

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF JULY 21, 2006
BOARD OF DIRECTORS SPECIAL MEETING**

CALL TO ORDER.

The special meeting of the SSCAFCA Board of Directors was called to order by John Chaney, Chairman, at 9:07 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Steve House, Donald Rudy and Dub Yarbrough. Mark Conkling was noted as absent. David Stoliker, Executive Director, Bernard Metzgar, SSCAFCA's attorney, and members of the public were also present.

PLEDGE OF ALLEGIANCE.

The Board was led in the Pledge of Allegiance by John Chaney.

APPROVAL OF AGENDA.

A motion was made by Steve House to approve the Agenda as presented. It was seconded by Donald Rudy and passed unanimously.

ANNOUNCEMENTS.

Announcements were made by John Chaney that all electronic devices needed to be turned off during the meeting.

EXECUTIVE DIRECTOR'S REPORT.

1. **Action/Acceptance of Renewal of Bond Counsel Contract with Hughes and Strumor.**

Mr. Stoliker stated that the bond counsel contract is up for renewal with no changes requested.

A motion was made by Donald Rudy to approve the renewal of the bond counsel contract with Hughes and Strumor as presented. It was seconded by Steve House and passed unanimously.

2. **Discussion/Presentation of June 27, 2006 and July 8, 2006 Storm Event.**

Mr. Stoliker stated that on June 27, 2006 there was a ten year rain event that did some damage in SSCAFCA's jurisdiction. On July 8, 2006, there was a bigger event and SSCAFCA is still cleaning up from the damage. It was centered around the Lomas Encantadas area, Saratoga Road, and the northern quarter of Corrales around Northwest Loop. All of SSCAFCA's structures functioned well, but took a tremendous amount of sediment. Lomitas Negras is four to five feet deep over many acres. Harvey Jones flow was right to the invert of the concrete beams that support the bridge. The Harvey Jones had a standing wave in it west of the Bridge at Corrales Road. This is exactly what SSCAFCA had predicted and water was going over the road in a wave action. The July 8th event appears to be more than a 100 year event at the bridge. In the Dulcelina Curtis

Channel there is a 500 year notch which is supposed to overflow to protect the bridge. It was reported that this notch overflowed. Inspections after the fact confirmed this overflow. Based on this information, Mr. Stoliker categorized the event as greater than a 100 year event and may be much larger. A follow-up storm report will evaluate this further.

Staff received a lot of phone calls from residents of the Village of Corrales. SSCAFCA's property in Corrales had a lot of water on it and the water took out a lot of the berms that were on the property. He spoke with Mr. Metzgar and staff is in the process of replacing those berms. This property is north of Hollywood and in the Patrick Marquez property area. Mr. Stoliker stated that Rio Oso Road and Alberta Road in the City of Rio Rancho took huge hits. The City is very concerned about its lift station on the west side of 528, south of Lomitas Negras. SSCAFCA is in the process of helping the City and the Village.

Mr. Yarbrough asked if any of the houses downstream from the notch in the Dulcelina Curtis Channel were damaged. Mr. Stoliker stated that, to our knowledge, no houses were damaged. There were houses west of the Dulcelina Curtis Channel at the bottom of some of the roads between 528 and Dulcelina Curtis Channel that got water in their garage or their front door, but no homes were damaged. Mr. Yarbrough stated that a developer has built several houses downstream from the notch in the arroyo. Mr. Stoliker stated that, again, to our knowledge, the property that SSCAFCA has to the east of that notch actually took enough of the overflow that no houses were flooded.

Mr. Yarbrough asked about the bridge at Saratoga. In the first event, a lot of the sediment came from Saratoga Road and cut out some of the fill. From the second event, you can see where the high water mark was above the bridge. He asked whether SSCAFCA needs to re-visit the design of the bridge. Mr. Stoliker stated that he does not think it needs to be re-visited; he thinks that the design is satisfactory as built. It appears that the area received well over two inches in less than an hour. This is more than a 100 year event; it is more like a 250 year event.

Mr. Ron Demuele, of Huitt-Zollars stated that they designed Saratoga Road for the 100 year event. The structure was partially flooded by debris and sediment at the entrance. There needs to be some road protection to keep it from washing out; however, all indications are that the overtopping was caused by the clogging from the debris and the more than 100 year event. At Obregon Road there is a series of pipe culverts to help control the overtopping of 528. Mr. Stoliker stated that SSCAFCA could build for the 250 year event, but would have to build fewer structures. SSCAFCA set its standard at 100 year event. To go to a higher standard would require a larger financial investment in each structure and may result in more areas remaining unprotected in the interim.

Mr. Rudy asked about the adequacy of SSCAFCA's budget to handle the variety of these events and to cover the repair, correction and sediment removal that comes with them. Mr. Stoliker stated that SSCAFCA spent about \$28,000.00 so far in the cleanup and, while everything may not be back to its original condition, most everything is functioning again. There are two main issues remaining - one is the Lomitas Negras and all the extra sediment in there. This is the area where SSCAFCA is working with Marty Mares to have the dirt put on his property. The next issue is the Harvey Jones Channel. Harvey Jones usually costs \$25,000.00 to \$30,000.00 every year for a small amount of sediment removal. This is an area where SSCAFCA has got to do it now, after it dries out a little. Staff is planning on pumping the water out from under the bridge. That has been SSCAFCA's standard modus operandi - to pump it out and let it dry before cleaning it up.

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Mr. Chaney stated that there have always been questions as to whose calculations were correct on the Harvey Jones bridge capacity. Mr. Stoliker stated that this event appears to show that Bohannon Huston and the Army Corps of Engineers were right in the more limited nature of the facility. Mr. Stoliker stated that the storms are more intense and focused than people realize. Mr. Yarbrough stated that if the bridge had been another two feet higher it would not have overtopped.

Mr. Demuele stated that when facilities were built in the 80s, it was not with today's criteria and the storms are either getting more intense or they've been underestimated. Mr. Chaney stated that the bridge was under built based on local residents' political influence that they didn't want to have their views blocked, which is something that needs to be avoided in the future. Mr. Metzgar stated that SCS built the bridge and made the final decisions as to the design capacity. When the Corps of Engineers came later and said it was under designed, the SCS did not agree and each entity held to its respective position.

Mr. Stoliker stated that he has asked for an Executive Committee meeting next week to discuss this and other issues.

Mr. Rudy stated that when most of this area was built, the development upstream was under estimated. Mr. Chaney stated that, in this particular instance, there were some studies that showed that it was built defectively. Mr. Yarbrough stated that when the engineers look at a project and what needs to be done, the flow is calculated for fully developed conditions and that is how SSCAFCA has been building.

3. Discussion of City's Redevelopment Education Initiative.

Mr. Chaney stated that the City is trying to educate people with regard to eminent domain and redevelopment. This is a letter that gives the information and asks the public how they feel about this issue. This is a draft letter in the materials to be used only if SSCAFCA wants to support redevelopment.

Mr. Stoliker stated that the letter states that SSCAFCA supports the City's position to limit redevelopment. During the July 8, 2006 storm event, SSCAFCA saw less drainage and flooding problems in subdivision developments than in areas of single lot development and unimproved subdivisions. Improved subdivision development goes through an exhaustive review where both the City and SSCACFA enforce engineering standards and ensure flood protection up to the 100 year event; single lot development doesn't get that. Rio Rancho's new drainage impact fees will help alleviate some flooding issues, but other issues will remain.

Mr. Clint Dodge stated that the impact fee implemented by the City is \$4,465.00. Some of that goes towards facilities that are already in place. There is a shortfall of at least \$1,100.00. The problem with this is that the costs are figured in 2004 dollars. Another problem is that drainage improvements needed to be built ahead of the impact fee implementation in most cases. Mr. Stoliker stated that Cabezon Development spent \$14 million on drainage in an area of one and one half square miles containing 1,356 lots at a cost of \$10,000.00 per lot. With the numbers Mr. Dodge was discussing, this goes down to \$4,000.00 to \$5,000.00 per lot. The costs were originally \$1 million to \$1.5 million per square mile. One of the reasons is that it's at the lower end and at the bottom of the watershed. Another is that SSCAFCA is now putting in water quality features, which

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increases the cost. SSCAFCA is making things nicer and better looking. Mr. Stoliker stated that redevelopment is one possible measure that places the full burden on the developer to address storm water. He put into the letter that SSCAFCA supports the City's efforts for redevelopment.

Mr. Chaney stated that redevelopment plays into the hands of the big, highly capitalized developers. If there are victims in the process, it is the small lot owner who is having his property condemned. On the other side, it is a more effective way to control flooding and drainage in SSCAFCA's jurisdiction, but at the cost of overly rapid development. He is not sure SSCAFCA should take any sort of stand on this issue at all. Mr. Rudy stated that it is probably necessary in some circumstances, but that it should be controlled very carefully. Mr. House stated that the safe thing to do is to be silent on the issue. Mr. Stoliker stated that Mr. Anderson, from the City of Rio Rancho, has asked for SSCAFCA's position on the issue.

Mr. Stoliker stated that it is his viewpoint that the City is expecting SSCAFCA to take a stand and if it doesn't the City could view SSCAFCA as being weak and ineffective. The stand is pretty simple for SSCAFCA from a dollars and cents point of view as a public safety issue. There are two options, you can take single family residential construction and start to really hammer them. SSCAFCA has the authority to do that, it just needs to be implemented, but it would mean adding more staff. The second option is to partner with the City and try to solve the problem.

Mr. Rudy stated that the letter should be made clearer. If SSCAFCA needs a position with regard to places where redevelopment is allowed, it is absolutely necessary that the public be included and that SSCAFCA be involved in it. Mr. Chaney asked why SSCAFCA could not take the position that it is prepared to do its job regardless of how the area develops. Whether its redevelopment, SADs or individual lot owners and maintain its neutral position. Mr. Stoliker stated that SSCAFCA is ineffective at the moment when it comes to individual lot owners and SADs. Mr. Yarbrough stated that he has a problem with trying to repair something that SSCAFCA had nothing to do with in the beginning. He stated that he saw an article in the paper about the Mayor approaching SSCAFCA about fixing upstream of Loma Larga. Mr. Stoliker stated that the Mayor has approached SSCAFCA and this will be discussed on Monday at the Executive Committee.

Mr. Metzgar stated that there is a redevelopment statute in New Mexico and definitions of two things. One is blighted land and the other is urban renewal, which has actual structures. Blighting is very different and the statute says that these are areas that without taking the action of blighting them and redeveloping them, they will develop in a very poor way, if at all. First, it takes years to happen. Unit 16 West was 800 acres and they had zero built on it, except what was fronting Southern. It was not developed because single lot owners could not go into the area and bring electricity to their land. It was costing \$20,000.00 to \$22,000.00 to bring electricity to a single lot and the lot was only worth \$10,000.00. Because most of them were also people who did not live here, they couldn't get together as a group to bring electricity to their lots. He stated that there are many factors that go into deciding to blight a particular area. The City has to make a determined study that it is blighted land in accordance with the definition. The Legislature passed a law that allowed municipalities the ability to blight.

Mr. Metzgar stated that under the law, it's not really taking away from landowners because they are paid just compensation. If you condemn property, you must pay just compensation. When you're paying property owners, it sometimes appears that you are paying very low money, but it's

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because of the status of the land. In Unit 16, Cabezon, the lands ranged from \$8,000.00 to \$15,000.00 per lot, depending on size. In Unit 13, because of land speculators coming in, those same kinds of lots are going for \$20,000.00 for ½ acre, \$40,000.00 for one acre. In these cases, there are no houses on the properties; the owners are simply losing a lot for which they are being compensated.

Mr. Chaney stated that the difference is that this is allowing a private firm to come in to do the redevelopment rather than for a public use. He stated that this is where the controversy lies. Mr. Metzgar stated that is absolutely correct, but if you take that away, how will those lots be developed? If the City did not give the property to a developer and tried to develop the property itself the City would have had to put in so much money that it would affect every citizen in the form of higher taxes. The politicians are not going to develop the property and hit every citizen with a higher tax. The normal citizen would not want to help the single lot owner that was being helped by the City's development. If you don't have redevelopment, you're not going to get an area developed. Unit 10 will not be developed for years. There have been some well-to-do owners who have come in and been able to bring utilities to their property, but the normal lot owner does not have that kind of money. Over a period of the next 50 years, a little more might develop, but not much. The politicians are not going to put that burden on all its regular taxpayers in order to develop the property.

Mr. Rudy asked what the impact might be by SSCAFCA taking a stand on this issue. Mr. Metzgar stated that the only reason is the reasons pointed out by Mr. Stoliker. For SSCAFCA's purposes, it is a safety issue and an issue of getting drainage done at much less cost. Mr. Rudy stated that SSCAFCA can get drainage done which would not have been done otherwise if this did not take place. Mr. Stoliker stated that this area is around 2,000 acres. With a rough cost for drainage of \$1.6 million per square mile, SSCAFCA would have to have a bond issue of \$3.2 million to \$4.8 million in order to just to take care of this area in addition to the impact fees; and this is the low end. If it's at the high end, it could be as much as \$30 million.

Mr. Metzgar stated that when the City goes through its education programs, they're going to say it helps with flooding. If SSCAFCA agrees, it will help with flood control. This is one of the benefits that are made better by redevelopment. Mr. Rudy stated that he would like to support this issue. Mr. Chaney stated that there are utilitarian reasons that redevelopment would allow for more efficient flood control. This can be pointed out without taking a stand one way or the other. Mr. House stated that SSCAFCA needs to be supportive of the City. Mr. Chaney stated that SSCAFCA can state that it is not opposed to it.

Mr. Metzgar stated that Mr. Stoliker's original draft stated that SSCAFCA supported redevelopment. The City changed the letter to read as it does now, i.e., "to assess and mitigate public and private losses associated with single lot development in unimproved subdivisions." This is the position of SSCAFCA. He stated that all of this started with the *Kelo* case. He sympathizes with the property owners in that case as the homes taken were very nice homes as opposed to dilapidated homes or empty lots. This cannot happen in New Mexico; however, since it is a very big political issue, the politicians continue to force the issue.

Mr. House stated that the letter, as it is written, is good. He made a motion to send the July 21, 2006 draft letter as is. It was seconded by Donald Rudy.

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The motion carried 2-1 with one abstention.

CONSENT AGENDA.

Action/Approval of the Minutes of June 16, 2006.

A motion was made by Steve House to approve the minutes of the June 16, 2006 meeting as presented. It was seconded by John Chaney and passed unanimously.

Action/Approval of the Minutes of June 26, 2006.

A motion was made by Steve House to approve the minutes of the June 16, 2006 meeting as presented. It was seconded by John Chaney and passed unanimously.

ATTORNEY'S REPORT.

Action/Acceptance of Resolution 2006-09 Health Insurance.

Mr. Metzgar stated that at the last meeting, the Board approved the contract for insurance with the City of Albuquerque. This Resolution is simply to change the Personnel Policy to state that SSCAFCA is now getting its insurance through the City of Albuquerque rather than the County of Sandoval.

A motion was made by Donald Rudy to adopt Resolution 2006-09 as presented. It was seconded by Steve House. Roll call vote: John Chaney, yes; Steve House, yes; Donald Rudy, yes; and Dub Yarbrough, yes. The motion carried 4-0.

RECOGNITION/ACKNOWLEDGMENT OF THE TREASURER'S REPORT FOR JUNE 30, 2006.

Mr. Rudy stated that the Treasurer's Report is ready for review by the Board. There were no questions on the report and it was accepted by the Board.

Mr. Rudy stated that the following Resolutions simply show what SSCAFCA has been doing to date.

1. **Action/Acceptance of Resolution 2006-10 Budget for Fiscal Year Ending June 30, 2007.**

A motion was made by Donald Rudy to adopt Resolution 2006-10 as presented. It was seconded by Steve House. Roll call vote: John Chaney, yes; Steve House, yes; Donald Rudy, yes; and Dub Yarbrough, yes. The motion carried 4-0.

2. **Action/Acceptance of Resolution 2006-11 Ad Valorem Tax Levy Year 2006 (FY-07) Applicable to General Operating Fund.**

A motion was made by Donald Rudy to adopt Resolution 2006-11 as presented. It was seconded by Steve House. Roll call vote: John Chaney, yes; Steve House, yes; Donald Rudy, yes; and Dub Yarbrough, yes. The motion carried 4-0.

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3. Action/Acceptance of Resolution 2006-12 Ad Valorem Tax Levy Year 2006 (FY-07) Applicable to Debt Service Fund.

A motion was made by Donald Rudy to adopt Resolution 2006-12 as presented. It was seconded by Steve House. Roll call vote: John Chaney, yes; Steve House, yes; Donald Rudy, yes; and Dub Yarbrough, yes. The motion carried 4-0.

CHAIRMAN'S REPORT.

Mr. Chaney stated that on August 8, 2006, the groundbreaking for the Sportsplex Dam and Loma Colorado will be held. There will be a celebration at the site. Some speeches will also be made by the entities involved. He stated that it might be a good idea to have a press release by SSCAFCA with regard to the quality of life issue and its proposal for the watershed park plan.

Mr. Stoliker stated that he would like to have an Executive Committee meeting to go over a few issues. One is the Santa Cecilia Subdivision. There are some ethics issues that he needs policy decisions from the Board and to go over what the Mayor of Corrales asked from SSCAFCA in a meeting yesterday. A discussion of the recent rain events may also occur, if the information can be gathered in time.

BOARD OF DIRECTORS' COMMENTS.

Mr. Yarbrough asked whether David Stoliker had received an answer from the Corps on the utilities at the Sportsplex Dam. Mr. Stoliker stated that he had received a letter from the City asking SSCAFCA to appeal that decision. He was planning on proceeding with the appeal and talking with the Executive Committee about it on Monday to make sure it's okay. The only issue they are concerned about is getting the utilities through the engineered fill of the dam. All the engineers agree that it's okay and the location is where the City wants it. SSCAFCA met with Joe Herrera, a representative of PNM who does all of the utility extensions. PNM will write a letter to allow SSCAFCA to go in the dam. The Corps of Engineers does not believe that it is a good area in that the fill could be sloughed off and it could breach the utilities that go through there. It is not a problem from an engineering standpoint because the other alternative of putting it in the bottom of the arroyo is worse. It is harder to maintain and is more subject to being severed in the arroyo location. There is no sewer line through the corridor. There will be guardrails on the dam and the pipes could be mounted on the guardrails. The Corps specifically excludes any utilities going across there because they believe that there could be problems in a severe event. Mr. Stoliker believes that the appeal has to go through SSCAFCA.

Mr. Stoliker stated Mr. Easterling is doing investigations on the dam crack and has just started that process. The one problem in the Enchanted Hills area is that the new structures that were just put in, the flooding went around them and eroded away from the structures.

Mr. Yarbrough asked about a start date for the Marty Mares project. Mr. Stoliker stated that the development is requesting a 404 permit. He thinks that Mr. Mares will get his approval in the next four to six months. The only problem may be putting it in a box culvert. If he can't put it in a culvert, then Mr. Mares will have to leave it as it is and have a smaller development in that area. Mr.

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Mares still needs the dirt from SSCAFCA. The design for his bridge will still have to come back to the Board for approval.

Mr. Metzgar asked if the City is requesting that SSCAFCA do the appeal on the Sportsplex Dam with regard to the Corps of Engineers permit because the original permit request came from SSCAFCA. Mr. Stoliker stated that this is his understanding, but he needs to check with the Corps to find out how the appeal process goes through. Mr. Metzgar stated that with most appeals there are very strict time limits so this needs to be done quickly.

A motion was made by Mr. Rudy to have Mr. Stoliker proceed with the appeal of the Corps of Engineers decision as discussed. It was seconded by Dub Yarbrough and passed unanimously.

PUBLIC FORUM.

None.

FOR YOUR INFORMATION

Mr. Stoliker stated that the following was for Board information only and/or contained in the Board's packets:

1. Assignment of Contract for Attorney.
2. Newspaper Articles Regarding Recent Flooding.
3. July 10, 2006 Correspondence from Town of Bernalillo Regarding Flood Control.

Mr. Chaney stated that the Executive Committee has discussed this and it was the consensus that this was a legislative issue and it should come from the legislature to appropriate the amount of money necessary to bring the Bernalillo system up to SSCAFCA's standards before SSCAFCA takes it over. Otherwise, the taxpayers in the entire SSCAFCA jurisdiction would have to subsidize Bernalillo citizens. Mr. Rudy stated there were other issues also with regard to the requirement that if SSCAFCA were to take over Bernalillo, that it needed control of the rest of the watershed rather than just the bottom of the watershed. Mr. Stoliker stated that the request right now is for Bernalillo to have a meeting with SSCAFCA. There will be studies and work that will be needed with regard to this matter.

4. The following infrastructure plans were signed by the Executive Director:
 - a. Cabazon Tract 10A, Tract 6A & Tract 1A, the Executive Director signed the mylars on June 6, 2006;
 - b. Mariposa-Blue Grama & Mariposa Parkway Landscaping, the Executive Director signed the mylars on June 8, 2006;
 - c. Mariposa-Ridgeline Estates Unit 1, the Executive Director signed the mylars on June 28, 2006;
 - d. Saltillo Unit 1, the Executive Director signed the mylars on June 29, 2006;
 - e. Mariposa-Academy Loop Extension, the Executive Director signed the mylars on July 6, 2006.

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5. July 12, 2006 Letter Approving the Appraisal of Lots 12 & 13, Block 164.
6. July 11, 2006 Letter from the City of Rio Rancho Regarding the Appeal of Corps of Engineers Permit Condition Prohibiting Utilities Near the Sportsplex Dam.

OTHER BUSINESS.

None.

ADJOURNMENT.

A motion was made by Donald Rudy and seconded by Steve House to adjourn. It was carried unanimously. Meeting adjourned at 10:25 a.m.



STEVE HOUSE
Secretary



JOHN CHANEY
Chairman

DATE APPROVED:

9/15/06

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