on the easement line, SSCAFCA does not give the property owner his use. The property owner can use his property in any way he sees fit, other than to interfere with SSCAFCA's easement. Mr. Stoliker stated that if you fence within a foot of the property line, there is not enough room to drive through. There is room to drive through on the upside of the property. Mr. Metzgar stated that property owners cannot put a fence across SSCAFCA's easement unless SSCAFCA allows them to fence it and allow a gate for access.

General direction was given by the Board to put the fence one foot within SSCAFCA's property line. Access will be on the west side of the fence across easements.

EXECUTIVE DIRECTOR REPORT.

- 1. Approval/Action on Ben Blackwell Correspondence dated 03/17/00.

Mr. Blackwell stated that he represents the Corrales Bosque Advisory Commission, which is a group appointed by the Mayor of Corrales to advise the Village government on matters relevant to the bosque. The commission is trying to get some cottonwood seedlings planted in the Bosque. Their primary interest is to coordinate SSCAFCA's periodic clean out of the Harvey Jones Channel with the Commission's taking of seedlings for transplantation into the bosque.

Mr. Metzgar stated that SSCAFCA would have to get approval from the NRCS for such a venture. Mr. Yarbrough stated that he thinks the project would be worthwhile, as long as it didn't go to far as to impede the flow through the channel. He stated that there is no set time for the clean out of the channel because it is dependent on the upstream flow and how much sediment is in the channel.

It was the consensus of the Board to allow the Commission to go into the channel, upon approval of NRCS.

- 2. Approval/Action on Acceptance of O & M of Montoya's Arroyo.

Mr. Stoliker stated that Easterling wants to go up for a letter of map revision on parts of Northern Meadows. Easterling needs recognition from a public entity that it will perform the O & M on Montoya's Arroyo.

A motion was made by John Chaney to accept O & M on Montoya's Arroyo. It was seconded by James Dorn and carried unanimously.

- 3. Approval/Action on Rio Rancho Project Priorities Correspondence.

This matter was removed from the agenda to be heard at a later date.

- 4. Approval/Action of Personnel Policy Section 400, Benefits.

This matter was removed from the agenda to be heard at a later date.

CHAIRMAN'S REPORT.1. Approval/Action on Board Member Elections Resolution 2000-5.

Mr. Yarbrough stated that there will be elections for two board members in November. James Dorn and John Chaney are up for re-election.

A motion was made by John Chaney to approve Resolution 2000-5 as presented. It was seconded by James Dorn and carried unanimously.

2. Approval/Action on Legal Counsel Selection Committee Recommendation.

Mr. Yarbrough stated that he, Mr. Stoliker and Mr. McDowell reviewed the responses for the proposal for legal counsel. It is the committee's recommendation that Lamb, Metzgar, Lines & Dahl, P.A. continue as SSCAFCA's legal counsel under a new contract.

A motion was made by Dub Yarbrough to continue with Lamb, Metzgar, Lines & Dahl, P.A. as counsel for SSCAFCA. It was seconded by John Chaney and carried unanimously.

EXECUTIVE DIRECTOR REPORT (continued).5. Approval/Action of the Tree Farm Pond Change Order 2.

Mr. Dodge stated that the project is moving along well. Change Order 2 contains a provision for Lot 116 revisions. The survey that Easterling had prepared was before the construction of the pipeline. There have been changes in the topography since the construction of the pipeline. To put in the pond, some pipe had to be raised about four feet. The pond couldn't be made any deeper because it was already so narrow. As part of another project that was deleted, SSCAFCA inherited the riser pipe, which was used in the Tree Farm project. There was some extra surveying as a result of some changes that were made in the field to get the pond to work. A rundown also had to be extended due to the four foot discrepancy. The detail in the bid specs calls for wooden corner posts with steel line posts, similar to the existing Tree Farm Pond. The change was made in the fencing for wood posts to be used everywhere.

The specification is also being changed on the lean fill that goes into the cut-off trench. The state engineer had to review and approve it. The supplier did not have a mix design for 500 to 1,000. As a result, they will use 2,000 psi concrete at no cost.

The result of that will be a more stable cut-off trench than was originally specified, due to the supplier's mistake.

Item 3, an allowance had originally been allowed to raise the PNM pole. The invoice that Inca received from PNM was for more money. Items 4, 5, and 6 have to deal with the fencing, which gave an increase of about \$1,400 based on estimate quantities. Item 7 is to put a split rail cedar fence along Meadowlark in front of Tree Farm Pond A, which is about \$5,600. The cost of the fence is an additional \$3.30 per foot.

A motion was made by John Chaney to approve the Tree Farm Pond Change Order 2. It was seconded by James Dorn and carried unanimously.

6. FEMA Grant Funding Submittal Discussion.

Mr. Stoliker stated that a letter has been submitted to FEMA to ask for grant funding of a 75% / 25% match. It is allowed when you get an emergency area set up. There was an emergency area set up last year because the rain exceeded the 100 year event. The chances are slim that SSCAFCA will get the funding. If the money is received it will be used on Sheriff's Posse Road.

CHAIRMAN'S REPORT (continued).

3. Automobile Purchase Discussion.

Mr. Yarbrough stated that there is money set aside in the budget for a new vehicle. Mr. Stoliker stated that Shelly Cobau's contract calls for SSCAFCA to pay her mileage for her vehicle. SSCAFCA was looking at getting a vehicle for Ms. Cobau and it was put into the budget and approved. Mr. Yarbrough stated that her vehicle should not be taken off-road at all. Mr. Stoliker stated that the work that Ms. Cobau does requires that she has her own vehicle. He stated that Ms. Cobau should be out in the field 25% to 40% of the time. Mr. Stoliker stated that Ms. Cobau is a Development Coordinator and should be on-site every day looking at the projects.

Mr. Yarbrough stated that he would like to postpone this matter until there is a full Board present.

4. Discussion of Board Responsibilities vs. Executive Director's Responsibilities.

This matter was removed from the agenda to be heard at a later date.



5. Discussion of MRGCOG Water Experts Invitation & Request for Funding for Drinking Water Study.

Mr. Yarbrough stated that MRGCOG has requested \$3,750 as a contribution from SSCAFCA to fund for a drinking water study. Mr. Yarbrough stated that SSCAFCA is in the flood control business. Mr. Stoliker stated that SSCAFCA is not involved in drinking water.

DIRECTOR'S COMMENTS.

None.

OTHER BUSINESS.

None.

PUBLIC FORUM.

None.


CLOSED SESSION.

None.

ADJOURNMENT.

A motion was made by James Dorn and seconded by Guy McDowell to adjourn the meeting. It was carried unanimously. Meeting adjourned at 4:\*\* p.m.

  
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BILL R. JOINER  
Secretary

  
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WM. C. YARBROUGH  
Chairman

DATE APPROVED: 5/6/2000