

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)**

**MINUTES OF NOVEMBER 16, 1999
REGULAR BOARD OF DIRECTORS MEETING**

CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by Dub Yarbrough, Chairman, at 1:05 p.m.

Directors in attendance were John Chaney, James Dorn, Bill Joiner, Guy McDowell and Dub Yarbrough. Staff members present were David Stoliker, Executive Director. Bernard Metzgar, SSCAFCA's attorney, and members of the public were also present.

APPROVAL OF AGENDA.

A motion was made by Bill Joiner to approve the Agenda as presented. It was seconded by Guy McDowell and passed unanimously.

**CLOSED SESSION TO DISCUSS A PERSONNEL MATTER (POTENTIAL LITIGATION)
IN REGARD TO GUY MCDOWELL.**

A motion was made by Bill Joiner to go into closed session for the purpose of discussing potential litigation involving Guy McDowell and SSCAFCA. Jim Dorn seconded the motion. Roll call vote was taken. John Chaney, yes; James Dorn, yes; Bill Joiner, yes; Guy McDowell, yes; Dub Yarbrough, yes. The motion passed 5-0. The Board went into closed session at 1:07 p.m.

RESUMPTION OF OPEN SESSION.

The Board reconvened in open session at 1:30 p.m. Mr. Yarbrough stated that discussion in the closed meeting was limited only to the matter specified in the motion for closure and that action on this item will be taken later in open session.

SECRETARY'S REPORT.

1. Approve Minutes of August 17, 1999.

A motion was made by Bill Joiner to approve the minutes of August 17, 1999 with two changes; To insert a from on page 3, item 9 between area and west, and on page 5, fifth paragraph to delete "and is currently designed to breach" after event. It was seconded by James Dorn and passed unanimously.

2. Approve Minutes of August 24, 1999.

A motion was made by Bill Joiner to approve the minutes of August 24, 1999 as presented. It was seconded by James Dorn and passed unanimously.

3. Approve Minutes of September 21, 1999.

A motion was made by Bill Joiner to approve the minutes of September 21, 1999 as presented. It was seconded by James Dorn and passed unanimously.

4. Approve Minutes of September 28, 1999.

A motion was made by Bill Joiner to approve the minutes of September 28, 1999 as presented. It was seconded by James Dorn and passed unanimously.

PUBLIC FORUM.

The Chair recognized Mayor Kanin, of Corrales, who requested a meeting with Dub Yarbrough, David Stoliker, Bernie Metzgar and others regarding the letter he sent to Mr. Yarbrough on June 17, 1999 regarding drainage issues. Mr. Yarbrough stated that he had sent a letter in response to Mayor Kanin's letter, which stated that the SSCAFCA Board felt that a meeting would be premature until the 528 drainage study was completed. He stated that the drainage study has now been completed and SSCAFCA is prepared today to address the matter when it comes up on the Agenda.

SHERIFF POSSE ROAD UPDATE.

Mr. Ron Bohannon, representing the developers, stated that they had looked at two options to fix the problem on Sheriff's Posse Road, one with the Encantado diversion in place and one without the Encantado diversion in place. The flow of 1100 cfs, with 20% bulking factor, ends up being about 1380 cfs under Sheriff's Posse Road, until such time as the diversion is in place. When that happens, the flow drops to 372 cfs. It has been determined that a 4' by 16' wide concrete box culvert would be needed. More importantly, enough concrete work needs to be done upstream and downstream to prevent the box culvert from filling with sediment. It was determined that the total cost, without the diversion, would be \$150,000.00. The developers are footing the bill for the design and removing any sediment from the arroyo. Mr. Bohannon stated that the cost for the bridge structure, surveying, testing and contingency was about \$71,000.00. The cost with the diversion would be about \$80,000.00.

Mr. Bohannon stated that some analysis on the grades of the slopes needs to be done. Mr. Yarbrough asked Mr. Bohannon if SSCAFCA could come up with a solution to having the diversion done by the rainy season, would he be comfortable with the smaller flow design. Mr. Bohannon stated that he is comfortable with the smaller flow design, but was hoping to get a commitment from

SSCAFCA on which flow rate to design for.

Mr. Stoliker stated that SSCAFCA can pass a resolution that says to go ahead and design and build for the larger flow and that would allow for free discharge if they so wished. Mr. Stoliker stated that when you undersize a structure, you are under that constraint until it is reconstructed. If it is built to a larger flow rate now, it will allow SSCAFCA options in the future that may pay for it. If the smaller structure is built, the developer will have to contain water that is drained off its land. With the larger structure, the developer may be able to discharge more, which will remove land for drainage facilities and put it into more productive use.

Mr. Stoliker stated that he and the Chairman have met with other entities regarding cost sharing. They have met with Debbie Hays of the County, and she will look for additional funding. The Town has indicated it will pay part of the costs of the structure. Mr. Chaney stated that SSCAFCA should commit to the \$80,000.00 and for the rest of the monies to be raised by the other entities, which would make a cooperative venture among all parties that will benefit.

Mr. Stoliker stated that the County has indicated that it will put up at least \$20,000.00 and the Town of Bernalillo will put up money. It appears that the developer is putting in about \$22,000.00 in the design of the master plan and associated costs. Mr. Bohannon stated that there is a price of \$107,000.00 total for roadway and box culvert.

A motion was made by John Chaney that SSCAFCA authorize Mr. Stoliker to enter into a joint powers agreement with the other entities involved to construct the improvements on Sheriff's Posse Road and that SSCAFCA be responsible for up to \$80,000.00 of the costs. Guy McDowell seconded it.

Concerns were raised regarding allowing the motion to be amended to proceed under a Memorandum of Understanding rather than a Joint Powers Agreement. Mr. Chaney stated that was acceptable if it could be done that way. An MOU does not require state approval and the work can be done locally. Mr. Metzgar stated that if an MOU were not possible than a JPA would need to be done. Mr. Chaney stated the motion could read either/or.

The motion carried 4-0 with Mr. Joiner abstaining.

APPROVAL/ACTION ON ENCHANTED HILLS DRAINAGE MANAGEMENT PLAN.

Mr. Fossenier, with Cinfran/Huitt-Zollars, introduced Mike Castillo, Russ Grayson, and Bob McDermott. Mr. Fossenier stated that they represent AMREP.

Mr. Fossenier stated that there has historically been three watersheds in the Enchanted Hills area. One that comes down an unnamed arroyo, one that essentially follows Enchanted Hills Boulevard, which is called Enchanted Hills Arroyo and one that goes down the Venada Arroyo. To protect the downstream properties, it was decided to build a diversion channel to convey the drainage from the unnamed arroyo and the Enchanted Hills Arroyo to the Venada Arroyo to carry the runoff to the Rio Grande. The arroyo would be a trapezoidal concrete channel that would be built at AMREP's expense.

Mr. Fossenier stated that the Master Drainage Plan was submitted to FEMA and AMREP received a conditional letter of map revision, which means that the map revision will be made if AMREP abides by certain conditions. Three units of the subdivision are being looked at for purposes of getting preliminary plat approval from the City of Rio Rancho. The City uses SSCAFCA to review their drainage issues and abides by SSCAFCA recommendations. SSCAFCA staff has recommended that AMREP abide by certain conditions before it will recommend approval of the plats. These recommendations were contained in comments presented to the Board. The plats are scheduled to be heard by the City of Rio Rancho at its meeting on December 14, 1999.

Mr. Fossenier stated that AMREP has agreed to the SSCAFCA conditions, which include the construction of the diversion channel. Mr. Fossenier stated that the construction should be completed by June, 2000. If it is not completed, AMREP will make sure that it will be substantially completed.

Mr. Fossenier stated that AMREP is concerned with two issues. One of them is taking the subdivisions out of the 100-year flood plain. AMREP would like to be able to obtain building permits and construct residences right now and would like to have it removed from the conditions. Mr. Fossenier stated that the other issue is the condition of "Approval of the affected property owners and dedication of necessary rights-of-way must be sought immediately for the Venada Arroyo between Pond 1 and New Mexico 528." Mr. Fossenier stated that two-thirds of the property is AMREP property and one-third of it is in Bernalillo. He stated that the present right-of-way amounts to around 3 1/2 acres and is platted as easements across private lots. AMREP's preference is to realign the easements to conform with the arroyo and offer it to SSCAFCA for jurisdiction. Mr. Stoliker has stated that SSCAFCA would

prefer to have ownership rather than easements. Mr. Castillo requested SSCAFCA's assistance in obtaining the rights-of-way on the arroyo. AMREP hopes to make the diversion in January, which gives it a very short time to acquire the rights-of-way.

If the channel was completed up to Sprint Boulevard, the channel could be completed by the end of January, including the concrete work. AMREP is prepared to donate the right-of-way that it controls if SSCAFCA will provide the balance with a cost-sharing arrangement.

The cost for the acquisition is between \$10,000.00 and \$30,000.00 an acre. The AMREP portion is about 8 acres. The portion in Bernalillo is about 5 acres. The use is suitable and is not occupied by anything but the arroyo right now. Mr. Stoliker stated that when you have an easement there are usually problems associated with the easement. The arroyo meanders and if it is not taken care of right now, diversion of water flow would affect property owners. This issue was identified in the FEMA CLOMR.

Mr. Castillo stated that AMAFCA has shared costs of projects with AMREP and they would like SSCAFCA to do the same. AMREP can't bear the cost of the project itself. Mr. Chaney suggested that SSCAFCA do the legal work and have AMREP do the land acquisition. Mr. Stoliker stated that the diversion will take a lot longer than people believe. He stated that if the right-of-way acquisition is not done and water is dumped onto private land owners, all parties, including SSCAFCA are subject to liability.

Mr. Stoliker stated that there are twelve conditions to the staff recommendation for approval of the Master Drainage Plan:

1. Construction Improvement Plans. The plans need to be submitted. SSCAFCA does not even have the engineering drawings for it yet.

2. Technical Revisions to the Master Drainage Plan. SSCAFCA has gone through and marked it up and AMREP is going to make all the corrections SSCAFCA requested.

3. Operation and Maintenance Manual. FEMA will require it and SSCAFCA has asked AMREP to do that. Mr. Stoliker stated that, when this is all done, SSCAFCA will accept the middle Venada from 528 to Pond 1, Pond 1, Encantado Channel (from Pond 1 to Santa Fe Hills Boulevard) with a bike path on it, Ponds 2 and 3, Enchanted Hills Boulevard crossing, Sprint Boulevard crossing and a maintenance access approved by staff.

4. Joint Use Facilities. SSCAFCA would like to work that out between itself and the City of Rio Rancho.

5. Rights-of-Way. This would be set up so the City of Rio Rancho would accept the actual property and SSCAFCA would take a maintenance easement.

6. Fencing. The fencing issue needs to be worked out. Mr. Yarbrough stated that there will be no chain link fencing in any of SSCAFCA's facilities as long as he is Chairman.

7. Rights-of-Way/Easements. There are only four property owners involved, but it is a regional facility and SSCAFCA should have the property.

8. Letter of Map Revision. The Developer's Agent, at its sole cost, will submit a letter of map revision within six months of project completion.

9. Storm Water Conveyance. This will be substantially completed prior to placement of any residential structure within FEMA's designated 100-year flood plain. SSCAFCA has identified substantially completed as "rough grading of the detention facilities to the required volume, concrete lining of the Encantado Channel to Sprint Boulevard, rough grading of the remainder of the Encantado Channel." Mr. Stoliker stated that the detention pond is not even done yet and SSCAFCA should not accept a diversion of the watershed into an uncompleted facility. Mr. Castillo stated that the pond will be substantially enlarged which will include spillway construction. Eventually there will be a road going by the outlet portion.

Mr. Stoliker stated that because SSCAFCA is responsible for the protection of life and property within its jurisdiction, we should require signature approval of any final plats processed in the unnamed arroyo special flood hazard area, a 100% performance bond to ensure completion of any portion of the remaining conveyance facilities or any other assurances agreed upon to facilitate construction completion. SSCAFCA staff recommended that the final plat approval not be granted until the reach of the Encantado Channel necessary to protect the affected units is constructed or alternative protection is provided. Mr. Stoliker stated that a notation regarding the 100-year flood plain will be put on the final plat and the 100-year base flood elevation for all structures will be provided on the grading plan.

Mr. Castillo stated that the map, which is an old, incorrect map, shows about half of the subdivision in a flood plain. The flood plain will not be there after the grading is completed.

Mr. Stoliker stated that if AMREP gets an occupancy permit, SSCAFCA is concerned that the owners who will eventually buy those lots and will not be able to get a mortgage because of

the 100 year flood plain. If it is a designated flood plain and the owners build on it, they have to buy flood insurance at an estimated cost of \$400-\$800 per year. Before the permits are issued, SSCAFCA has the opportunity to get the flood plain removed and save people hundreds of dollars a year.

Mr. Fossenier stated that the developer will pay for the bike path along the arroyo. It would also be used as a maintenance access to the drainage facilities.

10. Upon completion of the storm water conveyance facilities outlined in the master drainage plan, and issuance of the letter of map revision, the project will be presented back to SSCAFCA for final approval and acceptance for maintenance responsibility.

11. Approval for one year. If SSCAFCA wants to extend it, it could probably be done.

12. General Disclaimer to SSCAFCA.

Mr. Fossenier asked for Board approval to the City of Rio Rancho of the preliminary plat that has been submitted and that SSCAFCA do the legal work on acquiring the rights-of-way.

He stated that all of the engineering work related to the acquisition of the property would be done by AMREP. AMREP is asking SSCAFCA do the appraisals, get the title reports, the initial contact work with the property owners required by statute, and then if not obtained, bring the condemnation action, along with paying for the land.

Mr. Yarbrough stated that he would like to see some completion dates in writing. Mr. Castillo stated that AMREP is willing to give a performance bond for completion of the work. Mr. Fossenier stated that the contractor has agreed to maintain its unit prices. The plans will be completed within the week for extending the job and will be under contract within two weeks.

Mr. Stoliker requested that the Board provided direction on all items identified and that the Board not send up a partial recommendation with two major pieces under advisement. He agreed that the occupancy permit can be taken out. This is the City's responsibility.

Mr. Chaney moved that SSCAFCA approve and accept the Enchanted Hills Master Drainage Plan as recommended by Mr. Stoliker. It was seconded by Jim Dorn.

Mr. Chaney stated that the Board should approve this matter and Board take some action on Sheriff's Posse and get it resolved today.

Mr. Castillo stated that AMREP is providing a benefit by diverting the arroyo and he feels that SSCAFCA has the responsibility to provide drainage protection. Mr. Castillo stated that SSCAFCA should also maintain their projects in perpetuity.

Mr. Chaney suggested an amendment to the motion that SSCAFCA pick up the charges for the legal services on the acquisition of the property. Mr. Dorn stated that as long as the motion is being amended, he suggested taking out the last sentence in Item 9.

A new motion was made by Mr. Chaney that SSCAFCA accept Mr. Stoliker's suggestions for approval of the master drainage plan, subject to removing the last sentence in paragraph 9 and subject to SSCAFCA paying for the legal costs with respect to obtaining the right-of-way.

Mr. Metzgar stated that there are three other major costs in an acquisition, which include survey fees, title report fees and appraisal fees.

Mr. Chaney stated those costs are within the scope of the motion, and that SSCAFCA should pay for the survey fees, title report fees and appraisal fees.

Mr. Stoliker stated that the new conditions are that AMREP will donate their property; that SSCAFCA will take care of all the legal, survey, title and appraisal fees for the private property not donated by AMREP; AMREP will pay for the property; that the occupancy certificate recommendation will be taken out; AMREP will complete the Encantado Channel to Sprint Boulevard by March 1, 2000; and for the remainder of the Channel not completed by that date that a performance bond be provided by AMREP to SSCAFCA.

Mr. Chaney's motion was seconded by James Dorn. The motion carried 4-0 with Mr. Joiner abstaining.

CABAZON CHANNEL INLET REQUEST FOR FUNDING.

Mr. Stoliker stated that the Cabazon Channel upgrade was going to be done in conjunction with some other projects that AMAFCA, represented by John Kelly, was working on.

John Kelly, the interim Executive Engineer with AMAFCA, stated that AMAFCA has a resolution for cost shares which says that the Board will evaluate each project based on the public benefits of that individual project and decide based on the merits of the case. AMAFCA and SSCAFCA interface on several arroyos in the watershed, the Calabacillas, the Black Arroyo, the Seven Bar Channel, and the Corrales Main Canal. Chuck Easterling, AMAFCA's design engineer; S. Shah, the Chief Engineer with the MRGCD; Gary Parry, Board

member of MRGCD were present with Mr. Kelly.

Mr. Kelly stated that the Cabazon project is on Corrales Road north of Alameda and was a joint project put together in 1985 with adjacent land owners and the conservancy district. AMAFCA also worked with the Corrales Watershed District on the project. The project was built in 1985 and was designed to accept flows down the Corrales Main Canal from the Rio Rancho and Corrales area and take the flows to the river.

In 1992, the City of Albuquerque came in with SAD 223 and plans for the Cottonwood Mall. AMAFCA looked at the canal with regard to its new hydrology and FEMA criteria. FEMA told AMAFCA that it needed three feet of free board instead of two feet because it is a levy situation. The new hydrology changed the flow rates down the channel. Mr. Easterling is to come up with a design that will raise the flow rate from 385 cfs to 560 cfs and provide three feet of free board in order to get a FEMA letter of map revision approved.

Mr. Easterling stated that the project was multi-jurisdictional with everybody involved putting in something toward the project. At least 50% of the water within the mall site has to be ponded on site. The water can then be discharged at a rate that is about 30% of peak.

At the time the channel was done, the discharges were allocated where the water was coming from. Currently, AMAFCA is counting 130 cfs coming to the Cabazon Channel from the Main Canal. That amount includes 50 cfs from the base flow of the ditch itself. To get another 80 cfs into the ditch will require a significant improvement to the ditch.

Mr. Kelly stated that the 130 cfs in the canal is capacity that has been reserved in AMAFCA's project for the use of the MRGCD and for future storm water discharge to the channel. When the Skyview Pond is expanded, AMAFCA will put in about 10 cfs. As part of the pond project, AMAFCA will put in a water quality inlet structure with a trash screen. Mr. Kelly stated that this project is about a \$40,000.00 add-on to their project. The 48 inch pipe would be upsized to 96 inch, which would be buried a couple of feet below the ditch bottom. Mr. Kelly proposed that that cost be included in their project, subject to SSCAFCA agreeing to fund 3/4 of the cost of the add-on. Mr. Kelly stated that he would prepare a cost sharing agreement wherein AMAFCA would provide the design, the construction, the construction inspection and all the coordination and SSCAFCA pay AMAFCA \$30,000.00 cash.

Mr. Shah stated that as the west side is developed, more and more water comes down from the west side and into the main canal and if this project is done it will provide an outlet for some of

the flow going into the Cabazon Channel.

Mr. Yarbrough asked if the Village of Corrales should participate in the cost share also. AMAFCA has invited the Village to meetings twice to discuss this matter and the Village has not attended either meeting. Mr. Yarbrough stated that the Village should participate in any cost share on this project.

Mr. McDowell stated that if Corrales won't cost share, then SSCAFCA should go ahead and cost share because the project needs to be done to protect the public.

Mr. Chaney stated that he wanted to get other entities involved in the discussion on the cost sharing. Mr. Joiner stated that the Board should move forward today.

Mr. Clint Dodge stated that it would be a huge mistake to not get this upgrade in as part of this project. Mr. Kelly stated that he is going to the AMAFCA Board in two days and if he can go in to the Board saying that SSCAFCA will pay 3/4 and AMAFCA will pay 1/4 of the \$40,000 he'll get his approval.

A motion was made by Guy McDowell to contribute 3/4 of the actual cost of the estimated \$40,000 upgrade of the project, up to \$30,000.00. It was seconded by James Dorn.

Mr. Stoliker stated that this upgrade should be done. By the time you include the other work that AMAFCA is doing, SSCAFCA is saving quite a lot of money if it had to do the project itself. The money is in reserve for the project.

The motion passed unanimously.

OTHER BUSINESS.

Alan O'Brien, the incoming president for the American Public Works Association, New Mexico Chapter, stated that the APWA is composed of public works officials, consultants, suppliers, and contractors. Mike Malloy is a past president of the New Mexico Chapter, and the current alternate delegate for National. Dan Aguirre is currently the Chapter Director and Dan has an award that the New Mexico Chapter of the APWA would like to present to one of SSCAFCA's staff.

Mr. Aguirre stated that he has a Distinguished Services Award from the APWA. The purpose of the award is to recognize a New Mexico Chapter member for services to the public works industry. The eligibility is restricted to individuals who are current members of the Chapter. This year's recipient is David Stoliker and the award was presented to him by Mr. Aguirre.

DIRECTOR'S COMMENTS.

Mr. Stoliker stated that a special meeting should be scheduled for December 7, 1999 to cover all other Agenda items. Mr. Stoliker stated that all other matters on the Agenda would be rescheduled for the special meeting.

PERSONNEL MATTER - GUY MCDOWELL.

Mr. Yarbrough stated: On April 24, 1999, Mr. McDowell, a Board member of SSCAFCA placed a paid advertisement in the CORRALES COMMENT in which he made allegations concerning a possible agreement between Annette Jones, a former SSCAFCA board member and Mayor Kanin of Corrales. In the article, he implied that the Village of Corrales was challenging the Trinity Estates Development in court in order to delay the development until such time as Ms. Jones had the opportunity to sell property she owned in Corrales. There were also other implications of collusion between the Mayor and Ms. Jones.

The SSCAFCA Board wants to first emphasize that it understands that each board member has the absolute right to express his or her opinion on any public or private issue and the board does not intend to restrict this personal right in any manner whatsoever.

However, the SSCAFCA board feels that a board member has the duty, when expressing a personal opinion about any issue that may be viewed as a SSCAFCA position, to clearly state that he or she is expressly stating a personal opinion about the issue and that it is not necessarily the opinion of the SSCAFCA Board or any of its individual members.

The SSCAFCA Board has attempted to make this a policy of the Board by passing previous resolutions on political advertisements and official correspondence and by discussions at board meetings and I believe every board member understands this policy.

Therefore, on the basis of this policy, I move that the Board hereby denounce and censure the action taken by Guy McDowell in publishing the advertisement without clearly specifying that it was his personal opinion only and was not necessarily the opinion of SSCAFCA or the other individual board members.

The motion was seconded by James Dorn.

Mr. McDowell stated that people who read that article will recall that he tried to put in a disclaimer that it was not the policy of SSCAFCA and "put the monkey" on his back. Apparently, it

was not done to anybody's satisfaction and, even though he stands censured, it has not served a useless purpose. Mr. McDowell stated that SSCAFCA needs a clear policy of the responsibilities and rights of each Board member. Mr. McDowell stated that the people have elected him to the Board and if he decides to run for SSCAFCA again, they can judge him then.

Mr. Chaney stated that at the time this letter was submitted to the Corrales Comment, it stated that there was a collusion between Mr. Kanin and Ms. Jones so as to protect her property that was below Urban Pond 4. Mr. Chaney is the real estate broker handling that property for Ms. Jones and he therefore recused himself from voting on the matter.

Roll call vote: Mr. Joiner, yes; Mr. Dorn, yes; Mr. Yarbrough, yes; Mr. McDowell, abstained; Mr. Chaney, abstained. Motion passed 3-0, with two abstentions.

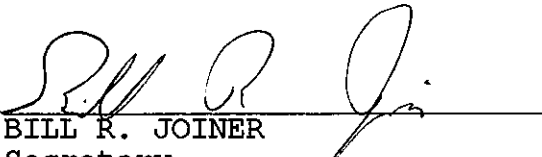
Mr. Metzgar stated that as a result of this matter and because there was not a specific written, stated policy of the SSCAFCA Board to cover a situation like this, Mr. Yarbrough asked him to draft a resolution to that effect. The proposed resolution was read to the Board by Mr. Metzgar.

A motion was made by John Chaney to approve and adopt Resolution No. 1999-10, Public and Private Comment by Board Members. It was seconded by Guy McDowell and carried unanimously.

ADJOURNMENT.

A motion was made by John Chaney and seconded by Dub Yarbrough to adjourn the meeting. It was carried unanimously. Meeting adjourned at 4:44 p.m.


WM. C. YARBROUGH
Chairman


BILL R. JOINER
Secretary

DATE APPROVED: 12-7-99