

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF MARCH 19, 2010
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 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.

Mr. Conkling stated that he would like to make a couple of changes to the Agenda. He would like to move the **CHAIRMAN'S REPORT, Presentation from Los Rios Neighborhood Association** up to the very first item. He would also like to move the **ATTORNEY'S REPORT** to before the Closed Session.

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

ANNOUNCEMENTS.

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

CHAIRMAN'S REPORT.

1. Presentation from Los Rios Neighborhood Association.

Mr. Byron Voiron of the Los Rios Neighborhood Association stated that SSCAFCA has done a great deal for them in the past. He read a letter to the Board from the Los Rios Neighborhood Association thanking SSCAFCA for its help.

STAFF REPORTS.

Fiscal Services Director:

1. Recognition/Acknowledgment of the Fiscal Services Report for February 28, 2010.

Ms. Debbie Casaus stated that SSCAFCA is eight months through its fiscal year and staff is preparing the fiscal year 2011 budget. The projections made for revenue in that budget are about 6.7% higher than last fiscal year. Staff will be bringing the budget to the Board next month. SSCAFCA's expenditures in the fiscal year to date are about 52% and SSCAFCA is about 67% through the fiscal year. Staff is still tracking City of Rio Rancho residential permits. For two months of the current calendar year they are down about 56% from the previous year. The interest earning on the state treasurer's account is still very low yield at about .067%.

There were no questions or comments on the report.

2. Action/Acceptance of Resolution 2010-8, Investment Policy.

Ms. Debbie Casaus stated that after discussions with the Chairman, staff and the Executive Committee, staff has developed an investment policy by looking at a couple of different government investment policies, tapering it and changing it to fit SSCAFCA's needs. They had several discussions with SSCAFCA's financial advisor and its bond attorney. Staff now brings the resolution to adopt the investment policy to the Board for approval.

Mr. Perry Baird stated that the Resolution acknowledges that SSCAFCA's business is flood control, but that it does have funds not needed for immediate disbursement from time to time. Investment of these funds for SSCAFCA for the last ten years or so has been a "no brainer." The third "WHEREAS" clause puts the three principal investment opportunities in the order staff follows. Security of principal is always first, then liquidity, and then return on investment. The fourth WHEREAS deals with the major source of SSCAFCA's funding, which are property taxes and bond issues. The next WHEREAS regards insurance by FDIC or a credit union insurance fund backed by the U.S. Government. They followed the City's example of having the institutions rated in the top 3 categories of any nationally recognized rating agency. Staff must continually monitor the institutions that have SSCAFCA's money.

Mr. Baird stated that there are some permitted and prohibited investments in which SSCAFCA can invest. SSCAFCA had 100% collateral required on its last CD. Reports will be made quarterly or monthly based on the investment committee. If this is approved today, an RFP will be put out to local banks and branches to invest the sum of

around \$1 million up to the FDIC limit, which equates to about four different banks and branches in SSCAFCA's jurisdiction that meet its requirements.

Mr. Yarbrough asked what percentage of SSCAFCA's idle money will be invested in local banks. Mr. Conkling stated that this amount would be decided by the Budget Committee, but that it appears that on a regular basis, SSCAFCA has a float of somewhat over \$1 million that would be available for local investments in FDIC insured banks and never more than the level of insurance.

A motion was made by Steve House to approve Resolution 2010-8 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, no. The motion passed 4-1.

Executive Engineer:

1. Action/Acceptance of task-order for \$150,000.00 for a Drainage Facility Plan for a Portion of Unit 13 within the La Barranca and Lomitas Negras.

Mr. Stoliker stated that the Board packet contains a proposal from Huitt Zollars and includes two maps. He stated that the facility plan that was proposed is a great facility plan if you're doing transportation, but for SSCAFCA's drainage needs, it needs to be expanded. They propose to include not just the square mileage proposed by Huitt-Zollars in the Lomitas Negras basin, but to include the Barrancas basin, as well. This was always Mr. Stoliker's intent, but he did not communicate it effectively with the Huitt-Zollars staff.

Kim Kemper, of Huitt-Zollars, stated that they had two task orders in because they were looking at doing another plan in Unit 10, which was a smaller plan. Effectively, they are talking about shifting the effort from Unit 10 up to Unit 13, which makes a lot of sense considering the development pressures.

A motion was made by Donald Rudy to accept the task order in the amount of \$150,000.00 for the drainage facility plan as presented. It was seconded by Steve House and passed unanimously.

2. Action/Acceptance of Agreement for Joiner Pond located on Montoya Road.

Mr. Stoliker stated that the Joiner Pond is at 528 and Montoya Road. The new McDonald's is in this development and everything was completed on the pond as required, except for a concrete drop structure. The Joiners want to have the performance bonds to the City released so they have prepared this Agreement that says

that they will do the concrete drop structure when they develop the last little piece just to the west of Joiner Pond. Everything else is developed and the encumbrance will be put on the last remaining lot. Bernie Metzgar stated that the agreement was worked out between Bill Joiner's attorney and himself to make sure that releasing the bond would not hurt SSCAFCA in any way.

In answer to a question, Mr. Metzgar stated that if the developer did not perform as agreed, SSCAFCA could bring an action under this Agreement. In answer to another question, Mr. Stoliker stated that Joiner Development put in the pond and they connected the storm drain pipe to a pipe that was in the Town of Bernalillo that was put in by Wal-Mart. Everything was performed by them at their cost. SSCAFCA has no money in the project. Mr. Metzgar stated that it had been approved by SSCAFCA during that period of time.

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

3. Action/Acceptance of Professional Services Agreement for Larry Horan, Lobbyist.

Mr. Conkling stated that Mr. Horan will be lobbying on SSCAFCA's behalf in this upcoming year and this is basically an extension of his previous agreement. Mr. Rudy stated that Mr. Horan coordinates SSCAFCA's needs with MRCOG's needs so SSCAFCA gets a multiple benefit.

A motion was made by Donald Rudy to accept the Professional Services Agreement for Larry Horan as presented. It was seconded by Dub Yarbrough and passed unanimously.

In answer to a question, Mr. Stoliker stated that, in addition to his flat monthly rate, SSCAFCA does pay for expenses of Mr. Horan. However, SSCAFCA has never been billed for expenses by Mr. Horan. One thing that has been told to Mr. Horan is that SSCAFCA will not pay for alcohol.

4. Action/Acceptance of contract renewal with Pinnacle Consulting for ROW Acquisition/Negotiation Services.

Mr. Stoliker stated that this is a simple contract renewal with Pinnacle Consulting. Mr. Conkling stated that this contract is an on-call contract and does not require that SSCAFCA use them. Mr. Stoliker stated that the rate paid is something like \$1,500.00 to \$2,000.00 per lot that is actually purchased.

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A motion was made by John Chaney to accept the contract renewal with Pinnacle Consulting as presented. It was seconded by Steve House and passed unanimously.

PUBLIC FORUM.

Mr. Conkling stated that he is moving the Public Forum to now in the Agenda in order to facilitate the public's comments.

CHAIRMAN'S REPORT.

1a. Discussion of Bottle Bill Legislation.

Mr. Conkling stated that the Board has initiated an inquiry into presenting to the legislature some sort of recycled bottle bill. Through Trevor Alsop and his reports, costs of clean up for SSCAFCA's entire reach will grow faster than any other single budget item. AMAFCA is in the same situation. The situation with regard to the river and all the clean up that is necessary led this inquiry. The best way to save money for the taxpayer is to introduce recycle legislation whereby all plastic bottles and cans would have a deposit and people would have to turn them in to receive the deposit. Many states already have this type of legislation and they are looking at them. SSCAFCA hopes to team up with AMAFCA and other entities to draft legislation that will be based on three talking principals, 1) that it is there to clean up the environment, 2) that it is there to save taxpayer dollars, and 3) it is there to raise money for the public good. This is one of the items that Mr. Horan is working on for SSCAFCA.

ATTORNEY'S REPORT.

None.

CLOSED SESSION.

A motion was made by Donald Rudy to go into Closed Session for the purpose of discussion of limited personnel matter and possible litigation. It was seconded by Steve House. Roll call vote: John Chaney, yes; Mark Conkling, yes; Steve House, yes Donald Rudy, yes; Dub Yarbrough, yes. The motion carried 5-0.

RESUMPTION OF OPEN SESSION.

A motion was made by Donald Rudy to resume open session. It was seconded by Steve House and passed unanimously. Mr. Conkling stated that the only items discussed in Closed Session were those listed and that no action was taken in Closed Session.

CHAIRMAN'S REPORT (continued).

A motion was made by Steve House that the Board delegate the resolution of the building issue on the PV array foundation to its Executive Director in consultation with the Chairman. It was seconded by Donald Rudy. Mr. Conkling stated that the motion is offered and seconded with the understanding that if it strays outside of the boundaries currently at issue that it will be brought to the Executive Committee.

2. Action/Acceptance of Employment Agreement – Executive Engineer.

Mr. Conkling stated that this issue is complicated in that it involves "double dipping." The current law provides that a person may do that, but not after July 1, 2010. David Stoliker has proposed to SSCAFCA that his current contract be terminated and he be allowed to retire on the 31st of March and then to volunteer his time and advice until June 30, 2010, at which time a new contract would begin, thereby he would receive his retirement benefits under the current law, and also receive a salary from SSCAFCA. Some of the items in favor have to do with an investment in an MBA in David's training, a business plan that was devised long ago, his value to the agency, SSCAFCA's current circumstances with regard to a departure of an engineer employee and the impact of that on the agency. Also, under the current proposal, SSCAFCA would no longer be paying for his PERA. It would bring a \$73,000.00 savings to SSCAFCA for the next 12 months.

A motion was made by Donald Rudy to accept the Executive Engineer's proposal to terminate his existing contract and that he retire as of March 31, 2010. It was seconded by Steve House. Mr. Chaney stated that pursuant to that retirement, Mr. Stoliker would be reimbursed for all sick leave and accrued vacation time. That amount would be about \$96,000.00, subject to all withholding. This is no different from anyone else who would retire right now. Roll call vote: John Chaney, no; Mark Conkling, yes; Steve House, yes; Donald Rudy, yes; Dub Yarbrough, abstain. The motion carries 3-1 with one abstention.

A motion was made by Donald Rudy that SSCAFCA offer its Executive Engineer a new contract based upon the proposal provided by him effective as of June 30, 2010, with modifications. The first modification is that the health insurance provision is to be rewritten to match the rest of the employees. The second modification is that the provision as written in the proposal on PERA will be removed and the PERA provision will be controlled as defined by current legislation. The third modification is that the notification of non-renewal will be reciprocal in that both parties must give 90 days notice of termination. The last modification is that performance review may be conducted at any time. It was seconded by Steve House. Mr. Chaney stated that his vote will not come down on David's ability, competence or his past performance, which he considers exemplary. It is only that he believes David should fulfill his current contractual

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agreement with the Board. Roll call vote: John Chaney, no; Mark Conkling, yes; Steve House, yes; Donald Rudy, yes; Dub Yarbrough, no. The motion carries 3-2.

BOARD OF DIRECTOR'S COMMENTS.

None.

COMMITTEE REPORTS.

None.

ACTION/APPROVAL OF THE MINUTES OF JANUARY 20, 2010 AND FEBRUARY 19, 2010.

A motion was made by Donald Rudy to approve the minutes of January 20, 2010 and February 19, 2010 as presented. It was seconded by Steve House and passed unanimously.

FOR YOUR INFORMATION.

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

1. SSCAFCA closed on the Series 2010A and Series 2010B Bond Issues on March 2, 2010. We received \$4.5 million new money for capital projects and paid off the remaining debt on the 1999 Bond Issue. The proceeds received to pay off the remaining debt from the 2001 Bond Issue is in an Escrow Fund until the call date in August 2010.
2. March 5, 2010 correspondence to Kurt Browning accepting Venada Channel Improvements.
3. March 4, 2010 correspondence from AMAFCA regarding appointments to MRCOG Board.

OTHER BUSINESS.

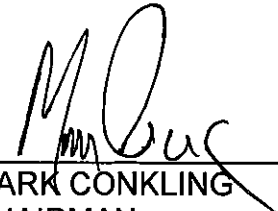
The next Regular Board Meeting is on Friday, April 16, 2010 at 9:00 a.m.

ADJOURNMENT.

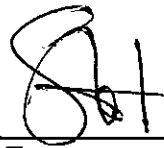
A motion was made by Donald Rudy and seconded by Steve House to adjourn the meeting. It was carried unanimously. Meeting adjourned at 12:30 p.m.

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MARK CONKLING
CHAIRMAN



STEVE HOUSE
Secretary

DATE APPROVED: 4/10/2010

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