

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF FEBRUARY 20, 2001
BOARD OF DIRECTORS REGULAR MEETING**

CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by Dub Yarbrough, Chairman, at 1:10 p.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Mark Conkling, Richard Deubel, Guy McDowell, and Dub Yarbrough. Staff members present were David Stoliker, Executive Director, Perry Baird, Bob Foglesong and Pam McGrath. Bernard Metzgar, SSCAFCA's attorney, and members of the public were also present.

APPROVAL OF AGENDA.

A motion was made by Guy McDowell to approve the Agenda as presented. It was seconded by Richard Deubel and passed unanimously.

PUBLIC FORUM.

None.

SECRETARY'S REPORT.

1. Approve Minutes of January 16, 2001.

A motion was made by Richard Deubel to approve the minutes of January 16, 2001 with the inclusion of Unit 17 in the last sentence of the sixth paragraph. It was seconded by Guy McDowell and passed unanimously.

TREASURER'S REPORT.

1. Action/Approval of Expenditures for 01/01/01 - 01/31/01.

A motion was made by John Chaney to approve the expenditures for 01/01/01 through 01/31/01 as presented. It was seconded by Guy McDowell and passed unanimously.

2. Action/Approval of Treasurer's Report for 01/31/01.

A motion was made by John Chaney to approve the treasurer's report for 01/31/01 as presented. It was seconded by Mark Conkling and passed unanimously.

3. Action/Approval of FY 2000 Audit.

Mr. Conkling stated that the State Auditor found that there were funds put in the bank that was under collateralized by the bank in the amount of \$5,000.00, which has been taken care of. Another finding was that the audit was submitted 28 days late to the State Auditor. In discussing this issue it was pointed out that this late submission was due to the delay in hiring the auditor as a result of several unsuccessful attempts. Mr. Baird stated that this problem should not occur next year because the current auditor's contract will be renewed.

A motion was made by Mark Conkling to approve the FY 2000 Audit, as presented. It was seconded by Guy McDowell and passed unanimously.

CHAIRMAN'S REPORT.

1. Village of Corrales Loma Larga Roadway Status Report.

Mr. Yarbrough stated that he sent a letter to Mayor Kanin listing SSCAFCA's concerns that the Loma Larga project does not address the 100 year event and requesting documentation for the engineering from the north end of the Loma Larga project down to the lower end, which ends at the Cabazon Channel on the south. The deadline for the response was today, but so far SSCAFCA has not received a response from the Village. Mr. Yarbrough stated that the concern is that the flow from east of the Thompson fence may be pooling alongside Loma Larga and being directed into a low spot and then into the Main Canal, which might breach the eastern bank of the Canal and flood the lower lands east of the Main Canal. Until a response is received from the Village, this matter cannot be fully addressed.

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Mr. Yarbrough stated that he told Mayor Kanin that until SSCAFCA got the information it needed from the Village and this issue was resolved, SSCAFCA would not put any more money into projects in the Village. The Village originally requested that SSCAFCA purchase a tract of land to build a retaining pond alongside Loma Larga, but SSCAFCA declined, at least until its concerns are resolved.

Mr. McDowell stated that SSCAFCA should adhere to its criteria. Mr. Conkling stated that the information was requested from the Village in August 1999 and SSCAFCA has received no response. There have been meetings with the Mayor concerning this issue and still no response. The road is being built within SSCAFCA's jurisdiction, but there is still no response to SSCAFCA's request for information. Mr. Metzgar stated that the letter asked that the information be provided by no later than today so that SSCAFCA could review it prior to the March meeting. The Mayor told Mr. Stoliker that SSCAFCA would have a response today.

Mr. Chaney stated that the West Side Drainage Study identified the Main Canal in Corrales as the major potential hazard for flooding in Corrales below the Main Canal. It seems as if the Village is ignoring the Study results and the Memorandum of Understanding between the Village and SSCAFCA. Mr. Yarbrough stated that the Village is not enforcing its own drainage ordinances, which include on-site ponding.

Mr. Yarbrough stated that SSCAFCA has controlled the run-off from the City of Rio Rancho into the Village at the Thompson fence line. The West Side Drainage Study spelled out the Village's obligations east of the Thompson fence line.

Mr. Yarbrough stated that SSCAFCA was approached approximately three months ago by the Village when the Village wanted to put water into Tree Farm Pond B. He stated that Tree Farm Pond B is a metered pond and does not have the capacity to accept any more water, and, therefore, the Village's request was denied.

Mr. Chaney stated that when the Village put the Loma Larga project in, the Village had a chance to solve its drainage problems all along the escarpment in the event of a 100-year storm. The Village did not address that issue at the time.

Mr. Chaney asked Mr. Stoliker what would SSCAFCA do if this were a private developer. Mr. Stoliker stated that if a private entity were building the Loma Larga project, SSCAFCA would have forced them to comply with SSCAFCA's standards. The problem is that the Village is another public agency.

Mr. Metzgar stated that before SSCAFCA could get an injunction against the Village to force them to comply, SSCAFCA would have evaluated the engineering design to reveal any non-compliance with standards. He stated that SSCAFCA could try to go in and force the Village to turn over the engineering information to SSCAFCA and then, if the engineering shows a problem, SSCAFCA could then go for an injunction. Mr. Metzgar does not think the engineering firm can provide the information directly to SSCAFCA.

Mr. Stoliker stated that he has a phone call into Steve Harris, the District III engineer with the State Highway Department, but he has not spoken with him. Mr. Deubel stated that SSCAFCA should make the Highway Department aware that the Village is not complying with the MOA and perhaps the funding can be held until SSCAFCA finds out if the engineering incorporated the 100 year flood event.

2. Jerome Rael License Update.

Mr. Yarbrough stated that SSCAFCA is trying to determine if Lot 3 is a buildable lot. If it is a buildable lot, and an appraisal is obtained, SSCAFCA can then list it on its excess property list and put it out to bid. After a site inspection, it has been determined that Mr. Rael's garage faces the property line between Lot 3 and his property, which makes Mr. Rael drive onto SSCAFCA's property to get to his garage.

Mr. Stoliker stated that a task order is being drafted with Wilson & Company to determine the buildability of Lot 3. If it is a buildable lot, it is worth more per square foot. An appraisal will be obtained once this is determination. If the property is sold to Mr. Rael, it will be with the understanding that he removes the wall that is encroaching. Everything is on hold until the determination is made on the buildability of the lot.

Mr. Stoliker stated that SSCAFCA owns parcel B-4 (Lot 3), and that when they found out that Mr. Rael was driving across Parcel B-4 to get to his garage, he felt uncomfortable going forward with the license agreement on the wall encroachment.

Mr. Metzgar stated that the Board has already approved a license for the portion of the property where Mr. Rael built the wall. He stated that he advised Mr. Stoliker not to grant the license since the Board was not fully informed regarding Mr. Rael's property. SSCAFCA did not know that Mr. Rael was going across Parcel B-4 to get into his garage. Had SSCAFCA known that, the Board most likely would have made a different decision regarding the license agreement.

Mr. Yarbrough stated that Mr. Rael approached SSCAFCA about purchasing Parcel B-4 and SSCAFCA never thought Mr. Rael had ulterior motives for wanting to buy the property. Once they went on-site, SSCAFCA knew why Mr. Rael wanted to purchase the property.

A motion was made by John Chaney to rescind the approval of the license agreement. It was seconded by Richard Deubel.

Mr. Deubel stated that SSCAFCA should approve the license agreement for a year since it will take some time to sell the property to Mr. Rael, if that is what happens. At the end of a year, SSCAFCA could elect not to renew the agreement. Mr. Metzgar stated that if the license is rescinded or suspended, it allows SSCAFCA to find out whether the property is buildable or not. At that time, there will be other decisions to make, i.e., whether to grant the license for a short period of time, or whether SSCAFCA wants to attempt to sell the property to Mr. Rael. Mr. Metzgar stated that if it were a buildable lot, based on his past experience, SSCAFCA would never be able to sell the property to an individual.

The motion passed unanimously.

3. Discussion of Environmental Issues.

Mr. Yarbrough stated that he would like to skip this issue at today's meeting.

4. Action/Approval of Commercial Center II at Enchanted Hills.

Mr. Stoliker stated that it came to his attention that a certain part of Enchanted Hills is going to be final platted. The Agreement between AMREP and SSCAFCA said that there needed to be a signature on the final plat, or the builder would stay away from the 100-year flood plains. SSCAFCA can either stay with the original agreement and demand approval on the final plat, or the Board can approve it without signature on the final plat.

Mr. Mike Castillo, of AMREP, stated that there are three major points in the Agreement that he would like to point out. The first is the requirement of plat signature approval. This needs to be settled between government entities. AMREP has tried to help settle that question because AMREP has agreed to provide the SSCAFCA Board with a plat that plats the channel from one end to the other. Mr. Castillo is hopeful that this will take care of the requirement to sign all plats.

Mr. Castillo stated that the second question regarded performance under the Agreement. There are representatives from Huitt-Zollars here today, Jerry Fossenier, in particular, who can attest to the fact that the project, even though it is late, meets the criteria as stated in the Agreement. Mr. Castillo likes the idea of approval based on an Agreement, rather than stopping the project completely. AMREP was required by the City of Rio Rancho to sign an agreement, which stated that there would be no structures built in a FEMA flood plain.

Russ Grayson, of Huitt-Zollars, stated that there is tentative approval for Phase I and Phase II of the Encantado Channel, which goes from Pond 1 to a pond located behind the DPS station in Enchanted Hills. The Encantado Channel is a concrete lined trapezoidal channel that goes from Pond 1 to an existing box culvert that comes from under the highway in Unit 13. That channel is fully constructed up to about 100 feet from the connection point to the highway. The pond is excavated and the plans need to be resubmitted to SSCAFCA. Once they are approved, the plans will go to the State Engineer's office for final approval. The emergency and principal spillways have not been constructed. There are two other ponds being constructed, one behind Sprint Boulevard and another one behind the DPS station. The ponds have been excavated, but they are not completely finished. The Encantado Channel accepts historic flows from the arroyo north of 550 from the Santa Ana Pueblo.

Mr. Yarbrough stated that this project is 15 months past due for completion. Mr. Castillo stated that the project has been slow in developing, but they are in compliance with the agreement. Mr. Stoliker stated that the agreement with AMREP states that SSCAFCA has to sign the plat. Mr. Metzgar stated that SSCAFCA's MOU with the City of Rio Rancho states that SSCAFCA has approval authority when it comes to certain conditions. It does not say how SSCAFCA gives that approval. The City of Rio Rancho was not a party to the agreement between SSCAFCA and AMREP, which precipitated the problem with the final signature on the plat. If the Board determines that it would like plat signature authority in order to show its approval, SSCAFCA should go to the City of Rio Rancho and attempt to amend its MOU that says how SSCAFCA gives its approval to projects.

Mr. Chaney stated that a private development should not be held up based on a technical issue like a signature on a plat. On the other hand, it seems that there shouldn't be any development on the project until the pond is finished.

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Mr. Stoliker stated that the pond is rough-graded to the volume that is necessary and he believes that the area is protected. Mr. Castillo stated that all the facilities are designed for 100% development, which you won't see for over ten years.

Mr. Fossenier stated that construction on this project would be done by the end of the year.

A motion was made by John Chaney to approve the drainage for Commercial Center Phase II, with the proviso that the drainage ponds associated with the project be completed by the end of the year, and that SSCAFCA not sign off on anymore projects unless there is a signature line for SSCAFCA to sign off on plats when it meets SSCAFCA's 500 cfs, 100 year criteria. It was seconded by Mark Conkling and passed 4-0 with Dub Yarbrough abstaining.

DIRECTOR'S COMMENTS.

Mr. Yarbrough stated that he would like to send a letter to the Senators and Representatives, with all entities SSCAFCA can get to join in the letter, protesting the way the government entities have been railroaded regarding fecal coliform. Mr. McDowell stated that he is more concerned with the arsenic than the fecal coliform. Mr. Deubel stated that the arsenic standard is for ground water, not for surface water. SSCAFCA's concern should be the fecal coliform standard. Mr. Chaney stated that if SSCAFCA writes a letter in conjunction with other entities, it might be construed that SSCAFCA has a responsibility to clean up the water in contrast to SSCAFCA being a "pass through" agency. In writing such a letter, SSCAFCA might be assuming responsibility for cleaning up the water when it doesn't want to take that position. Mr. Deubel stated that the Village of Corrales, Rio Rancho and Bernalillo are required to clean up their water. SSCAFCA should maintain the stance that it is a "pass through" agency.

Mr. Metzgar stated that it has not yet been determined who will be the responsible entity for the clean up of floodwater. The responsible agency in Sandoval County would most likely be the City of Rio Rancho, but it is not SSCAFCA's determination. If SSCAFCA were to take the lead in this, other entities might assume that SSCAFCA is accepting the lead to clean up the water.

Mr. Conkling stated that it is most likely premature to write a letter until the decision is made. SSCAFCA has no statutory authority to spend the public's money on non-flood control projects.

Mr. Chaney suggested that SSCAFCA keep this issue on the Agenda as an item every month so that the Board can keep up on what is happening with it. Mr. Metzgar stated that SSCAFCA sent a letter to the congressional delegation that indicated that there hadn't been enough studies done on the issue. The congressional delegation knows that SSCAFCA is concerned with the issue.

Mr. Chaney asked why the Board is handling the on-call contracts renewal instead of it being a staff matter. The staff could review them and bring to the Board any problems that they have had with any previous contractors. Mr. Stoliker stated that the contracts are annual, which require annual renewal. Mr. Stoliker is limited to spend up to \$10,000.00 without Board approval. Some of the contracts go beyond that and he has no authority over them. He stated that he is recommending approval on all the contract renewals listed in the Agenda. Mr. Metzgar stated that a board member could move to approve all the individual contracts not up for increases. For the contracts with increases, Mr. Stoliker could review those with the Board and then get approval.

LEGAL COUNSEL REPORT.

None.

EXECUTIVE DIRECTOR REPORT.

1. Renewal of the following contracts without increase:
 - a. Wilson & Company, Engineering On-Call;
 - b. Wilson & Company, Surveying On-Call;
 - c. Roos & Owens Appraisal Service, Inc., Appraiser On-Call;
 - d. Eugene Cavallo & Associates, Appraiser On-Call;
 - e. Godfrey Appraisal Services, Appraiser On-Call;
 - f. Travis D. Engelage, MAI, Appraiser On-Call; and
 - g. Bohannon-Huston, Inc., Engineering On-Call.

Mr. Stoliker asked for renewal of the above-listed contracts. A motion was made by Mark Conkling to approve the renewal of the above-listed contracts. It was seconded by Richard Deubel and passed unanimously.

2. Action/Approval of the following contracts with an increase:

- a. Perry Baird, Bookkeeper/Accountant;

Mr. Stoliker stated that when Perry Baird was hired he was paid at the same rate as Bill Scolah. SSCAFCA is currently paying Leedshill/Herkenhoff and Bohannon Huston's secretarial staff \$36.00 per hour. Perry Baird is asking for \$35.00 per hour and works on all the accounting. Mr. Baird puts in 20 hours or less per week.

A motion was made by Guy McDowell to approve the contract for Perry Baird, Bookkeeper/Accountant, with the increase. It was seconded by Richard Deubel and passed unanimously.

- b. ASCG (Leedshill-Herkenhoff), Engineering On-Call;
- c. URS Corporation, Surveying On-Call; and
- d. Dain Rauscher, Inc.

Mr. Stoliker asked for renewal of the above-listed contracts, with increases as requested by the entities. A motion was made by Mark Conkling to approve the renewal of the above-listed contracts. It was seconded by John Chaney.

The motion passed unanimously.

3. Action/Approval of EDI Building Contract.

Mr. Stoliker stated that he has provided an architectural contract and a cost comparison between renting and building SSCAFCA's own facility. Mr. Conkling questioned if the architectural contract included all the engineering on the building. Mr. Stoliker stated that it did. Mr. Chaney stated that he feels the rate on the contract is high. He encouraged the Board to counter the contract at 5%. Mr. Stoliker stated that the contract can be renegotiated, but 5% is not standard. Mr. Conkling stated that if all the engineering is included, the contract is not high. Mr. Metzgar stated that Mr. Stoliker, through negotiation, forced the architect bid down to his analysis of not to exceed \$92,500.00 for the contract.

A motion was made by Mark Conkling to approve the EDI Building Contract as presented as presented. It was seconded by Richard Deubel and passed unanimously.

4. Action/Approval of Heads Up O & M Contract.

Mr. Stoliker stated that the Heads Up O & M Contract is a time and materials contract. The SSCAFCA staff goes out every week and checks on what needs to be improved and Heads Up sends in a task order on the costs.

A motion was made by Dub Yarbrough to approve the Heads Up O & M Contract as presented.. It was seconded by Mark Conkling and passed unanimously.

5. Action/Approval to Bid Roskos Field Pond Project Including Wetlands.

Mr. Stoliker stated that the grant application for the wetlands was denied. He stated that, according to Clint Dodge, the estimated cost of the wetlands is \$209,385.00. The total cost of the project is \$1 million. The project can still be built, with the wetlands, under the \$1 million budget that was set by the Board. The project can be built, without the wetlands, for the \$1 million dollars, minus \$209,385.00. The City of Rio Rancho is putting in the land, which was appraised at \$1.19 million.

Mr. Chaney stated that one of the original purposes of SSCAFCA was to promote the recreational, aesthetic, multi-use facility to enhance the community wherever possible. This project is not outside the scope of what was anticipated when SSCAFCA was formed. Mr. McDowell stated that the Dam 4 to 1 Project was formed on the same basis. There was some public outcry because of the feeling that the Village of Corrales was the only benefactor of that project. Mr. McDowell wonders if it is worth the money to enhance Rio Rancho in the same way.

Mr. Yarbrough stated that SSCAFCA would still construct a pond, regardless of whether it does the wetlands, which will have a walkway alongside it. Mr. Stoliker stated that the project would have a reduced amount of trees if the wetlands were not done.

A motion was made by Guy McDowell to table this matter until the City figures out its priorities to find out what the City is willing to delete from the project.

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Mr. Yarbrough stated that the City has already prepared a list of what it is willing to give up. Mr. Chaney stated that most of the tax money that comes to the Board comes in from Rio Rancho and SSCAFCA does not have to pay for the land. Mr. Stoliker stated that the City has asked for items that could be added to enhance the park, but those would add approximately \$150,000.00 plus tax to the price of the project. Mr. Conkling stated that if SSCAFCA had to buy the land, it would have paid more than the entire project would cost.

A motion was made by Mark Conkling to approve the complete project, including all the additions, with the understanding that Mr. Stoliker will get the lowest prices possible from all bidders. It was seconded by Guy McDowell and passed unanimously.

6. 2001 Board Information.

Mr. Stoliker stated that he has prepared a list of everybody's name, address and phone number for all Board members.

OTHER BUSINESS.

None.

CLOSED SESSION.

A motion was made by John Chaney to go into closed session to discuss potential litigation. It was seconded by Guy McDowell and passed unanimously. The Board went into closed session.

RESUME OPEN SESSION.

A motion was made by Guy McDowell to resume open session. It was seconded by John Chaney and passed unanimously.

Mr. Yarbrough stated that the only discussion in closed session was the potential litigation regarding property sales, and that no action was taken.

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A motion was made by Mark Conkling and seconded by Richard Deubel to adjourn the meeting. It was carried unanimously. Meeting adjourned at 4:35 p.m.

Wm. C. Yarbrough
WM. C. YARBROUGH
Chairman

Richard Deubel
RICHARD DEUBEL
Secretary

DATE APPROVED: *March*
~~February~~ 20, 2001