

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

**MINUTES OF DECEMBER 11, 2001
BOARD OF DIRECTORS SPECIAL MEETING**

CALL TO ORDER.

The special meeting of the SSSCAFCA Board of Directors was called to order by Dub Yarbrough, Chairman, at 1:03 p.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were Dub Yarbrough, John Chaney, Mark Conkling, Richard Deubel, and Guy McDowell. Staff members present were David Stoliker, Executive Director. Bernard Metzgar, SSSCAFCA's attorney, was also present.

APPROVAL OF AGENDA.

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

**DISCUSSION/ACTION ON PROPOSED PURCHASE OF FLOOD PRONE
PROPERTY OFFERED BY AMREP SW, INC.**

Mr. Yarbrough stated that a meeting was held yesterday with Mike Castillo and attorney Matt Spangler, of AMREP, on this matter. Mr. Yarbrough stated that he thinks that the land should be donated to SSSCAFCA. Mr. Chaney stated that it would be bad politically for SSSCAFCA to pay for lands that the public views as worthless. He stated that Mike Castillo, of AMREP, had indicated that there were some specific projects that AMREP would like done by SSSCAFCA that would save AMREP money and that he would like SSSCAFCA to consider. Mr. Chaney stated that a counter-point to that proposal was that normally SSSCAFCA requires developers to put in the drainage structures that are necessary for their projects.

Mr. Yarbrough stated that he asked Mr. Castillo how AMREP arrived at the asking price of \$1,000.00 per acre for the arroyo land and if AMREP could provide SSSCAFCA with the assessed value from the county tax rolls. He said that AMREP could not provide this information to SSSCAFCA at this time. Mr. Metzgar stated that Mr. Castillo and Mr. Spangler both agreed to see how the lands are being assessed and they will let SSSCAFCA

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know what the assessed value is. Mr. Castillo and Mr. Spangler thought that the assessor's office was assessing some properties in bulk and that these properties were probably assessed by this method. Mr. Metzgar stated that no one at the meeting held yesterday knew of any appraisal done by anyone in the immediate vicinity that had assessed just arroyo land.

Mr. Metzgar stated that Mike Castillo told them there were two issues: 1) the value and money to pay for it, and 2) public perception. Everybody at the meeting agreed that all the arroyo land should be in public hands. Mr. Castillo indicated that the Enchanted Hills South and Northern Meadows projects both need some kind of drainage facilities. Mr. Castillo asked if SSCAFCA would do those projects and, in turn, AMREP would donate all of the arroyo land. AMREP would prefer to transfer all of the land to SSCAFCA at one time rather than do it in pieces. Mr. Metzgar stated that Mr. Castillo felt that there was precedent for the completion of facilities for these two projects in that AMAFCA had done the Swinburne Dam in Bernalillo County which benefited some developers, but was a necessary project. He stated that Mr. Castillo stated that he might be able to provide some kind of cost estimate on what these facilities might cost.

Mr. Yarbrough stated that, at the meeting, Mr. Castillo stated that AMREP had always cost-shared its projects and that he thought it was the proper method of doing projects.

Mr. Metzgar stated that Mr. Spangler suggested that if the parties could come to an agreed-to figure for the arroyo land, the way to do it might be to budget a certain amount of money each year over a period of years to pay for the property rather than try to pay for all of the land at once. Mr. Spangler also stated that there are portions of the land remaining that are outside of the arroyo. His contention was that some of that land could be sold to private developers and that later, if SSCAFCA was doing a project that it would have to condemn not only arroyo land but possibly improvements.

Mr. Yarbrough stated that this land is unplatted right now. AMREP could not sell it until it had the land surveyed and platted, which would be a cost borne by AMREP. Mr. Metzgar stated that another point that was made by Mr. Castillo as to why SSCAFCA needed the property was that SSCAFCA could maintain all of the properties and use them as a network for trails. Another point made by him was that SSCAFCA would almost have to do some projects in the upper reaches of the arroyos soon and that having to do some flood control work in the upper reaches, it would be best to own all of the arroyo land now. Mr. Metzgar stated that there are some other owners in the Montoyas Arroyo that SSCAFCA will have to deal with in regard to any project that it does.

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Mr. Metzgar stated that AMREP would like to move on this matter rapidly. He stated that, with regard to liability on a meandering arroyo, Mr. Spangler's position was that in 40 years, nobody has come to AMREP to complain about the arroyo meandering onto their property. Secondly, AMREP takes the position that as long as it is historical flow, they have no liability for a meandering arroyo. Mr. Metzgar stated that if projects are started in the area, there might be a problem with liability.

Mr. Stoliker stated that Howard Stone and Clint Dodge offered to write a critique with regard to this matter and their comments have been provided to the Board members.

Mr. Deubel stated that there was a letter in the "Letters to the Editor" section in the paper a few weeks ago that was highly critical of the possibility of SSCAFCA paying anything for the land.

Mr. Chaney stated that his suggestion to Mr. Castillo was that AMREP should donate the land to SSCAFCA and SSCAFCA will replat the land as projects materialize and that AMREP could then keep the land along the arroyo that it could utilize and sell. Mr. Castillo didn't like that idea, possibly because of the low percentage of usability of the land. Mr. Metzgar stated that Mr. Castillo had stated that AMREP had, at one time, received an offer from someone to purchase one of the arroyos to develop a golf course.

Mr. Stoliker stated that he would like to see SSCAFCA set up a system now, such that as SSCAFCA develops its projects, SSCAFCA gets the property it needs for them. It would be the cheapest way to do it. Mr. Conking stated that SSCAFCA always has the power of eminent domain, so the cost comparison is now versus condemnation in the future. Mr. Yarbrough stated that AMREP would have never proposed this to SSCAFCA if AMREP was not concerned about owning the property down the road.

Mr. Stoliker stated that the areas that concern him the most are the areas that SSCAFCA knows it will have to acquire in the near future (the next 10 years). He would like to have a system that allows SSCAFCA to do that without having to pay for appraisals, and replatting, etc.

Mr. Conking stated that if SSCAFCA owned the arroyos, it could change the face of the city. SSCAFCA could take the leadership of environmental studies. In flood control, SSCAFCA could abate tremendous money from having to be spent downstream if things were tended to upstream, and SSCAFCA could, in the long run, create an incredibly beautiful network that tied the whole City of Rio Rancho together.

Mr. Deubel stated that if SSCAFCA stated to the public that it was not buying arroyo land, but that it was buying a trails network with the City of Rio Rancho's park department helping with the design and that it was being used for flood control, the public's perception would most likely change. Mr. McDowell stated that SSCAFCA's focus should be on flood control, and not on creating parks for the public. He stated that he is not opposed to keeping the door open for how SSCAFCA can use public land for public use but he is unsure that SSCAFCA should be the frontrunner for public land development.

Mr. Yarbrough stated that the board would not lose sight of the fact that its primary goal is flood control. Mr. Conkling stated that SSCAFCA's second stated goal is to recognize the value of land purchased or controlled for floodways as areas with multi-use potential.

Mr. Yarbrough stated that it seems that the Board is in agreement that SSCAFCA should own the arroyos. But he stated that the AMREP representatives were very sketchy with what items SSCAFCA might help them with on the Enchanted Hills South and the Northern Meadows projects.

Mr. Stoliker stated that platting of the arroyos has been included as part of the acquisition discussions. The easiest way to plat and acquire the unplatted arroyo bottoms would be to do it by exception and acquire it slowly over time per plat. The alternative is to continue the way it is done today: SSCAFCA would select a dam site on a particular plat; survey the property; get approvals and acquire the platted and unplatted properties needed to construct the improvements. Mr. Metzgar stated that, if AMREP said tomorrow, "we'll donate it," SSCAFCA could acquire the property quickly because it would be done off of the existing plats. If the property is donated, Mr. Stoliker suggested taking it all now; however, if SSCAFCA has to pay for the property, he suggested that it be phased in. Mr. Metzgar also stated that if SSCAFCA and AMREP came to an acceptable figure, they could take Mr. Spangler up on his idea that it be paid for over time. Mr. Metzgar stated that the Board needs to decide whether it is open to the question of purchase, the question of trade for some facilities, or does it only want donation of the land. Mr. Yarbrough stated that, with regard to trade for some facilities, he would want a firm dollar amount as to what it would cost SSCAFCA.

Mr. Conkling suggested that the committee look at, in concept, the arena of developer extractions for a trade. Mr. Deubel stated that the committee might look at trading off some of its excess properties in exchange for some of the arroyo land. Mr. Stoliker stated that SSCAFCA's excess property amounts to less than ten acres. Mr. Chaney stated that nobody has suggested telling AMREP to give SSCAFCA the arroyo bottoms or SSCAFCA won't

cooperate with AMREP and make them put in a facility at each development but this alternative is viewed as a lose/lose situation.

Mr. Conkling stated that condemnation in the future might cost a lot more than acquisition right now. He stated that it is important for SSCAFCA to be in the lead on these public issues. Mr. Yarbrough stated that the original design of the Harvey Jones Channel is 8,000+ cfs, but right now it is flowing at 5,000 cfs because of the constraints at the bridge.

In the SCS's design of the bridge, it was higher than it is right now. Through political clout, the local activists forced the SCS to lower the bridge, which is now causing the problems.

Because of the nature of the design under the bridge, and the outfall, it creates a hydrologic jump that backs up and can take out the bridge. The master plan being done right now will cover the concerns about the bridge.

Mr. Metzgar stated that, even though they deny it, he believes that AMREP is concerned about liability from the arroyo bottoms and that's why they want to get rid of all of the land right now. Mr. Stoliker stated that part of the reason AMREP relinquished Dam 4 to SSCAFCA was because SSCAFCA had gone in and done a geotechnical evaluation of the structure and found that it failed. He is concerned about public safety because AMREP is not going to maintain the arroyos. The arroyos are going to meander and encroach on private property. The best way to protect the properties is to start the acquisition of the property now.

Mr. Deubel suggested approaching AMREP and telling them to donate the land and when SSCAFCA puts in flood control structures, they will have certain amenities that will be beneficial to AMREP. Mr. Metzgar stated that AMREP seems to want its benefit now. Mr. Conkling stated that AMREP is facing spending a lot of money on flood control for the two projects they have underway right now and they are trying to mitigate that expense and that could be the trade off.

Mr. Yarbrough stated that it is obvious that these issues need to be further explored with AMREP. He appointed himself to a committee with Mr. Stoliker and Mr. Metzgar to review these matters. Mr. Chaney will serve on the committee when he returns in January. Mr. Conkling will fill in for Mr. Chaney while he is gone.

ADJOURNMENT.

A motion was made by Guy McDowell and seconded by Mark Conkling to adjourn the meeting. It was carried unanimously. Meeting adjourned at 2:30 p.m.

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William C Yarbrough
WILLIAM C. YARBROUGH
Chairman

Richard Deubel
RICHARD DEUBEL
Secretary

DATE APPROVED: 7 JAN 02

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