

SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF OCTOBER 21, 2011
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 9:02 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Mark Conkling, James Fahey, Steve House and Donald Rudy. Chuck Thomas, SSCAFCA's Executive Engineer, 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.

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

ANNOUNCEMENTS.

Announcements were made by Mark Conkling that all electronic devices needed to be turned off during the meeting and that the microphones are voice activated.

STAFF REPORTS.

Executive Engineer.

1. Action/Acceptance of Montoyas and Barranca Arroyo Watershed Management Plans.

Mr. Thomas stated that there have been two Watershed Management Plans developed in November 2010 and February 2011. The Watershed Management Plan for the Barranca Arroyo was put out to the public for comments and SSCAFCA received none. There have been no changes to the plan that was presented to the Board in February 2011.

He stated that SSCAFCA received one public comment on the Montoyas Watershed Management Plan. Staff also took the opportunity to review some other plans and made some formatting changes. It did not change any of the underlying hydrology, but it did change some of the presentation of the Plan.

Trevor Alsop stated that they also took an opportunity to utilize the in-house mapping capabilities to add some elements to the Montoyas Watershed Plan. They standardized the report sections so that they match all the other Watershed Management Plans. The second thing they did is take some of the information that was presented in tables and displayed it graphically to add clarity and convenience to the document. There are many tables in the plan that indicate certain analysis points which usually has a narrative attached to it, but they wanted to put that back onto a map so that the Board could see where the points are located. Staff also did a zoom in focus on the proposed facility location. The Management Plans have always had map tiles that go through each watershed, with proposed facilities and existing facilities. They have enhanced the new tile maps for better clarity. Quality of life and the trail systems are located in the Plan.

A motion was made by Donald Rudy to accept the Montoyas and Barranca Arroyo Watershed Management Plans as presented. It was seconded by Jim Fahey and passed unanimously.

2. Presentation of Draft Business/Strategic Plan.

Mr. Thomas stated that staff has had an opportunity to review the business/strategic plan. He has provided the Board with the document without the appendices, which have remained the same. All of the watershed park areas have been updated with the ongoing activities. In addition, he would like to point out that with the major Watershed Management Plans, including the Unnamed Arroyo Watershed Management Plan, staff recently discovered that there is another small watershed, the Unnamed Wash Watershed Management Plan. Staff is going to pursue development of that in house. They did include an update and a description of all the major infrastructure that SSCAFCA currently has available to it.

He stated that some new sections were also added to the plan. The first one is the legislative section. Right now, given the economic situation, and looking at how best to position SSCAFCA moving forward, it is important to establish an ongoing positive relationship with its legislators and maintain communication. Mr. Conkling stated that he thinks it would be a good idea to keep a map that overlays the voting districts and SSCAFCA's watershed parks as well. Mr. Thomas stated this will be an ongoing, annual process so everybody is up to speed on changes.

Mr. Thomas stated that the documentation for the Quality of Life Master Plan prepared by Mr. Spirock has been pulled into infrastructure planning as SSCAFCA moves forward. The other section that has been added and which staff will be looking at more closely is pursuing alternate funding sources. They are working with legislators on focusing on some regional projects that

impact the whole area with the idea of looking for something that would qualify as a statewide project for the region.

Mr. Conkling encouraged Mr. Thomas to use the rainwater harvesting guide to its capacity. Mr. Thomas stated that he will update the plan to indicate the coordination with the City on this issue.

3. Discussion of Status of Outstanding Bond Fund Projects.

Mr. Thomas stated that the Chairman had asked for an update on SSCAFCA's bond funds. Attached to the Board's packets is an attachment which shows this information. The first is a review of SSCAFCA's last bond election in 2008 showing the revised amounts and the projects for funding. It also shows the following three years for which bonds were issued and under which categories. The second page takes the issuance of each bond and outlines all the remaining projects that are allocated with unexpended funds remaining.

Mr. Chaney asked about the lack of activity for funds expended in 2011 and why it shows over \$2 million in retained funds that could be spent on projects. Mr. Thomas stated that one of the underlying reasons of bringing this to the Board's attention is the possibility of reprogramming some of the funds for right-of-way acquisition and some other projects that could be done at this time. The issue is that there is not sufficient money to complete major projects. He has been in talks on how to best implement a leasing program on right-of-way.

Ms. Debbie Casaus stated that she doesn't believe that bond funds can be used to lease property. The leasing has been done out of the general fund because it's an operating cost. Clarification can be obtained from SSCAFCA's bond attorney. Mr. Thomas stated that bond funds are to be used on non-recurring capital projects and they cannot cover direct operating costs on an ongoing basis. Mr. Fahey stated that it is still important to pay attention to SSCAFCA's priorities.

4. Discussion/Action of Budget and Scope of Gateway Pond & Park.

Mr. Thomas stated that SSCAFCA is partnering with the City and the developer on building a drainage structure in combination with SAD 7A with the City and also incorporating some quality of life elements with a park. He has submitted a memo to the Board outlining the background where SSCAFCA finds itself currently. Essentially in place right now there were two separate agreements developed, one between the developer and the City and one between the developer and SSCAFCA. They had separate monetary amounts. In SSCAFCA's agreement, the developer was to provide \$50,000.00 toward the drainage improvements. At the time of the agreement, it lists a 48 inch drainage pipe. However, a value engineering evaluation determined that the wall is the cheaper

option and is now in place and mostly complete. The original agreement between the City and the developer obligated the developer to put \$160,000.00 toward construction of the park.

There was a subsequent amendment to the City of Rio Rancho agreement with the developer that increased the amount of funding toward the park to between \$160,000.00 to \$210,000.00 with the difference between the \$210,000.00 and the cost of the park to be directed to SSCAFCA in consideration of drainage developments. The paperwork in place are independent instruments and it looks like it obligates the developer for up to \$260,000.00. There have been numerous discussions that indicate, on some level, that the amount was never intended to surpass \$210,000.00. There is no corresponding amendment to SSCAFCA's agreement that dictates the use of the \$50,000.00.

Mr. Thomas stated that there are three options. One is to proceed with the agreements as they are outlined, which would bring the \$50,000.00 to SSCAFCA and leave the park with \$160,000.00. The second would be to pursue an amendment to SSCAFCA's agreement allowing the \$50,000.00 to move toward the park completion. The third would be to look at some possible amendment somewhere in the middle. The original budget was \$490,000.00; \$90,000.00 was reallocated from the 2007 bond issues and an additional \$400,000.00 was provided out of the 2010 bond issue. SSCAFCA's current expenditures right now are at about \$441,000.00, so SSCAFCA is currently \$48,000.00 under budget. However, there are a number of further amenities to which SSCAFCA has committed, including a parking lot, the drainage protection for the lip and area around the pond itself, the fencing around the upper and lower pond for safety purposes and an interior pathway on the west side of the wall with the artwork. The projected costs for that would bring SSCAFCA over budget by \$41,000.00.

Mr. Thomas handed out a quote from Hilltop. The first two pages outline the elements covered with the \$160,000.00. The last page is the additive alternates that are at question. If the \$50,000.00 is directed toward SSCAFCA and not the park, these are the elements which will not be constructed as the budget stands right now.

Mr. Chaney asked if there was a discussion about a park in the original agreement with the developer. Mr. Thomas stated that the agreement was for the drainage improvements, however, subsequent board minutes discuss SSCAFCA coming on board with the development of the park and the Board authorized \$490,000.00 towards construction of park improvements. Mr. Metzgar stated that the agreement was not formally modified. In order to solidify the agreements that were laid out in emails and correspondence, option 2 would fix the problem.

Mr. Thomas stated that right now with the projected costs of the remaining elements, SSCAFCA would be over budget if all the elements were pursued. Currently, SSCAFCA is within budget. Mr. Fahey stated that with an additional \$41,000.00 on the part of SSCAFCA, the project would wind up the way everybody would like it to be. Mr. Thomas stated that, at this point, there is an opportunity to go in either direction. He is hesitant to make a recommendation given the position SSCAFCA is at right now. If the \$50,000.00 is not spent on the park, the sacrifice would be the additive alternate items which include the shade structure, the concrete pad, the concrete sidewalk and header for the playground area, the actual playground structure itself and the exercise stations on the walking path in the interior of the park. The impact on SSCAFCA would mean that the \$41,000.00 would need to be redirected from other funds, most likely from the general operating fund.

Jeff Jesionowski, a real-estate developer hired by Petroglyph Real-Estate, stated that he got into this just as the agreements were being executed. He was not part of the initial drafting of the agreements. At this stage of the game, the one sure-fire way of having avoided this would be a tri-party agreement. The agreement with the City was done in May and the agreement with SSCAFCA was done in July. An amendment to the City's agreement was done in September. Every one of those was anticipating the next amendment. No place in any of these documents does it ever say \$160,000.00 + \$50,000.00 + \$50,000.00 to add up to \$260,000.00. The developer's obligation from the get-go was \$210,000.00 and the developer is fully committed to that amount. The developer is in favor of option #2. This can be built by the end of the year.

Mr. Chaney asked about the developer going to the City for the additional funds since the money will be used for the park, which is not SSCAFCA's responsibility. Mr. Jesionowski stated that the agreement is very specific regarding the 48 inch pipe in exchange for the developer providing \$50,000.00 for construction costs and the installation of the 48 inch pipe...to a maximum cost to the developer of \$160,000.00. The issue is that the 48 inch pipe has not been installed. Mr. Chaney stated that there was a long discussion about whether to put two pipes under Unser which was going to cost quite a bit. Instead, SSCAFCA came up with the idea for the wall, which saved a lot of money that could be put into the park. SSCAFCA didn't finish the agreement that reflected SSCAFCA's initial will in terms of its vision. SSCAFCA was overjoyed at saving the money to be able to put it into the park.

Mr. Thomas stated that external fencing is already constructed and in place. There would be fencing added that will provide a safety element to capture soccer balls, etc., between the upper and lower portion of the park. This is the most critical element from SSCAFCA's perspective.

A motion was made by Jim Fahey to approve Option #2 as presented. It was seconded by John Chaney and passed unanimously.

Fiscal Services Director:

1. Recognition/Acknowledgment of the Fiscal Services Report for September 30, 2011.

Ms. Debbie Casaus stated that for the first quarter of fiscal year 2012, operating tax revenue is 24.2% higher and debt service is 19.1% higher. To keep in mind, this is on delinquent property tax collections and is not the new year. General fund expenditures are 12.08% of the budget and SSCAFCA is currently 25% through fiscal year 2012. They continue to monitor City of Rio Rancho single home permits. To date, the City has issued 233, which is 39% lower than the same time last calendar year. Interest earned on funds with the state are at 0.231% compared to a U.S. Treasury bill which is at 0.02%. Ms. Casaus stated that SSCAFCA would not have the liquidity with a U.S. Treasury bill as it does with having the money with the state. SSCAFCA does not currently have any money in CDs in local banks.

The Board recognized and acknowledged the Fiscal Services Report.

2. Action/Acceptance to Certify SSCAFCA's Inventory of Capital Assets.

Ms. Deborah Casaus stated that she is asking for the Board to certify SSCAFCA's inventory of capital assets included in the Board's packets. This is required by the New Mexico State Auditor's Office. Mr. Conkling stated that the inventory has been audited by SSCAFCA's auditing firm.

A motion was made by John Chaney to certify SSCAFCA's Inventory of Capital Assets as presented. It was seconded by Donald Rudy and passed unanimously.

Environmental Services Director:

Trevor Alsop stated that annual reporting to EPA on stormwater management program activities is required as a condition of permit coverage under the current NPDES Phase II discharge permit. A draft annual report covering the activities conducted during July 1, 2010 through June 30, 2011 is available to the public for review at the SSCAFCA office or from the website www.sscafca.com. Public input on the report will be taken at the November 18, 2011 Board of Directors meeting and will be considered in preparation of the final report submitted to EPA.

Mr. Alsop stated that it is time to submit SSCAFCA's annual report to the EPA regarding compliance with the storm water permit. This documents year four activity which began July 1, 2010 and ended June 30, 2011. SSCAFCA is currently in its fifth and last year of its permit. At this time

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next year, he expects that SSCAFCA will still be operating under this permit. The majority of SSCAFCA's program deals with public education and outreach. SSCAFCA continues to develop and grow the River Xchange program. Last year, an addition was made to the program to tackle trash and debris in arroyos and SSCAFCA formed the trash reduction and elimination committee. A task force was actually created in the legislative session earlier this year and has met and continues its work and will report to a subcommittee next month on its efforts. A lot of promotional and educational material has been created as a result of this committee. He stated that participation and funding for the conference in March 2011 is shaping up rather well by bringing in local technical experts to implement infiltration practices which dovetails into how to improve rainwater harvesting.

In answer to a question from Mr. Conkling, Jennifer House stated that it is not clear what will go before the legislature. There is a report that has listed numerous recommendations under each section. Each of those have several recommendations under them. They hope to cull them down so that they can take them before the legislature for consideration. Mr. Thomas stated that this session is a short session, which means that anything beyond budget will have to be the Governor's call to get anything else placed onto the agenda. The best strategy would be to target the following long session which will give the committee time to prepare the list that will be submitted.

Mr. Larry Horan, lobbyist for SSCAFCA, stated that this is a 30 day session so it is limited to appropriations, revenue bills, messages from the Governor and previously vetoed legislation. In order to get any legislation for something such as this, unless SSCAFCA is going to ask for an appropriation, which, given the economic climate, he would not recommend, he thinks the course of action is to let it go to the Interim Committee. In the next interim, it will give the Committee time to study the report and have more knowledge about it for the next session.

~~Mr. Conkling stated that the Board is going to recommend that TREC and the formation agency and the larger entity not let up on the issue and continue SSCAFCA's efforts.~~

Public Comments will be taken at this time.

Mr. Ron Reeder stated that the handout lacks the appendices to the report. He asked if the complete draft report was on the website. Mr. Conkling stated that it is.

Field Services Director:

1. Emergency Planning Update.

Mr. Jim Service stated that he and Catherine met with David Brevins, the Sandoval County Emergency Manager, in their continuing effort to make sure that SSCAFCA's emergency

action plans for its facilities are coordinated on a county level, and the city level. To make sure that SSCAFCA is positioned as a part of an over-arching emergency response mechanism generated by the county. He stated that Sandoval County has a mitigation plan that needs to be updated. An RFP is out and accepted for that and the budgetary requirements are being reviewed in order to get that plan updated. SSCAFCA offered its assistance with the update of that plan. The other thing they discussed was SSCAFCA's ability to acquire the appropriate emergency communications equipment. He is going to visit the 911 call center to make sure that the appropriate terminology is on the red alert.

2. Gateway Pond Project Update.

~~Mr. Jim Service stated that they did a substantial completion walk through on Wednesday of this week. The main thing the Board needs to be aware of is that the concept of staining the wall has been abandoned because of the amount of patchwork that went into the wall. It was decided that a coating called "ThoroughCoat" be applied, which is more of an opaque application and has a more stucco type of finish. It is still being debated as to what type of this will be used. ThoroughCoat can sometimes have more or less of a stucco finish to it and if it's applied to cover up inconsistencies of the color in the wall, then you lose the texture you initially did when you formed the wall. The wall is concrete, but the problem with staining it is twofold. One is that from truck to truck it is difficult getting the color samples right. There was also a problem in getting the slump right. Some of the application from truck to truck or from placement to placement you have color variation in the color concrete. Along with that are the snap tie holes through the forms in the concrete. When you remove the forms, you have holes throughout the wall. The grout they used to patch those is different from the wall color and the grout that they used to fix the form was different from everything. The only thing a stain will do is bring out the differentiations in the colors. Nothing has been decided as of yet. The contractor is supposed to give a cost breakdown soon on any cost increase, however, the contractor will be held mostly accountable due to the workmanship.~~

CHAIRMAN'S REPORT.

Mr. Conkling stated that he would like to be sure that everybody remembers about the training on November 17, 2011. He stated that he invited the three remaining directors of ESCAFCA to that meeting in anticipation of a broader discussion regarding drainage and SSCAFCA's role vis-a-vis ESCAFCA.

Mr. Conkling stated that SSCAFCA needs to continue its efforts on the City ordinance with regard to development and water harvesting. Buried in the ordinance is a paragraph that requires anyone building a home on a half acre lot would have to contain the rainwater from their roof. He will continue to push this issue.

BOARD OF DIRECTOR'S COMMENTS.

None.

COMMITTEE REPORTS.

Mr. Chaney stated that SSCAFCA is advertising for a drainage engineer position. The Personnel Committee has had some discussions with regard to whether the entire Board would like to be involved in the choice of the person to be hired. Mr. Conkling stated that it has come up in the Executive Committee as well. The Executive Committee believes that it would be the Personnel Committee and the Executive Director's decision. Mr. Conkling stated that it was a consensus of the Board that the Personnel Committee and Executive Director make the decision.

PROPERTY MATTERS.

1. Appraisals are pending for the following lots:
 - Unit 11, Block 11, Lot 55, Sugar Dam
 - Unit 20, Block 133, Tracts H & I, Venada Dam/Water Quality Facility.

2. Documents have been signed for sale of property to New Mexico Department of Transportation:
 - Unit 20, Block 177, Parcel 68-14
 - Unit 20, Block 177, Parcel 68-15.

Mr. Conkling stated that these are the lots that extend the culvert under Paseo del Volcan.

ACTION/APPROVAL OF THE MINUTES OF JULY 27, 2011, AUGUST 19, 2011 AND SEPTEMBER 16, 2011.

A motion was made by Jim Fahey to approve the minutes of the Board meetings of July 27, 2011, August 19, 2011 and September 16, 2011 as presented. It was seconded by Donald Rudy and passed unanimously.

ATTORNEY'S REPORT.

None.

FOR YOUR INFORMATION:

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1. October 2, 2011 Observer newspaper article TREC "Recycle Round Up" seeks student recycling stories.
2. September 27, 2011 correspondence from Department of Finance and Administration approving the Fiscal Year 2011-12 final budget.
3. City of Rio Rancho Children's Water Festival will be held on November 7th and 8th at the Santa Ana Star Center.
4. Rio Rancho Public Schools Safe Routes to School (SRTS) Action Plan.

PUBLIC FORUM.

None.

OTHER BUSINESS.

- Board Training November 17th at 9:00 a.m. at SSCAFCA Office
- Next Regular Board Meeting is on Friday, November 18, 2011 at 9:00 a.m.
- Proposed Legislator Meet & Greet, December 16, 2011

ADJOURNMENT.

A motion was made by Jim Fahey and seconded by Donald Rudy to adjourn the meeting. It was carried unanimously. Meeting adjourned at 11:00 a.m.


DONALD RUDY

ACTING Secretary


MARK CONKLING
CHAIRMAN

DATE APPROVED: December 21, 2011

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