

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF MAY 26, 2009
BOARD OF DIRECTORS SPECIAL MEETING**

CALL TO ORDER.

The special meeting of the SSCAFCA Board of Directors was called to order by Mark Conkling, Chairman, at 10:36 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Mark Conkling, Steve House, Donald Rudy and Dub Yarbrough. Bernard Metzgar, SSCAFCA's attorney and David Stoliker, Executive Director, were present.

PLEDGE OF ALLEGIANCE.

The Board was led in the Pledge of Allegiance by Mark Conkling.

APPROVAL OF AGENDA.

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

ANNOUNCEMENTS.

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

EXECUTIVE ENGINEER'S REPORT.

1. Action/Acceptance of the sale of SSCAFCA property for Paseo del Volcan to the New Mexico Department of Transportation in the amount of \$88,550.

Mr. Stoliker stated that the NMDOT needs this property for the new Paseo del Volcan. The value of the property is \$88,550.00 for a little over five acres. It has been appraised by the NMDOT and is acceptable to staff.

A motion was made by John Chaney to approve the sale of the property to the NMDOT for \$88,550.00 as presented. It was seconded by Steve House.

Mr. Yarbrough stated that he has seen lots for sale in amounts up to \$80,000.00 for up to ½ acre and he wonders how almost five acres can be sold for almost this same amount. Mr. Conkling stated that the land is at the bottom of a deep hole. You can't build or do anything with it. There are no utilities present either.

Mr. Metzgar stated that the appraiser who did the appraisal is an excellent appraiser and he has used him before and he doesn't low ball anything. Secondly, the appraiser went through a lot of comparables that were sales. What has been found in Rio Rancho for quite some time is that asking prices and sales prices are very different.

Mr. Rudy asked why SSCAFCA even owned this property. Mr. Stoliker stated that it was given to SSCAFCA by AMREP. In exchange, SSCAFCA was going to do some work in the arroyo. It is our experience that NMDOT like to run the operation itself. They will take the property, build the facilities that SSCAFCA wants, and then operate and maintain it. This project will take care of a whole bunch of issues.

Mr. Conkling stated that there is a parcel of ground about fifty yards upstream from this property. AMREP approached him on finding a way to make that property usable. He told them to create a drainage way through it and give it to SSCAFCA and SSCAFCA can support the division of the land in zoning, etc. in exchange for the land because SSCAFCA needs it to connect the City Center to the proposed park. AMREP is working on some drawings, but this does have a bearing on this area as well. Mr. Chaney stated that AMREP has given SSCAFCA close to 500 acres in fee simple and 1,500 in easement in the arroyos in the past.

The motion passed unanimously.

2. Discussion and request for approval of the Executive Committee's recommendation for a lease method to protect right of way properties necessary for flood protection and drainage improvements.

Mr. Conkling stated that the Board has discussed in the past the best ways to acquire real estate right-of-way for its flood control projects. This has to do with limited resources and tremendous acreage of previously platted lots, all of which have the potential of having someone build on them. SSCAFCA's task is to manage the risk, and to identify the properties SSCAFCA might need in the future. Staff has developed a map of all the properties that SSCAFCA might need in the future. The second part of the risk is to talk to the permitting agencies. Staff has set up a working arrangement with the City to see on which lots permits are applied for and then a note will come up that SSCAFCA wants that certain lot and then the City can notify SSCAFCA. This is not up and running yet, but it is in the process. In the course of these discussions, other ways of holding real estate came up. One way is to lease the property, or a real estate contract, etc. This item is to ask for the Board's approval for the Executive Committee to have, within reason, these tools to negotiate with property owners for possible lease or other methods to control the properties.

Mr. Chaney stated that this is essentially to leverage SSCAFCA's money to control up to 10 to 20 times the amount of lots that could be purchased in fee simple. The down side is that SSCAFCA won't own it and, if SSCAFCA needs it in the future, it will have to purchase it at that time. But, this would keep it out of the development domain.

Mr. Yarbrough asked if one of the ways of tying up the property was better than the rest. Mr. Conkling stated that he believes a lease would be the best since it would cost the least and could be added to its general insurance policy to control the risk. The lease gives SSCAFCA the most flexibility. The only way to dispose of land purchased through a Real Estate Contract in case it was not needed later would be to re-sell it and then it would have to go through DFA and be declared excess, plus SSCAFCA would have to pay the taxes on it.

Mr. House stated that these are great ideas and is something that the Executive Committee should have control over. Mr. Rudy stated that the more options it has to be able to address an issue, the better for SSCAFCA. Mr. Stoliker stated that staff has been working on setting aside \$1 million as a first foray into the identification, protection and acquisition JPA with the City and funding for these options would come out of that fund.

Mr. Yarbrough asked if SSCAFCA leased property, if the lease would be recorded at the courthouse. Mr. Conkling stated that a memorandum of a lease can be recorded. Mr. Yarbrough asked if the lessor could build on it if SSCAFCA was leasing it. Mr. Conkling stated that the lessor couldn't build on it while SSCAFCA held the lease. Mr. Stoliker stated that staff has a list of the land that is needed for its projects right now and Mr. Conkling stated that they are prioritized and this came up in the face of those priorities.

Mr. Stoliker stated that all of the procedures have not been worked out yet, but this was an idea that came up and seemed to be something that could help SSCAFCA. Mr. Tekin represents some owners who are interested in leasing their land to SSCAFCA.

Mr. Tekin stated that the only issue he sees with a lease is that it is not the norm in Rio Rancho. The property taxes might also be an issue because of the amounts discussed. The higher the lease rate, the easier it is to get the seller to agree. Commissions would be negotiable, whether it's a percentage of a lease payment or escrow payment on a real estate contract. A lease would be harder to sell to his clients, but since SSCAFCA is a governmental entity, they probably would be more comfortable. Mr. Conkling stated that in this poor economy, he believes it is worth listening to for the sellers. The owners of the property could get some income while waiting to sell.

Mr. Metzgar stated that this issue is not a procurement issue because procurement would be if SSCAFCA were going to lease property to others. In those instances, SSCAFCA would have to have Board of Finance approval for anything above \$25,000.00 and less than \$100,000.00. If it's above \$100,000.00 you have to get legislative approval. SSCAFCA's statute is the one that is applicable as to whether SSCAFCA has the ability to lease from somebody. The statute does not say anything about having to get DFA approval and there is nothing to his knowledge that SSCAFCA would have to get DFA approval. SSCAFCA, by its statute, can purchase, exchange, trade, encumber, and otherwise acquire, maintain and dispose of property and interests in that property. An interest in the property would be a lease. There is another section that says that SSCAFCA can enter into and perform without any election contracts and agreements with the federal government, any public body, or any person for or concerning the planning, construction, lease or other acquisition... the financing of any project, including, but not necessarily limited to any contract or agreement for any term not exceeding fifty years.

Mr. Metzgar stated that he is concerned about what happens to the value of the property when SSCAFCA leases it. If SSCAFCA leases the property, is it a de facto taking of the property because SSCAFCA wants to acquire it at a later time. The other question is condemnation blight. This is a concept that says if you're planning a project and it's planned over a lot of years, that property is usually not very saleable if it's not known exactly what will be taken. A lot of property owners could say it is condemnation blight and that SSCAFCA stopped the general rise of property values because the property was tied up. This is something that SSCAFCA has to consider. For example, if three property owners lease to SSCAFCA and there are six property owners in the area.

The other three property owners don't lease to SSCAFCA, but then say that their property value is not going to go up at all because of the future project by SSCAFCA.

Mr. Conkling stated that the Executive Committee discussed a structure that would address that problem. Say a piece of property is leased at 5% of its current appraised value, i.e., \$50,000.00 at 5%, or \$2,500.00 per year, which is a reasonable lease. Suppose that SSCAFCA then says that it has the right to buy the property for \$50,000.00 plus the consumer price index addition annually, anytime during the course of the lease. Now, the issue of blight has been addressed by allowing the CPI to escalate the price. This reduces the neighbor's argument about blighting his property. The worst case is that SSCAFCA would have to buy the property for a higher price.

Mr. Rudy stated that the blighting could occur if SSCAFCA were to purchase one single lot in the middle of a bunch of lots. It would not matter whether it's a lease or a purchase.

Mr. Baird stated that the only problem he sees is with regard to obligating a future Board of directors to something this Board has done. This creates debt that has not been approved by the voters if it is a general obligation debt. Revenue debt does not require voter approval. Mr. Conkling asked about having SSCAFCA obligations on five year leases, \$1 million of its right-of-way fund and putting that money in a sinking fund at 2% or 3%, knowing that it would cover the lease payments for the next five years. It would be an action of this Board with money set aside by this Board, approved by DFA, and not obligating a future Board. Mr. Baird stated that this might not be able to be done with bond money, but might be able to be done with general operating funds.

A motion was made by Donald Rudy to authorize the Executive Committee to contact property owners and work out leases to protect right-of-way for future flood protection and drainage projects. It was seconded by Steve House and passed unanimously.

OTHER BUSINESS.

Debbie Casaus stated that they have been discussing taking the operating mil rate back to .761 before yield control affected SSCAFCA's mil rate. Staff has received notification from the DFA that they are going to allow SSCAFCA to do that, with an additional .094 that SSCAFCA could increase in future years. She stated that this is the first year that SSCAFCA will have a split rate for its operational mil levy. SSCAFCA will now have a split rate for residential versus non-residential. There was general consensus from the Board for staff to proceed with the 0.761 mil rate for general fund budgeting.

Mr. Conkling stated that he has been asked to add to the Agenda, under the Executive Director's Report, reports by the committees on issues that are germane to ongoing operations. For example, if the Personnel Committee meets and recommends adding staff, that the personnel committee would give a report on this at the following Board meeting. This will keep communication open for the entire Board.

Mr. Conkling stated that SSCAFCA's new hire is supposed to start tomorrow.

- Next Regular Board Meeting is on Friday, June 19, 2009 at 9:00 a.m.

BOARD OF DIRECTORS SPECIAL MEETING

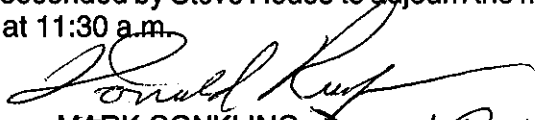
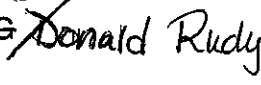
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ADJOURNMENT.

A motion was made by Donald Rudy and seconded by Steve House to adjourn the meeting. It was carried unanimously. Meeting adjourned at 11:30 a.m.



STEVE HOUSE
SECRETARY


MARK CONKLING
Acting CHAIRMAN


DATE APPROVED: 6/19/09