

SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY  
(SSCAFCA)  
MINUTES OF APRIL 17, 2015  
BOARD OF DIRECTORS REGULAR MEETING

**CALL TO ORDER.**

The regular meeting of the SSCAFCA Board of Directors was called to order by James Fahey, Chairman, at 9:00 a.m.

**ROLL CALL OF DIRECTORS.**

Directors in attendance were Mark Conkling, James Fahey, Steve House, and Michael Obrey. John Chaney was noted as absent. Charles Thomas, Executive Engineer, Bernard Metzgar, SSCAFCA's attorney, and members of the public were also present.

**ANNOUNCEMENTS.**

An announcement was made by James Fahey that all electronic devices needed to be turned off during the meeting and that the microphones are voice activated.

**PLEDGE OF ALLEGIANCE.**

The Board was led in the Pledge of Allegiance by James Fahey.

**APPROVAL OF AGENDA.**

A motion was made by Mark Conkling to approve the Agenda as presented. It was seconded by Michael Obrey and passed unanimously.

**ACTION/APPROVAL OF THE MINUTES OF MARCH 20, 2015.**

A motion was made by Steve House to approve the Minutes of March 20, 2015 as presented. It was seconded by Michael Obrey and passed unanimously.

**PUBLIC FORUM.**

None.

**STAFF REPORTS.**

*Executive Engineer:*

1. Capital Projects Update:
  - : Dam 4 to 1 (Andres Sanchez);
  - : Lower Montoyas Water Quality Feature;
  - : Harvey Jones Channel Improvements.

Mr. Charles Thomas stated that there are three ongoing projects right now, and introduced Andres Sanchez to go over the update. Andres Sanchez stated that the Dam 4 to 1 pedestrian trail project has been under construction since January. The initial phase included the expansion of three of the inlets along the trail on the escarpment, and a sediment retaining wall. The scope was increased to include repaving of the trail, and the construction of some additional drainage features. The initial phase is complete. The existing inlets are modified. The sediment retaining walls are constructed. Change Order number 1 is in progress. The asphalt is down for the new trail. There was an existing inlet that wasn't quite at the low point, so there was some ponding that didn't get into the inlet, and all of that has now been fixed. All that is left to do is some concrete work and some regrading and general site clean up. He showed the Board before and after pictures of the project. The system upstream connects all three of the modified inlets. He is hopeful that the project will be completed by the next Board meeting. He stated that there has been a lot of positive public reaction on the project.

Mr. Dave Gatterman stated that the Lower Montoyas Water Quality feature work began on March 30th. Right now, the only pictures he has are of scrapers doing earthwork. They have substantially completed the grading at the Harvey Jones Inlet, so they have now moved to the west end of the site and are beginning grading on that. There will be earthwork for about three to four weeks, and then structures will start going up about the end of that time line.

Mr. Gatterman stated that, with regard to the Harvey Jones Channel Improvements, they have spent the last month cleaning up the area. There was a change order added in that added the concrete at the east end of the project, which is the working pad and access ramps. The project is moving well. The work in the actual channel is at substantial completion. The only thing that needs to be completed is that the joints need to be sealed between the panels, and if it rained right now, it would not create a problem, except for some cleanup for the contractor. The Harvey Jones is on schedule to finish by the end of April, beginning of May.

2. Presentation on the 2015 Legislative Session.

Mr. Charles Thomas introduced Larry Horan. Mr. Horan stated that this was a 60 day legislative session which means that legislative members can consider any matter on any topic that they feel appropriate. The big change was that the majority was Republican in the House for the first time in some time, so the question going in was how it was going to impact matters. There was a lot

more contention than there had been in the past. That resulted in more gridlock than has been in the past. The House quickly considered the Governor's key pieces of legislation. Tactically, the House leadership had those bills considered and passed through committee and the House so that the Senate received that legislation early in the session. That didn't mean that the Senate was going to consider them, or that they passed; what it did was, that those pieces were killed in committee early or were just never heard in the Senate. The debate on the budget was almost unanimous out of both houses.

Mr. Horan stated that what did not pass is what is garnering the most attention, and that is the Capital Outlay Bill. SSCAFCA had one project for which it was asking legislative funding, and that is the Upper SLO Dam. The request was for \$500,000. SSCAFCA was in the legislation for \$375,000 of that amount. Before the session, the Governor indicated that she was interested in funding road projects and she wanted to use funding in the Capital Outlay Bill or severance tax funding to fund them. Last year, she used all of the statewide money she obtained, plus some other funding to fund water projects throughout the state. This year, she decided to fund road projects. There is a reluctance amongst legislators to fund road projects from severance tax funding. The amount for capital outlay funding has run around \$220 to \$280 million. The concern in funding road projects with severance tax funding is that the need is so great, the roads will suck up all the available funding for the foreseeable future. The Governor is against raising taxes and nothing has been passed or it has been vetoed if it raises taxes, even if not directly. The Senate generated the Capital Outlay Bill this year, which is out of the norm. The \$264 million Capital Outlay Bill included local projects from all the Senate members. The House Democrats funded statewide severance tax projects with statewide money that included museums and senior centers. The negotiations centered around how to fund the road projects. The Senate took \$45 million in general fund reserves, put that in the Capital Outlay Bill, and funded the Governor's road projects. Then they sent the bill to the House. The Governor and the House leadership did not want to fund the road projects with reserves, and they also didn't agree with the increase in gas tax. They received the bill on March 17th. On March 20th, in the Ways and Means Committee, they stripped all the money out of those statewide projects, and then took severance tax funding for the road projects. They also inserted the House Republicans' local projects. That legislation was passed with less than 12 hours left in the session. House rules allow for debate on legislation for three hours. The Democrats were unhappy with the partisan vote coming out of committee, so they debated that bill for three hours. The House then passed the bill on a straight party line vote. Since the bill coming out of the House and Senate was different, the Senate had to concur with the changes. If not, then it goes to conference committee to work out a compromise. There was 20 minutes left in the session when it passed. Predictably, the Senate chose not to act on it at all.

Mr. Horan stated that, for the first time in 65 years, there was a new party in control of the House trying to figure out procedurally how they were going to operate, and how they were going

to interact with the other chamber which was still a Democratic majority. The committee referrals were different, how quickly legislation was on the House calendar was different, the way the whole system operated was different. The long and short of it is that the smaller governmental entities in the State of New Mexico had projects that didn't get passed. Now, they are trying to decide what to do about it. There are options. The Governor can call a special session. The legislature with 3/4 majority can call themselves into session. The chances of the legislature calling themselves into session is very slim because neither side has a 3/4 majority. If the Governor calls a special session, she would also control what is on the agenda for that session. Now that things have settled, there is a big push for a special session coming from the communities and businesses that would benefit from the Capital Outlay Bill. Mr. Horan urged the Board to consider asking the Governor and the legislative leadership to call a special session. The more pressure that they get from local entities and businesses to call a special session can help push them to come to a compromise to pass a Capital Outlay Bill. If the legislators and the Governor do not come to an agreement on how to fund the road projects, and there is no deal going into a special session, it will not work. There have only been three times that a Capital Outlay Bill has not passed in the regular session. Mr. Horan does not believe a special session will be called if there is no agreement between the parties going into the session.

Mr. Horan stated that something that does impact SSCAFCA is that Representative Bandy introduced legislation that had to do when local elections occur. There is a laundry list of entities having elections in odd years. It would change the election cycle of SSCAFCA Board members from even years to odd years. The members would have to either shorten terms or extend them for a year. When SSCAFCA was first formed, the legislation set forth when those elections occur. There is a technical cleanup that would have to occur. That bill did not pass this year, but it is also being pushed in the Senate by Senator Soto, who does a lot of election reform. Mr. Conkling stated that the only time that SSCAFCA's bonds failed is when the elections were held in off years from the federal elections. Mr. Horan stated that this is important for SSCAFCA to consider. This movement comes as a result of the long ballots. In answer to a question, Mr. Horan stated that severance tax is the revenue that the State receives from severing minerals or oil and gas from the earth. It then goes into a permanent fund and they issue bonds on the severance tax permanent fund. That is where the capital tax outlay comes from. Every year they come up with a number that is available for severance tax funding. The limitation is that severance tax has to be used for capital projects. It cannot be used for operations. Traditionally, it is broken into thirds. A third goes to the Governor to choose to spend it how he or she chooses; a third goes to the House; and a third goes to the Senate. SSCAFCA gets its money from the individual legislators, not from the entire pot.

A motion was made by Mark Conkling to send a letter to the Governor and legislative leaders urging them to go into special session to pass a Capital Outlay Bill. It was seconded by Michael Obrey and passed unanimously.

3. Presentation on April visit to Washington, D.C.

Mr. Charles Thomas stated that the intent of their recent trip to Washington's was to accomplish as much as they could in a timely fashion. This year, between the two full days, there were 13 separate meetings. One was with four members of SSCAFCA's congressional delegation, several agencies, as well as other organizations, such as EPA, the National Association of Flood Safety Management Agencies, the Association of American Society of Civil Engineers, the US Army Corps of Engineers, the Bureau of Reclamation, FEMA, the Natural Resource Conservation Service, and the Federal Highway Administration. They also met with staff from Senator Udall, Senator Heinrich, Representative Michelle Lujan-Grisham, and Representative Ben Lujan's offices. Overall, the most significant point is that SSCAFCA, as an organization, is beginning to establish a presence in Washington with these agencies and its federal delegation. Many agencies had the same staff members meeting with them as last year, and some staff brought last year's booklets with them and remember SSCAFCA's focus on flood safety. One of the other significant facts overall is the climate change at the meetings and the impacts coming from that which are starting to have an effect on the federal budgeting process.

Mr. Thomas stated that there were several notifications that additional funding was being sought. The most extreme example was for public law 566 for watershed protection and conservation which funds the NRCS. That law has been unfunded since 2002. For this upcoming federal budget, they are looking at adding \$200 million in the President's budget and \$300 million in the House budget. This law only affects 11 western states, of which New Mexico is one. This does become a significant source of funding when shared among those 11 states, especially with projects that overlap what SSCAFCA is doing. They were very excited about some of the concepts that SSCAFCA is developing, in particular, the off channel storage concept and the work with UNM on modeling those and seeing how well they work. They fit in very nicely with some of the funding packages. The Federal Highway Administration is the leading agency on determining the impacts of climate change on future infrastructure. The Corps is slated to receive additional funding for flood control projects as well. SSCAFCA is well positioned because it has already established a presence in Washington.

In response to a question from the Board, Mr. Thomas stated that the Bureau of Reclamation has introduced a drought response program, which is currently in the final phase of establishing the criteria and is out for public comment. The Innovative Stormwater Solutions Bill

was introduced yesterday by Senator Udall which looks at targeting innovative solutions to stormwater which incorporates green infrastructure and low impact development. Susan Gilson, with the National Association of Flood Safety Management Agencies, was particularly well informed. SSCAFCA is one of approximately 100 members of that organization, so it's fairly small, but is tightly focused on flood control. One of the interesting items learned from her is that the Waters of the United States definition may not be entirely dead. There may be a separation between the Corps and the EPA on their work. The administration appears to be moving forward using the Executive Order authority to accomplish actions at the federal level as opposed to working with either party in Congress.

In response to a question from the Board, Mr. Thomas stated that there was an Executive Order issued on January 30th, EO-13690, and it is regarding the new federal flood risk management standard. This is broken down to the base flood elevation plus one foot, two foot or three foot in terms of the firm maps. There really didn't appear to be much opportunity for local entities to weigh in with local conditions which may not match those requirements. The Order appeared to come out of response to Superstorm Sandy, and they are now applying it nationwide as a one size-fits all. This concerns all flood control agencies.

Mr. Thomas stated that with regard to the EPA, they did meet with headquarter's staff on the MS4 Permit regarding the concept of using the infiltration capacity within the arroyos on a regional scale as a mitigation technique for compliance with the MS4 Permit requirement to mitigate the 90th percentile storm. Currently, in the permit, there is a requirement for any entity within that permitted area to retain the 90th percentile storm and mitigate that flow, as that is associated with the most significant contamination. Here in New Mexico we do have state law that prohibits retention of storm water flows for longer than 96 hours, so there is a direct conflict between the MS4 Permit as issued and state law. The Permit recognizes this and acknowledges that compliance with the Permit should not violate other state laws. However, they have been silent on providing any specific direction on how to match those two elements. They did discuss the concept of using the arroyos to infiltrate storm flow as a possible mitigation technique that could be approved in the Permit. They did indicate that it was a viable solution and that they had been considering off-site compliance options for the on-site retention, and encouraged SSCAFCA to continue to work with the permitting entities on defining it.

Mr. Thomas stated that they met with FEMA. SSCAFCA has been applying for several grants through the New Mexico Department of Homeland Security and Emergency Management for several projects. SSCAFCA did successfully receive funding for the Alberta Road Project recently. However, there has been significant concern over the federal interpretation of the benefit cost analysis process. This is a process put in place by the federal agency to ensure that a project that is being proposed provides an equal value of benefit as to the cost of the project. The

regional office of FEMA has been requiring an excessive amount of information in order to make that determination, resulting in SSCAFCA expending the equivalent of 21% of the final award in the Alberta Road Project just to move forward with getting approval of the Project. They discussed this with the headquarters of FEMA in Washington, and have attempted to discuss it with staff in other offices as well. New Mexico has \$23 million in mitigation grant program funding that is currently going unused because nobody is able to get through the evaluation process. The state is experiencing a significant level of frustration as well. It was heartening to hear that the Branch Chief of Data Analysis indicate that the BCA model concept was not intended to generate an excessive amount of over analysis of a project to the extent that an entity is spending a significant amount of the potential award trying to justify the cost of the project. One of their top trainers will be in New Mexico on April 27th and 28th and staff has signed up for the training session and will discuss that further. The BCA model is targeted toward a wetter environment than New Mexico. It does not accommodate issues in a more arid environment.

Mr. Thomas stated that they met directly with Representative Lujan-Grisham and Representative Lujan. Representative Lujan indicated a desire to meet here with SSCAFCA when he is back in New Mexico.

4. Presentation on Invitation for Bid (IFB) Plan.

Mr. Charles Thomas stated that the Invitation for Bid Plan provides information to the Board and continues to refine staff's ability to complete project design and construction in house. What was discovered during the bid process for the Lower Montoyas project were some elements that came up during protests and bids and how information is provided. This has provided the opportunity to take those lessons learned and apply them to a document that allows staff to run through the process of how they organize, structure, and operate a bid process.

5. Action/Acceptance of Resolution 2015-7 Personnel Policy Update.

Mr. Charles Thomas stated that Resolution 2015-7 is a Personnel Policy Update. SSCAFCA received a review from its insurance agent regarding policies to identify areas of potential risk. One of the items identified was to incorporate a regular review of employee driving records. This is required upon initial hiring, but there was nothing in place to follow up. The vehicle policy is being modified to formally include a section stating that employee driving records will be reviewed on an annual basis.

A motion was made by Michael Obrey to accept Resolution 2015-7 as presented. It was seconded by Steve House. Roll call vote: Mark Conkling, yes; Jim Fahey, yes; Steve House, yes; and Michael Obrey, yes. The motion passed 4-0.

***Fiscal Services Director:***

1. Recognition/Acknowledgment of the Fiscal Services Report for March 31, 2015.

Ms. Deborah Casaus stated that the Fiscal Services Report for March 31, 2015 is in the Board's packets. Property tax collections are coming in as expected, and no surprises are anticipated. General fund expenditures year to date through March are about 43% of the total budget and SSCAFCA is about 75% through the fiscal year. The Budget includes the \$550,000 large storm line item in it. Taking that out, SSCAFCA is about 51% of the total budget, which brings it more in line. The City of Rio Rancho showed 39 single family residential permits issued for the month of March. There have been a total of 76 for the calendar year. This is about 47% below last calendar year. Interest earned on the State Treasurer's funds was at a rate of .106% for the month of March. The Treasury Bill is yielding about .015%.

The Fiscal Services Report for March 31, 2015 was recognized and acknowledged by the Board.

2. Action/Acceptance of Fiscal Year 2016 Preliminary Budget.

Ms. Deborah Casaus stated the Fiscal Year 2016 Preliminary Budget is due to the Department of Finance by June 1st. If the expenditure projections are off, or if revenue collections vary, or there are other variations, staff gets one more chance to fix it in the final budget. That is due by the end of July, which is when it will come back to the Board for final approval.

Ms. Casaus stated that staff anticipates property tax revenue in the general fund to be \$2,025,000. This is about a 1% increase over the current year. The County is still working on re-evaluating its properties, especially the vacant properties. The cost of living projection is budgeted into the salaries at 1.6%, and a budget increase of 3% and 5% for staff and the executive engineer respectively. No change in the health insurance benefits. The City of Albuquerque is projecting the rates will stay the same, and the same split of 83% / 17% between employer and



employee. There are no changes in the retiree health care or the PERA contributions. The operations and maintenance is funded at \$1 million. This includes the large storm clean out which is \$600,000. It is being increased based on the cash carry over into the next fiscal year. Improvements are funded at \$246,000 and will be utilized for planned facility improvements. The general fund reserve is being left at \$750,000, which exceeds the state requirement of 1/12 of SSCAFCA's expenditures. Debt service is estimated at \$3,325,000. This also includes a 1% growth. No change in anticipated in the debt service mil levy at this time. The construction fund budget assumes approximately \$3.7 million will be carried over for fiscal year 2016 for approved projects. That balance is comprised mostly of proceeds from the 2012 bond issue as well as the proceeds from the recent 2014 bond issue.

Ms. Casaus stated that there is no limit on the debt service mil levy, that is calculated based on SSCAFCA's debt service payment.

A motion was made by Mark Conkling to accept the Fiscal Year 2016 Preliminary Budget as presented. It was seconded by Steve House. Roll call vote: Mark Conkling, yes; Jim Fahey, yes; Steve House, yes; and Michael Obrey, yes. The motion passed 4-0.

3. Action/Acceptance of Selection/Agreement with Murray, Montgomery & O'Donnell for Professional Lobbyist Services.

Ms. Deborah Casaus stated RFP 2015-01 was issued. There were two responses to the RFP, however, one of them was deemed noncompliant because they forgot some of the mandatory information. There was one valid proposal and was rated satisfactory. Staff would like to propose to have it approved for a yearly contract, with up to four renewals. This is with SSCAFCA's existing lobbyist, Murray, Montgomery & O'Donnell.

A motion was made by Steve House to accept Murray, Montgomery & O'Donnell for Professional Lobbyist services as presented. It was seconded by Michael Obrey and passed unanimously.

***Environmental Services Director***

1. Request to release for public review - SSCAFCA's Notice of Intent to Obtain Coverage Under the new EPA Watershed Based Permit.

Mr. Dave Gatterman stated that he would like to release for public review SSCAFCA's Notice of Intent to Obtain Coverage Under the new EPA Watershed Based Permit. This is a little different from last time. The EPA has changed their format for issuing the Notice of

Intent. It is more robust, long format. Essentially, it goes through the various elements of the permits. A lot of what is in the Notice of Intent is what SSCAFCA intends to comply with what is in each section. As a flood control authority without the ability to issue ordinances, many elements of the electronic NOI are not applicable because many elements require development of ordinances, implementation, etc. At this point, he believes that the Permit is complete. SSCAFCA has had peer reviews of the Permit done. SSCAFCA is required to have a public review for thirty (30) days, which will begin approximately on May 1 and will be completed on June 1. The NOI will be issued for public review on SSCAFCA's website and the Keep the Rio Grande website, which is the storm water quality team's website.

Mr. Gatterman stated that the other 14 entities listed in the Permit are required to submit a Notice of Intent to the EPA by June 22nd. Some entities have completed theirs and they are up for public review. Some have decided to go their own way with the Permit. Aside from that, everybody else is in the process of finishing the development of the Permit.

A motion was made by Mark Conkling to release SSCAFCA's Notice of Intent for public review for thirty (30) days as presented. It was seconded by Steve House and passed unanimously.

**OTHER COMMITTEE REPORTS.**

None.

**ATTORNEY'S REPORT.**

Mr. Bernard Metzgar stated that there has been some movement in the last two days on the JPA. Apparently, the agreement was turned over to the Department of Transportation, who was actually going to get the funds, and they had an agreement with the Town of Bernalillo for that appropriation project. They had done this some time ago based on 2014 capital outlay. He got a call from general counsel for DOT. She indicated that she was going to move forward quickly on trying to solve the problem. Apparently, they felt the problem was that, in the capital appropriation project agreement between the DOT and the Town of Bernalillo, it indicated that the Town was going to be the lead agency. When he drew up the JPA, he put in there that SSCAFCA would act as the lead agency because SSCAFCA would do all the bidding, etc. He also put in that the Town had control of all funds. She told him upon her review of the two agreements, they felt like they wanted his agreement to stay and that it was fine. She said they would amend the Capital Appropriation Project Agreement to clarify that SSCAFCA would do the project, but the Town was going to approve

everything. He believes the DFA will approve the change, because there is really no conflict on who will be the lead agency.

In response to a question from the Board, Mr. Thomas stated that the next step is to complete the design for all the improvements. This will be completed by one of SSCAFCA's on-call consultants. Staff is in the process of negotiating the scope of work on that. SSCAFCA could probably move forward, but the only risk is if this is not approved, the work done will be paid out of bond funds once a contract is signed.

Mr. Metzgar stated that he has been negotiating to get a TCP with some owners of some property that SSCAFCA needs for the Patchogue Road Improvements. He stated that SSCAFCA doesn't have access to do what it wants to do on those improvements. Staff has asked for permission to cross their property temporarily and using part of their property to do the project. If they agree, it will be signed quickly. They had a paragraph concerning SSCAFCA holding them harmless during the project, but it would only be on the use of the property. He doesn't believe that SSCAFCA can do that. Mr. Thomas stated that since he's been here, TCP issues and documents have been dealt with in house with just his signature, and they have not been brought before the Board.

**CHAIRMAN'S REPORT.**

None.

**BOARD OF DIRECTOR'S COMMENTS.**

None.

**PROPERTY MATTERS.**

1. Action/Acceptance - Unit 11, Block 24, Lot 5 - 0.50 acres - Rainbow Pond.
2. Action/Acceptance - Unit 11, Block 24, Lot 6 - 0.50 acres - Rainbow Pond.
3. Action/Acceptance - Unit 11, Block 24, Lot 7 - 0.50 acres - Rainbow Pond.
4. Action/Acceptance - Unit 11, Block 24, Lot 8 - 0.50 acres - Rainbow Pond.
5. Action/Acceptance - Unit 11, Block 24, Lot 9 - 0.50 acres - Rainbow Pond.
6. Action/Acceptance - Unit 11, Block 24, Lot 36 - 0.50 acres - Rainbow Pond.
7. Action/Acceptance - Unit 11, Block 24, Lot 41 - 0.50 acres - Rainbow Pond.
8. Action/Acceptance - Unit 11, Block 25, Lot 3 - 0.50 acres - Rainbow Pond.
9. Action/Acceptance - Unit 11, Block 25, Lot 31 - 0.50 acres - Rainbow Pond.
10. Action/Acceptance - Unit 11, Block 25, Lot 32 - 0.86 acres - Rainbow Pond.

**BOARD OF DIRECTORS REGULAR MEETING**

**APRIL 17, 2015**

11. Action/Acceptance - Unit 17, Block 96, Lot 22- 1 acre - Christopher Point.

Mr. Thomas stated that it is necessary to obtain these properties for two drainage projects, Rainbow Pond and Christopher Point.

A motion was made by Steve House to accept the property acquisitions as indicated. It was seconded by Michael Obrey. Roll call vote: Mark Conkling, yes; Jim Fahey, yes; Steve House, yes; and Michael Obrey, yes. The motion passed 4-0.

**FOR YOUR INFORMATION.**

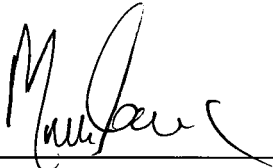
None.

**OTHER BUSINESS.**

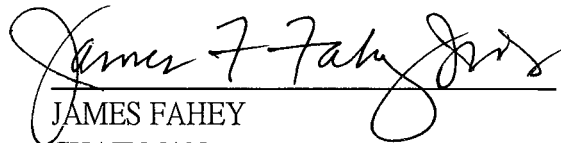
- Next Regular Board Meeting is on Friday, May 15, 2015 at 9:00 a.m.

**ADJOURNMENT.**

A motion was made by Michael Obrey and seconded by Mark Conkling to adjourn the meeting. It was carried unanimously. Meeting adjourned at 10:45 a.m.



MARK CONKLING  
Secretary

  
JAMES FAHEY  
CHAIRMAN

DATE APPROVED:

5/15/15