

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF SEPTEMBER 26, 2007
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 10:10 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Mark Conkling, Donald Rudy, and Dub Yarbrough. Steve House arrived at 10:45 a.m. 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 Dub Yarbrough to amend the Agenda to include David Stoliker's contract. It was seconded by Mark Conkling. A motion was made by Donald Rudy to accept the change and approve the Agenda. It was seconded by Mark Conkling and passed unanimously.

ANNOUNCEMENTS.

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

OTHER BUSINESS.

Cheryl Ganch, Chairperson of the Save Los Rios from SAD 7 Committee, stated that Los Rios began circulating its petition against the SAD on July 17, 2007. They have 277 signatures. They have tried to get signatures of all persons on the deed. There are 279 properties in Los Rios. She is not aware of the ability of the City to impose a SAD. The City maintains their roads and wants to pave the roads. The residents don't want the roads paved. Mr. Chaney stated that the residents' way out of the SAD might be to create a homeowners' association and take over the maintenance that way. Mr. Yarbrough stated that it seems that they need to use Unit 17 as a conduit to get the water through their neighborhood and he agrees with the home owners. He will not support the SAD. Mr. Rudy stated that SSCAFCA's authority doesn't really allow the Board to influence this matter, other than as individuals. Mr. Chaney suggested that the Board have its lobbyist take a look at what funds might be available to help. Mr. Metzgar stated that if SSCAFCA is paying for a lobbyist, that lobbyist going to any private organization would be a violation. Mr. Chaney stated that he is suggesting that the lobbyist try to ask the legislature for some funds to address the watershed issues that plague this community. Mr. Metzgar stated that he has a problem with it because SSCAFCA is a regional organization. If SSCAFCA is asking their lobbyist to lobby for regional drainage and for local drainage issues, it's not illegal, but SSCAFCA would be changing what it is obligated to do.

EXECUTIVE DIRECTOR 'S REPORT

1. **Action/Acceptance of Northern Boulevard Sediment Basin Final Report.**

Mr. Clint Dodge, of ASCG, stated that the report is intended to be a format template to do final construction reports. They have been working on this for a few months to get the format the way everybody wants it.

A motion was made by Mark Conkling to accept the Northern Boulevard Sediment Basin Final Report as presented. It was seconded by Donald Rudy and passed unanimously.

2. **Action/Acceptance of Final Adjusting Change Order No. 2 for Lomitas Negras and Dulcelina Curtis Channel.**

Mr. Clint Dodge stated that this is the sediment removal project on the southeast corner of Corrales Road and 528. This is the final adjusting change order to adjust the actual as-built quantities to the actual contract amount. The original contract was \$238,572 and the final contract amount is \$192,585. The primary difference is the sediment that was actually found and removed from the sediment basin. The change order includes 14 days of liquidated damages because it was not finished in accordance with the contract time. This completes everything.

A motion was made by Steve House to accept the final adjusting change order as presented. It was seconded by Donald Rudy and passed unanimously.

3. **Action/Acceptance of Task-Order for \$58,800 for Drainage Policy Update Extension.**

Mr. Clint Dodge stated that this is an extension of the original task order to work with the staff on the DPM for SSCAFCA and Rio Rancho drainage. Fred Aguirre was the primary consultant for this and the original task order assumed that it would be completed in three months. They started on January 16th. The original schedule was to approve the policy update within three months. We are now at nine months since it was started, with a couple of months left to finish. The reason for the delay is that several things were incorporated into the overall DPM work, including a sediment erosion guide, incorporating the HMS work which is being done by Stantec. They added the sewer line section to go into the DPM.

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

4. **Action/Acceptance of Change Order No. 4 & 5 for Sportsplex Dam Site.**

Mr. Howard Stone, of Bohannon-Huston, stated that change order #4 has three elements to it. The first is that when they did a quantity take off on the facility, they missed some of the quantity on the cut-off walls for the drop structure on the floodpool and the drop structure for the water quality pond. It was in the plans, but not on the quantity take off. The contractor did not catch it until he actually started building it. The second thing is they also elected to increase the cut-off walls on the water quality pond outlet and also on the floodpool inlet and outlet. The reason they are going to six

BOARD OF DIRECTORS SPECIAL MEETING

SEPTEMBER 26, 2007

feet was to be absolutely sure that if there was a very big scour condition in the area, they wanted to make sure that it couldn't unravel all the way back and cause a problem with the structure. On the floodpool drop structure, they extended the cut-off wall to just below the concrete pad. At the beginning of the project, he had elected to use wire tied rip rap here and it is a more innovative way to do it. It provides higher maintenance, but higher security as well. This will also slow the water down so that the structure is not risked. The total amount of change order #4 request was \$81,117.29. It breaks out into three elements - the foresight of the quantity and the take off was around \$40,000; the additional cut off walls was \$35,000; and they also would like to complete the connection and make it an asphalt maintenance road/walking path/riding path. Right now it is earth and they had a little four foot wide base course jogging path. It is roughly ten feet below the road.

Mr. Stone stated that change order #5 involves putting in a concrete rundown to drop the water into the entrance to the box culvert. When they initially did the design, the path was not there. They weren't planning to put a path on top, and he realized that they did not have a complete "loop around" path that had been promised. It increased the cost because it increased the length of the box culvert. When he originally did it, he elected to put the road down into the floodpool, which meant that the water would come across everywhere and flow over. During construction, they elected to flip it over and go the other way. Until the area is established vegetation wise, they have a high risk of earth coming down. Therefore, there is a higher area of maintenance area if the water rushes onto the road. Adding the concrete structure reduces maintenance issues and provides a safe avenue for the water to go to the box culvert.

Mr. Chaney stated that there was some discussion at the Executive Committee level about whether the developer should pay for the changes. The Executive Committee decided that he should not because most of the items in the change orders had to be done anyway.

A motion was made by Mark Conkling to approve change orders numbered 4 and 5 as presented. It was seconded by Steve House and passed unanimously.

Mr. Stone stated that there are two possibilities to extend two foot paths from the existing subdivision down to their walk path around the facility. They are not in the plans already and he asked if SSCAFCA would be willing to consider these two connections from the subdivision down to the dam. People will use it whether it is paved or not. The contractor is in the area doing the work now, so it might make sense to do it now. He estimates that both of them could be built for \$56,000. Mr. Conkling asked if the contractor would be willing to put in a couple of park benches. Mr. Yarbrough suggested using benches that are made of composite lumber material. Mr. Stone stated that it weathers very well and is very cheap. Mr. Stoliker stated that if it isn't done now, it won't get done. Mr. House stated that he believes the public will use the facility.

A motion was made by Steve House that the two trails with the benches be put in not to exceed \$75,000, contingent upon hard costs being provided by Howard Stone to Mr. Stoliker. It was seconded by Donald Rudy and passed unanimously.

5. Presentation of Annual Report.

Laura Davis presented the annual report to the Board for comments. Ms. Davis stated that the GASB information was audited and approved. The \$10 million bond was passed. The

BOARD OF DIRECTORS SPECIAL MEETING

SEPTEMBER 26, 2007

Watershed Park Plan was approved. Page 10 shows the outreach programs in which SSCAFCA is involved. There are two different public outreach programs SSCAFCA focuses on - those are the Earth Festival, run by the City of Rio Rancho, to which SSCAFCA contributes \$1,000; and the Health Fair with Sandoval County. The Barrancas Watershed Management Plan was also approved this past year. On page 14, under right-of-way accomplishments, the biggest one was getting the Terry Iliff property. Under Operations and Maintenance on page 16, Sandoval County had almost 18 inches of rain in 2006 and a huge portion of the budget was used for clean up.

Mr. Conkling gave several suggestions of what could be added to the annual report to make sure the public knows exactly how much SSCAFCA is involved and how much it is doing for its Watershed Management Plan. Mr. Stoliker stated that Laura is getting the website ready to go "live" to make access easier for the public and for developers and others.

PERSONNEL COMMITTEE REPORT

Executive Director's Contract.

Mr. House stated that the Personnel Committee's recommendation was that SSCAFCA would not ask David to repay his MBA if he left; he would get a 5% raise, plus a cost of living raise; he would sign a two year contract; and find, mentor and train his replacement. The 5% raise was for one year and will be re-evaluated. Mr. Yarbrough stated that when he left the meeting he was under the impression that it was a cost of living raise, plus the amount to make it an even 5% raise. Also, Mr. Stoliker had indicated that he wanted to serve less than two years of service after he obtains his MBA. He does not recall making it a total of 10% salary increase. Mr. Metzgar stated that it was not a 5% increase recommended by the Personnel Committee. In fact, a 5% increase would place Mr. Stoliker \$2,000 a year below John Kelly's salary. What happened, is that they compromised it and went to either 2% or 2 ½%. Mr. Chaney stated that the Executive Committee also discussed it and suggested that the 5% be for the two year period, i.e., 2 ½% per year. Mr. Conkling stated that he was influenced by the end of career time for David and the cost in the market place of replacing his experience and leadership. He thinks it will be hard to find someone who has the experience and he thinks that SSCAFCA is not competitive in the engineering world as it should be. His thought was that if David had a 5% increase this year, and then readdress it next year, he thought SSCAFCA would be moving in the right direction.

Mr. House stated that it is difficult to compare Mr. Stoliker with John Kelly. In one sense, Mr. Kelly does run a bigger operation, but Mr. Stoliker has the same set of skills. In hiring someone with David's knowledge, SSCAFCA will be paying at least \$100,000 per year. He stated that it's going to take a year to train the new employee to take over David's job. The MBA is worth \$30,000 and Mr. Yarbrough stated that this could be considered a raise. Mr. House stated that as part of David's two year contract, SSCAFCA could require that the business plan get done. Mr. Conkling stated that he would like to see, as part of the contract, a business plan that puts together the drainage management plans and the quality of life plan so that the new person heads into the future with not only an engineering plan, but a financial business plan of how to run the agency as well.

A motion was made by Steve House that David's new contract will be a two year commitment to SSCAFCA, the first year he will receive a 2 ½% raise, and on top of that he will receive a 3% cost of living raise; David will provide SSCAFCA with a business plan to include the

BOARD OF DIRECTORS SPECIAL MEETING

SEPTEMBER 26, 2007

quality of life plan and drainage plans, with an outline of the business plan to be provided within the first six months. If the business plan is not provided by the end of his two year contract, he will need to repay SSCAFCA the \$30,000 for his MBA. Finally, Mr. Stoliker must help find and hire and train his replacement, who must be in place by the end of the first year of David's contract. It was seconded by Mark Conkling.

Mr. House stated that David should be provided with some incentive to get the business plan done, but he has not seen anything yet. Mr. Metzgar stated that the effective date of this contract would be the ending date on his prior contract, which is August 17, 2007. Mr. Conkling stated that he has seen benefit from the MBA by the way the office is being run. He believes that it is right to tie the business plan to the MBA, but it is important to acknowledge that SSCAFCA has received value for the MBA. Mr. Chaney stated that he would like to increase the raise to 3%, plus the cost of living of 3%.

Roll call vote: John Chaney, yes; Mark Conkling, yes; Steve House, yes; Donald Rudy, yes. Dub Yarbrough abstained. The motion passed 4-0 with one abstention.

TREASURER'S REPORT.

Receive bids and take official action awarding SSCAFCA's Series 2007A General Obligation Bonds in the aggregate principal amount of \$6,000,000.

Mr. Kevin Powers, SSCAFCA's bond attorney, stated that it was a good sale today and it was a good process. Leading up to the sale, SSCAFCA had a rating upgrade to AA3, which makes SSCAFCA the first AA rating agency in Sandoval County for general obligation bonds. There was a rating presentation about ten days ago and at that time they presented the financial condition of SSCAFCA to Moody's and they made a case that with the growth in the tax base in Sandoval County that some of the ratios that Moody's uses to rate SSCAFCA - it looked as if SSCAFCA belonged in the AA category. This is a big step going from single A to double A category. They would like to have had the rating report from Moody's, but they are still working on it. The rating did take effect for this sale, which helped in getting the better bond rate.

Mr. Powers stated that on page 2 of the handout, SSCAFCA's last sales were at 3.83, 3.79 and 3.67. SSCAFCA did really well relative to previous sales. SSCAFCA's bond rating in 1998 was A2, upgraded in 2005 to A1, and now upgraded again to AA3. This has a snowball effect really, because it impacts this sale and future sales. It will help to maintain the bonding program and will increase the amount of money SSCAFCA can generate because it will pay less interest.

Mr. Powers stated that the interest in terms of the sale of the bonds was good - there were eight bids from all over the country. The best bid was submitted by Morgan/Keegan out of Memphis, Tennessee. The number two bid was RBC Capital Markets from St. Petersburg, Florida; and number 3 was Southwest Securities out of Dallas, Texas. The Morgan/Keegan bid was the best bid by about three basis points, which is really excellent. There was one bid submitted on paper and the other seven came in on the computer. Everything was in order and nothing was out of the ordinary. The winning bidder did use bond insurance, Excel Capital Bond Insurance, who paid \$18,000 for the insurance. Had SSCAFCA still been A1, the insurance premium would have been higher.

Mr. Powers stated that Rio Rancho Public Schools sold bonds on Monday and they have an A1 rating. The City of Rio Rancho currently has an A1 rating for their general obligation bonds. His guess is that when they go to sell bonds again, the City should be able to make a pretty good case for an upgrade to AA. AMAFCA, on the other hand, is a completely different entity and are rated at AAA. This is a very rare situation. SSCAFCA's assessed situation is at \$2 billion – AMAFCA's is at \$12 billion. This is one of the factors that they look at in the ratio treatment. One of the things they look at carefully for ratings is the fund balance, money that is in reserve for events beyond the entity's control. To solidify this rating, it would be helpful to establish any policies that SSCAFCA has to increase the reserves to levels that would be more comforting to somebody looking at SSCAFCA's rating.

Bob Strumor, SSCAFCA's bond counsel, stated that Resolution 2007-15 accepts the bid of the low bidder Morgan/Keegan. In that regard there is also a bid acceptance form which authorizes final issuance of the bonds and delivery of the bonds on or about October 10, 2007 in exchange for the money.

A motion was made by Mark Conkling to accept Resolution 2007-15 as presented. It was seconded by Donald Rudy. Roll call vote: John Chaney, yes; Mark Conkling, yes; Steve House, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion carried 5-0.

The buyer pays the premium; SSCAFCA will not have to pay anything. The premium is calculated as part of the bid.

DIRECTOR'S COMMENTS.

Mr. Rudy stated that they had a meeting with Ms. Salzman regarding the bad public relations matters that had come out of Unit 17. Mr. Conkling stated that after this meeting, it became evident that the SAD 7 drainage, Watershed Park, Rio Oso, District 4, District 6 and all these other elections, SSCAFCA is getting swept up in confusing communication. The public doesn't understand some of what SSCAFCA has done. A team has been assembled to produce a card that has a drainage map of Watershed Park as it intersects District 6 and includes plans that are laid out for the future, money that is spent to date, and money that is left in the bonds. The idea is that for each of the political boundaries, SSCAFCA would show the reach above and below the district, and what SSCAFCA is doing that impacts the specific district.

Mr. Chaney stated that it is inherent in how it will affect the existing elected official. It is an incumbent re-election device, but it does put SSCAFCA above the fray. Mr. Rudy stated that SSCAFCA, throughout its history, has had inadequate public relations. By doing this, SSCAFCA is putting itself in a position to immediately respond to questions about what SSCAFCA is doing in a certain area. The election districts are areas the public can identify with themselves and allows them to go to the responsible part of Rio Rancho for aspects of flood control that are not SSCAFCA's responsibility. He believes this will benefit SSCAFCA. Mr. Conkling stated that there has never been a way to communicate between political boundaries and watershed boundaries.

Mr. Yarbrough stated that he can see incumbent counselors holding up the card and telling the public that they have done it and taking credit for it. This should be looked at closely to make

BOARD OF DIRECTORS SPECIAL MEETING

SEPTEMBER 26, 2007

sure that the incumbent counselors can't say that it is something that they have done. Mr. Metzgar stated that he would hope that from that, the incumbents aren't saying that SSCAFCA is endorsing them. Mr. Conkling stated that a blurb can be put on there that says that SSCAFCA is not endorsing any candidate.

Mr. Yarbrough stated that he thinks that SSCAFCA is getting taken to the cleaners with regard to the soil removal in the Harvey Jones inlet and outlet because SSCAFCA is paying Waste Management to accept the soil and are also paying for digging it out and delivering it. He would like to stockpile the material and sell it down the road once the stigma of contamination is gone. Mr. Stoliker stated that SSCAFCA has paid the contractor around \$300,000 to \$400,000 to date and they haven't even started on the outfall. The soil has been tested and there was fecal coliform on the property. The Barrancas actually had more contamination than the Montoyas. Mr. Yarbrough would like to be able to renegotiate with Waste Management to not have to pay them to take the soil. Waste Management needs the fill dirt and should be happy to have it and not be paid for it. Mr. Metzgar stated that SSCAFCA can't stockpile it because SSCAFCA was told to take care of the problem. Mr. Conkling stated that if there is another sewer spill, the City of Rio Rancho will take care of it, so SSCAFCA will not face this again.

ADJOURNMENT.

A motion was made by Steve House and seconded by Donald Rudy to adjourn the meeting. It was carried unanimously. Meeting adjourned at 12:35 p.m.



for/ STEVE HOUSE
Secretary

John Chaney, Vice Chair
JOHN CHANEY
Chairman

DATE APPROVED: 11/16/07