

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF MARCH 20, 2009
BOARD OF DIRECTORS REGULAR MEETING**

CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by Mark Conkling, Chairman, at 9:03 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were Mark Conkling, Donald Rudy and Dub Yarbrough. Steve House arrived at 9:20 a.m. John Chaney 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 Mark Conkling.

APPROVAL OF AGENDA.

Mr. Conkling stated that he was taking Chairman's privilege to move one item. Under Executive Engineer, Action and Acceptance of Resolution 2009-8 having to do with signature authority will be moved to later in the meeting when Mr. House arrives.

A motion was made by Donald Rudy to approve the Agenda as modified. It was seconded by Dub Yarbrough and passed unanimously.

ANNOUNCEMENTS.

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

STAFF REPORTS.

Fiscal Services Director:

1. Recognition/Acknowledgment of the Fiscal Services Report for February 28, 2009.

Mr. Baird stated that SSCAFCA has received a wire transfer from FEMA into its bank account of \$1,040,000.00. If approved by FEMA, SSCAFCA is still owed roughly \$100,000.00. SSCAFCA also received about \$240,000.00 from a 2008 legislative capital outlay grant from the Department of Transportation. The legislative outlay was an outright grant for the Guadalajara Project in Unit 17.

Mr. Baird stated that interest earned in the state treasurer's office local government investment program remains at around 1%. However, they will be asking later for the Board's approval of an investment in a CD with a local bank that will give SSCAFCA a much better interest rate on \$1 million of its bond proceeds.

Mr. Baird stated that property tax collections through eight months of this fiscal year are at about 12.2%, which is shown in the first graph in the packet. SSCAFCA was at about 14.5% as of last month, so it has leveled out a little bit. This is in the general fund. SSCAFCA is still 15 ½ % higher this year versus last year in SSCAFCA's debt service property tax collections, which is easier to track year by year. The mil rate has remained at 0.87. General fund expenditures are still running predictably and those are being tracked as SSCAFCA nears the end of the fiscal year so that next year's budget can be prepared.

Mr. Baird stated that there is a graph in the packet which shows single family residential permits issued. Rio Rancho was listed at #20 in a list of the 50 highest sales of residential homes in a recent report.

2. Action/Acceptance of Resolution 2009-7, Fiscal Year 2009 Budget Adjustment.

Mr. Baird stated that Resolution 2009-7 recognizes the issuance of series 2009 bonds in the amount of \$4 million. The money was received on the day of closing, February 18, 2009. DFA rules require that a resolution be passed to amend SSCAFCA's budget so the appropriations will be increased by the amount of revenue received. DFA then approves the amendments.

A motion was made by Dub Yarbrough to accept Resolution 2009-7 as presented. It was seconded by Donald Rudy. Roll call vote: Mark Conkling, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion passed 3-0.

3. Action/Acceptance of Selection of Contractor for Property Acquisition/ Negotiation Services.

Ms. Debbie Casaus stated that in February 2009, SSCAFCA sent out requests for proposals for right of way acquisition negotiation services. Those proposals were due by March 10, 2009. SSCAFCA received three proposals and had a committee that evaluated those proposals. The committee decided to select the top two proposals based on SSCAFCA's needs. Those firms are Pinnacle Consulting Management Group, Inc. and Tierra Right of Way Services Limited.

A motion was made by Dub Yarbrough to approve the two companies selected by the committee as SSCAFCA's on call right of way acquisition companies. It was seconded by Donald Rudy and passed unanimously.

Executive Engineer:

1. Action/Acceptance of Resolution 2009-8, Amending Procurement Regulation, Signature Authority and Executive Engineer's Responsibilities and Authority.

1a. Action/Acceptance of Resolution 2009-09, Certificate of Deposit.

Mr. Baird stated that, with regard to Resolution 2009-09, Certificate of Deposit, it has been determined that \$1 million of SSCAFCA's \$4 million bond proceeds could be invested for some period of time, less than a year, while projects are in design, etc. The local government investment program offers a 1% savings rate and staff thought that banks might offer a better rate.

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Staff approached Charter Bank, Wells Fargo Bank, and First Community Bank, and received the highest offer on a seven month CD. It is 50 basis points, or ½% higher rate of return. Staff decided that rather than stay with the state requirement of a 50% collateral requirement on the investment that SSCAFCA should go to 100% and they did that. It only cost a small percentage amount to have that additional collateral protection. Staff recommends that SSCAFCA invest \$1 million in bond proceeds in a CD at First Community Bank for seven months. The Resolution is required to open the account and make the investment.

A motion was made by Donald Rudy to approve Resolution 2009-09 as presented. It was seconded by Dub Yarbrough.

Mr. Rudy asked about the possibility of rolling over the deposit for another period providing the seven months requirement is met before there is a need to expend the monies. Mr. Baird stated that they didn't talk about a term longer than seven months, but in six months or so, it would be prudent to look at rates again, etc., and see if it would be wise. One of the risks by making this investment is interest rate risk. If rates increase in the local government investment program above what SSCAFCA has locked into for seven months, SSCAFCA has lost money. Mr. Conkling asked for a vote on the motion.

Roll call vote: Mark Conkling, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion passed 3-0.

Steve House arrived.

Mr. Baird stated that Resolution 2009-8 deals with amending SSCAFCA's procurement regulations which were adopted in 1994. The purpose is to change levels at which various kinds of competitive procurement are needed to acquire goods and services for SSCAFCA and to deal with the signature authority. Mr. Conkling stated that the changes in the procurement code are highlighted in red.

A motion was made by Donald Rudy to approve the March 20 Resolution 2009-8 as presented. It was seconded by Dub Yarbrough. Discussion followed.

Mr. Stoliker stated that he and Mr. Metzgar have discussed this Resolution and agreed upon some changes presented in an updated resolution with the same number. Mr. Metzgar stated that, rather than have him draft a resolution from the very beginning, staff will generally draft the resolution and then he will see it in the agenda or it will be sent to him separately for legal review. He made a few non-substantive changes in the terms for clarification. The resolution part contains amendments as well. Number 1 says that SSCAFCA's procurement regulations be amended as per the attached. What will be attached are the changes just referred to by the Chairman. Number 2 changes the check signing authority of the Executive Director and Fiscal Services Director to authorize them to sign checks for amounts up to \$20,000.00. That had been limited before at \$5,000.00.

Mr. Metzgar stated that there have actually been two revisions to the State Procurement Code since SSCAFCA looked at it. The first revision to the statute was changed in 1997 and there has been a more recent revision. This is why the numbers jump so high, because

the \$5,000.00 had actually changed to \$10,000.00 in the first revision. Number 3 allows for the Executive Engineer to approve professional service agreements and change orders in an amount up to \$50,000.00 and small purchases up to \$20,000.00. The change order provisions are not in the procurement code, but the other two changes track the statute. The authorization that would be given to the Executive Director is different from a situation where you get on-call engineers, attorneys, etc., which have to be in response to an RFP.

Mr. House stated that professional services have nothing to do with bids and pricing. It is selection based on qualifications. Mr. Metzgar stated that engineers are excluded from the \$50,000.00 limit. This simply gives the Executive Director certain authority rather than having to come to the Board. SCAFCA's procurement code actually defines the Executive Director's responsibilities. The state statute does not require this. The Procurement Code was to stop favoritism. These changes are money changes only. He has not had the time to look at the entire revision of SCAFCA's Procurement Code, but it probably should be done. He will be doing this in the future and will bring it to the Board.

Mr. Rudy stated that SCAFCA's auditor has gone through some of SCAFCA's Procurement Code in the past and has found no deviations. Mr. Conkling stated that SCAFCA's Procurement Code is equal to, or more restrictive, than the state's Procurement Code in the statute. SCAFCA is increasing the dollar amounts, but remaining more restrictive than the state. Mr. Conkling called for a vote.

Roll call vote: Mark Conkling, yes; Steve House, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion passed 4-0.

2. Discussion of Chairman's Statutory Authority.

2a.	<u>LEED Certification Documentary</u>
:	<u>Equipment Cost \$28,263.85</u>
:	<u>Professional Services \$13,885.83.</u>

Mr. Stoliker stated that he and the Chairman have had discussions regarding SCAFCA's building and the idea was brought up to make a documentary of the LEEDS portion of the new building addition. There are many educated people who do not know what a green building is or how it works.

Mr. Conkling stated that, to his knowledge, this is the first LEEDS platinum certified construction project done by a state agency or political subdivision in New Mexico. It is groundbreaking in its impact on energy. Since a security camera system needs to be installed, it makes sense to go ahead and use the cameras to highlight the LEEDS building. The money has not been spent and nothing has been bought, but it is now time.

Mr. Rudy stated that the authority to ask that the Executive Director put together a submission of this sort is the authority which every board member has and which each board member has exercised in the past.

Mr. Ed Smith, of EDIHouse, stated that they are working with a company called Ox Blue which provides the web hosting services. On top of it being a security camera and doing the

time lapse photography at a high definition resolution, it is really easy to use. It is a public site so the public can see what is being done. It takes a high definition resolution photo every 11 minutes. There is a cellular phone on top of the camera and it communicates with the job site through a cellular network directly to the web site. He took the board through a tour of the program and the benefits to SSCAFCA with regard to other uses for the program, public outreach, etc. It can also serve an insurance purpose to protect SSCAFCA from certain claims.

A motion was made by Steve House to approve the LEED Certification Documentary as presented, including the equipment cost of \$28,263.85 and professional services cost of \$13,885.83. It was seconded by Donald Rudy and passed unanimously.

Mr. Conkling stated that the contractor and the architect have been offered the opportunity to share in the cost of this system and reap the benefits there from as well. It may not be monetary, but it could be in-kind contributions.

Mr. Conkling stated that SSCAFCA essentially operates by delegation of authority to committees and the committees take care of things and bring everything back to the Board for full discussions. The committee recommendations are usually accepted because of the in depth study of the issue. He stated that, given this new authority, the Executive Director can spend up to \$20,000.00 for small purchases. If a board member has a great idea for an item that SSCAFCA needs, he is perfectly free to talk with the Executive Director about using his authority for the purchase. He would expect that the Executive Director would use his judgment with regard to any request such as this brought to him. Mr. Stoliker stated that it is very rare that something is brought to him. If there is any question, he normally checks with counsel and the Chairman.

3. Discussion of MRCOG Executive Board Membership.

Mr. Stoliker stated that the Board's packets contain a letter from John Kelly regarding the executive board membership. This drops SSCAFCA off of the executive board. Mr. Rudy stated that the reason this came up is that SSCAFCA and AMAFCA share the seat on the board and this year AMAFCA will be the member.

4. Action/Approval of Change Orders for Guadalajara Storm Drainage Improvements, Phase 1A

- a. Change Order No. 1 for \$24,057.73 (m/o) (\$21,940.36) (h/o);
- b. Change Order No. 2 for \$25,142.08 (m/o) (\$32,253.42) (h/o).

Mr. Conkling stated that given the passage of Resolution 2009-8 and Mr. Stoliker's authority to approve change orders in amounts up to \$50,000.00, this item does not have to come before the Board. He asked if Mr. Stoliker would give the Board the story as to how these changes came about and how he made his decision regarding them.

Mr. Stoliker stated that this matter involves the Guadalajara Project. The construction is complete from Kim Road to Sonora, but at the intersection the project ran into some problems. They are trying to work the way out of the intersection to allow future work in that intersection to occur and to make the ties into future pipes. It gets SSCAFCA out of the travel lanes so that future traffic does not have problems with the construction for the pipe tie-ins. The second change order is

to add more drop inlets. There were several home owners who approached staff and expressed concern with regard to how many inlets there were and where they would be located. They showed staff that there is more standing water in the area about which they were concerned. The property owners are ecstatic with SSCAFCA because their concerns were answered by adding more drop inlets.

Mr. Stoliker stated that the problem with the intersection was that, in the flooding that occurred in 2006, the entire area was washed out. When the City repaired the problem, they put the utilities all over the intersection instead of on the side.

Mr. Conkling stated that it might be a good idea that change orders such as these be reported to the Board on a monthly basis. Mr. Stoliker agreed and stated that either he or Mr. Baird will be doing that under the respective headings.

5. Action/Acceptance of Final Adjusting Change Order for SSCAFCA Parking Lot Expansion in the amount of \$14,659.17 to Albuquerque Asphalt, Inc.

Mr. Stoliker stated that it has been common for staff to take the final adjusting change order into the Board. This change order allows the Board to see what was budgeted and what was actually spent. The change order is really only for \$5,000.00, but the total over on the entire project was \$14,659.17.

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.

CHAIRMAN'S REPORT.

Mr. Conkling stated that he wants it to be very clear that SSCAFCA supports the mayor's bond issue for road improvements. SSCAFCA has identified at least 3/4 of a million dollars of drainage structures that will happen by virtue of that bond issue for the benefit of the public. SSCAFCA will have a hand in the design and SSCAFCA will have approval authority.

Mr. Stoliker stated that as part of the roadway projects, drainage improvements will be made on the roadway and offsite of the roadway. SSCAFCA will have the ability to review and approve the plans. SSCAFCA will not build and will not do the design on these improvements.

BOARD OF DIRECTOR'S COMMENTS.

1. Update on Legislative Issues.

Mr. Rudy stated that the legislation that SSCAFCA has been after this year is to increase its bond limit authorization. Two pieces of this legislation have gone through. One started in the senate and one in the House of Representatives. Both of them have passed both bodies unanimously and both of them are currently sitting on the governor's desk waiting to be signed.

ACTION/APPROVAL OF THE MINUTES OF JANUARY 22, 2009 AND FEBRUARY 20, 2009.

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A motion was made by Donald Rudy to approve the Minutes of January 22, 2009 and February 20, 2009 as presented. It was seconded by Steve House and passed unanimously.

ATTORNEY'S REPORT.

Mr. Metzgar stated that the Board has given the Executive Committee the authority to enter into contracts for the purchase of right of way. The Executive Committee met with Mr. Tekin, a realtor, recently and he presented to SSCAFCA a contract that had been signed by his client and asked SSCAFCA if it would purchase three lots, Lot 111, Lot 112, and Lot 113, in Block 33, Unit 10, Rio Rancho Estates. This is the area that was being set aside for environmental purposes. The Executive Committee negotiated with Mr. Tekin and countered his client's offer at another amount. His client accepted SSCAFCA's offer and Mr. Metzgar has received a signed agreement with the amount offered by SSCAFCA. He asks that the contract be approved by the Board and it will be closed within a very short time. This will help to set comparables for future purchases in that area.

Mr. Conkling stated that any property acquired in this area can be set aside and can be used for trade with developers in the future for the benefit of the wildlife habitat and the public. The market is very favorable for SSCAFCA with regard to acquiring property at this time.

A motion was made by Steve House to approve the purchase as presented. It was seconded by Donald Rudy.

Mr. Yarbrough asked about the cost. Mr. Conkling stated that the actual per acre cost is \$74,000.00 and \$37,000.00 per half acre. The total purchase price of the property is \$111,078.00. SSCAFCA is getting one and one-half acres. Mr. Metzgar stated that this is well within what SSCAFCA's appraiser felt was the value of the property. The Board will always be able to approve the final contract document when selling property, but the selling party knows that the sale has been approved when the Executive Committee approves it. Mr. Conkling stated that the Board does have the authority to have the Executive Committee take care of any sale from start to finish and proceed along SSCAFCA's management plan and report back to the Board. This approval is historically what SSCAFCA has done in the past.

The motion passed unanimously.

Mr. Yarbrough asked the status of Mr. Wallen. Mr. Metzgar stated that he doesn't know if he's filed bankruptcy, but there has been a foreclosure of most of his property by Bank of America. SSCAFCA had an agreement with Wallen to get some lots from him for his failure to carry out a contract that SSCAFCA had with him. SSCAFCA didn't know at the time that he was about to get foreclosed. Those lots that SSCAFCA was going to get are part of the foreclosure so SSCAFCA is not going to get them. The Executive Committee has determined that there is no reason for SSCAFCA to go forward with any kind of legal action to enforce the agreement because there is probably nothing to be obtained by SSCAFCA. The Board has asked him to monitor the foreclosure to see if anything happens there. Mr. Metzgar also understands that all of their business offices have closed as well.

FOR YOUR INFORMATION.

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

1. February 21, 2009 Newspaper Article, "Getting Started".
2. Senate Memorial 18.
3. SSCAFCA Received \$1.044 Million FEMA Reimbursement for 2006 Flood Clean-Up.
4. Press Release "SSCAFCA Receives FEMA Reimbursement".
5. Senate Bill 316 passed both Houses and is currently at the Governor's office for signature.

PUBLIC FORUM.

Ron Reeder, a resident of Corrales, stated that he was interested in the LEEDS Certification and it occurred to him that SSCAFCA might be able to make use of the camera technology in other ways than those presented and gave his suggestions with regard to flooding issues and security at the Sportsplex Dam.

Cheryl Ganch, a resident of Rio Rancho, asked about the Alberta Watershed project and where it stood on the list of projects. Mr. Stoliker stated that the Board approved a task order for the Alberta Watershed. The task order has been signed and sent to the engineer, Huitt-Zollars, which is doing the work on it. They meet next week to actually walk the project. He anticipates having the design done and approved this year. Construction will be whenever the money can be obtained and the timing will be coordinated with the City.

OTHER BUSINESS.

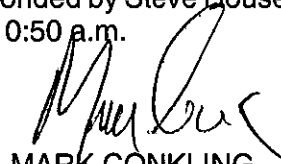
- Next Regular Board Meeting is on Friday, April 17, 2009 at 9:00 a.m.

ADJOURNMENT.

A motion was made by Donald Rudy and seconded by Steve House to adjourn the meeting. It was carried unanimously. Meeting adjourned at 10:50 a.m.



STEVE HOUSE
Secretary



MARK CONKLING
CHAIRMAN

DATE APPROVED: 4/17/09