

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL
AUTHORITY
(SSCAFCA)
MINUTES OF JANUARY 16, 2001
BOARD OF DIRECTORS REGULAR MEETING**

CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by Dub Yarbrough, Chairman, at 1:10 p.m.

SWEARING IN BOARD MEMBER- JOHN CHANEY.

Dub Yarbrough, Chairman, swore in John Chaney as a re-elected member of the SSCAFCA Board.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Mark Conkling, Richard Deubel, Guy McDowell, and Dub Yarbrough. Staff members present were David Stoliker, Executive Director, Perry Baird and Yolanda Guerrero. Bernard Metzgar, SSCAFCA's attorney and members of the public were also present.

APPROVAL OF AGENDA.

A motion was made by Guy McDowell to approve the Agenda as presented.

Mr. Metzgar stated that the third item under Treasurer's Report, "F/Y 2000 Audit Report" should be deleted because the state auditor has not yet approved the audit.

The motion was seconded by John Chaney and passed unanimously.

ELECTION OF OFFICERS.

1. **Chairperson of the Board of Directors/President of the Authority.**

John Chaney nominated Dub Yarbrough to continue as SSCAFCA's Chairperson and President. It was seconded by Guy McDowell. There were no further nominations. All voted in favor of Mr. Yarbrough.

2. **Chairperson Pro Tem of the Board of Directors/President Pro Tem of the Authority.**

Mark Conkling nominated John Chaney to continue as SSCAFCA's Chairperson Pro Tem and President Pro Tem. Guy McDowell nominated himself Chairperson Pro Tem and President Pro Tem. There were no further nominations. After discussion of the availability

of Mr. Chaney to serve, Mr. McDowell stated that he would vote for Mr. Chaney. All voted in favor of Mr. Chaney.

3. Secretary.

Dub Yarbrough nominated Richard Deubel as Secretary of SSCAFCA. There were no further nominations. All voted in favor of Mr. Deubel.

4. Treasurer.

John Chaney nominated Mark Conkling as Treasurer of SSCAFCA. There were no further nominations. All voted in favor of Mr. Conkling.

Mr. Yarbrough announced the officers of SSCAFCA.

PUBLIC FORUM.

Mr. Pineda announced that a meeting will be held tomorrow at 8:00 a.m. on the Middle Rio Grande water quality in the Rio Rancho Council Room. He stated that it was a very important meeting.

SECRETARY'S REPORT.

1. Approve Minutes of December 12, 2000.

A motion was made by John Chaney to approve the Minutes of December 12, 2000 as presented. It was seconded by Richard Deubel and passed unanimously.

2. Approve Minutes of January 2, 2001.

A motion was made by Richard Deubel to approve the Minutes of January 2, 2001 as presented. It was seconded by Guy McDowell and passed unanimously.

TREASURER'S REPORT.

1. Action/Approval of Expenditures for 12/01/00 - 12/31/00.

A motion was made by Mark Conkling to approve the expenditures for 12/01/00 through 12/31/00 as presented. It was seconded by Dub Yarbrough and passed unanimously.

2. Action/Approval of Treasurer's Report for 12/31/00.

A motion was made by Mark Conkling to approve the treasurer's report for 12/31/00 as presented. It was seconded by Guy McDowell and passed unanimously.

3. Resolution 2001-5 General Obligation Bonds.

Mr. Stoliker stated that there was a bond sale held today at 11:00 a.m., but that he is waiting for information from that sale before presenting this item to the Board.

CHAIRMAN'S REPORT.

1. Action/Approval of ROW Encroachment by Jerome Rael.

Mr. Yarbrough stated that Mr. Rael built a six-foot block wall starting at the right corner of his property in Unit 17 and plotted the wrong corner on the northwest corner of his property and the wall is encroaching on SSCAFCA's property by about 27 feet. The City of Rio Rancho inspected the property and told Mr. Rael he would have to tear down his wall. Mr. Rael has asked SSCAFCA to sell him the land on which he is encroaching. The sale would entail a survey, replatting, and an appraisal of the property. If Mr. Rael is allowed to buy the property, his adjoining neighbor would like to buy a portion of SSCAFCA's property, which adjoins his land.

Mr. Stoliker stated that the encroachment is currently part of the Dulcelina Curtis Channel property. It has never been declared excess and was not part of the original design of the channel itself. Mr. Yarbrough stated that there would still be remaining space alongside the channel for SSCAFCA to move its equipment.

Mr. McDowell stated he is concerned with setting a precedent for other property owners by declaring the property excess and selling the property to Mr. Rael after the fact. He is concerned that SSCAFCA might need the property in the future.

Mr. Metzgar stated that the Board may grant a license to somebody who is encroaching on SSCAFCA's property. He stated that the Board can also attempt to get approval from DFA to sell a particular person a piece of property, but SSCAFCA would have to show justification for any such sale.

Mr. Chaney stated that SSCAFCA should provide a license to Mr. Rael and allow him to keep his wall up, however, should SSCAFCA need the property in the future, Mr. Rael would have to remove his wall. The square footage of the area is unknown because a survey has not been done. Mr. Rael stated that it is 24 feet wide on the triangle, and is about 146 feet along the long edge.

Mr. Metzgar stated that the property was acquired by the Corrales Watershed District when it built the Dulcelina Curtis Channel. Mr. Stoliker stated that on the license previously granted by SSCAFCA to another property owner, no formal boundary survey was done. The only survey done was a rough, field survey, which was cheaper. The property owner has the burden to pay for any survey.

Mr. Rael stated that the outside of his wall is approximately 65 feet from the wall of the channel. He will pay any expenses and/or penalties for his error. He would prefer to purchase the land, but understands he must abide by SSCAFCA's decision.

Mr. Metzgar stated that the Board may license the property to the adjacent owner with a reasonable amount being paid by the property owner. All costs of getting the license, including valuation, should be paid by the property owner. SSCAFCA would not have to renew the license if it needed the property back.

A motion was made by John Chaney to license the encroached land to Mr. Rael on a year-to-year basis, with Mr. Rael paying all expenses necessary. It was seconded by Guy McDowell and passed unanimously.

Mr. Yarbrough stated that Mr. Rael's request to purchase Lot 3 could not be discussed today because it has not yet been determined if that property is excess.

2. Appointment of John Chaney to Represent AMAFCA/SSCAFCA on the Middle Rio Grande Council of Governments (MRGCOG) Executive Board.

Mr. Yarbrough stated that he has appointed John Chaney to represent AMAFCA and SSCAFCA on the MRGCOG Executive Board.

3. Appointments to Budget and Personnel Committee.

Mr. Yarbrough stated that he has not yet made these appointments.

DIRECTOR'S COMMENTS.

None.

LEGAL COUNSEL REPORT.

1. Action/Approval on Sale of Excess Property.

Mr. Yarbrough stated that Mr. Scott Norman has two clients who are interested in buying a couple of lots that SSCAFCA has declared excess. The appraisals were done in November 1999 and updated in May 2000.

Mr. Metzgar stated that the updates did not change the original appraisals. The value for Lot 7, as of May 2000, was \$29,850; and for Lot 8, was \$27,900. The Department of Finance has determined that SSCAFCA could list the properties with a realtor since they did not sell by bid sale. Mr. Metzgar stated that SSCAFCA's options are to bid the lots for sale again since some interest has been shown; do an RFP for realtors to sell the property; or SSCAFCA can attempt to obtain justification of such from DFA.

Mr. Yarbrough stated that by selling these lots through a realtor, SSCAFCA will most likely have to pay a 10% commission. Mr. Metzgar stated that since both of these lots are initially appraised over \$25,000, under statute, SSCAFCA must have the Board of Finance approval. Mr. McDowell stated the lots should be sold at minimum cost to SSCAFCA.

A motion was made by Mark Conkling to sell the two lots to the interested individuals at the current appraisal amount, subject to approval by Board of Finance. It was seconded by Richard Deubel.

Mr. Metzgar stated that the appraised value on a property has to come in at lower than \$25,000 in order to have the Local Government Division approve the sale administratively. If a sale is made below appraised value, it would have to be justified to DFA.

Mr. Metzgar stated that depending on the time frame with the appraiser, it would take approximately 60 days after the appraisal is obtained to get it on the Agenda for the Board of Finance.

The motion passed unanimously.

Mr. Metzgar stated that there are other properties previously declared excess besides Lots 7 and 8 that were not sold. He is asking that the Board declare these properties excess again so they can be sold. He would like a motion made declaring Lot 5, Block 166; Lot 13, Block 164; Lot 5A-1 in Block 168; Lot 6A in Block 168; and Lots 7 and 8 in Block 168 in Unit 17 excess, and to sell such lots in accordance with state law and DFA regulations.

A motion was made by John Chaney to declare Lot 5, Block 166; Lot 13, Block 164; Lot 5A-1 in Block 168; Lot 6A in Block 168; and Lots 7 and 8 in Block 168, in Unit 17 as excess property, and that SSCAFCA sell such lots in accordance with state law and DFA regulations. It was seconded by Guy McDowell and passed unanimously.

TREASURER'S REPORT (continued).

3. Resolution 2001-5 General Obligation Bonds.

Mr. Stoliker introduced Kevin Powers and Lisa Driesner who are with Dain Rauscher, SSCAFCA's financial advisor. He also introduced Tom Hughes, of Hughes & Strumor, SSCAFCA's bond counsel.

Ms. Driesner stated that the third and final series of bonds issued in the 1998 election totaling \$2.5 million were sold today. The bonds have a maturity schedule with principal payments beginning in 2006 and running through 2013. The first payment to bond holders is due on February 1, 2002. The Board has the option to pay off the bonds early in 2010. The bond proceeds are expected to be delivered on February 20th.

Mr. Baird stated that Board members need to be diligent in looking for accuracy of statement in documents that represent the entity and in looking for omissions by professionals.

Mr. McDowell stated that he is concerned about the Board being responsible for the bonds. Mr. Chaney stated that the Board has insurance, which covers the Board for liability. Mr. Metzgar stated that he is not sure if the insurance covers any statement regarding the bonds. Mr. Metzgar stated that the Board's responsibility is making sure that people reading the documents are not misinformed about SSCAFCA and its policies and procedures.

Ms. Driesner stated that this is the first year that SSCAFCA issued the bonds on the Internet. Having it on the Internet cuts down on errors and paperwork and allows bidders to submit their bids in a timely manner. Bidders' were able to make their good faith deposits by the use of surety bonds. The money can be deposited right into SSCAFCA's account once the bonds are awarded to the bidder. By using the Internet, the pool of potential bidders is increased greatly. Seven bids were received today. In 1999, there were five bids received.

The low bid was submitted by Solomon Smith Barney. Solomon Smith Barney took advantage of an FSA insurance policy. This purchase gives the bonds an AAA rating and makes them very marketable. There was a very small margin between the lowest bidder and the highest bidder of about 10 basis points, which is another good indication of the competitiveness of the market. The purchaser pays the credit enhancement premium. Six of the bidders chose to use an FSA insurance policy.

Mr. Powers stated that the bid by Solomon Smith Barney shows that they tried to sell the bonds at the yields in the yellow column shown on page 5. The prices they generated by selling the bonds at that premium was about \$31,754 in premium. Any loss is absorbed by the bidder. Mr. Powers stated that most of the bonds in the country have ratings of A to low AA category and SSCAFCA is in the middle of that. The insurance policy cost is low because of the good rating and good track record of repayment of SSCAFCA's bonds.

Mr. Powers stated that SSCAFCA held the first public sale in New Mexico this year. The G.O. bond index is very close to ten year lows in the market. In 1994, SSCAFCA's \$2.5 million bond issue sold at 5.28 yield. In 1998, SSCAFCA's bond issue sold at 4.92 yield. In 1999, SSCAFCA bond issue sold at 4.80 yield. In 2001, SSCAFCA's bond issue sold at 4.45 yield. This is the lowest interest rate ever received by SSCAFCA. SSCAFCA's spread is at 1.1 percentage points and is the largest on the page. This shows that it was an aggressive bid and supply is short and demand helped push SSCAFCA's yield down. Dain Rauscher has gone to a number of electronic processors to reduce the cost of servicing the debt. Depository Trust Company keeps track of who owns the bonds electronically. Instead of sending out checks to each individual owner, the paying agent now sends a check to DTC, who automatically credits accounts of the firms that hold the bonds on behalf of the owner. The bonds are "book-entry only" and are kept track of electronically. The purchaser agrees to buy the bonds at a set price and deliver to SSCAFCA federal funds on the day of closing.

At that point, it is turned over to SSCAFCA's finance people and the paying agent's registrar and to DTC. SSCAFCA pays a fiscal agent fee, which is a \$500.00 annual fee.

Mr. Powers stated that Moody's A2 rating is based on SSCAFCA's trend of strong financial operations, moderate debt burden and rapidly growing tax base with favorable resident wealth levels. The rating is comparable to the City of Rio Rancho and the Rio Rancho school rating. SSCAFCA has also designated a reserve service in an initial amount of \$633,000. That was done consciously to keep the bond rating.

Ms. Driesner stated that Moody's also looks at the fact that master planning for the future is being done and that SSCAFCA is planning for the future and being fiscally responsible in managing its money.

Mr. Stoliker stated that the EPA regulations on fecal coliform could affect the rating with Moody's in the future. Of course, all other governmental agencies would also be affected.

A motion was made by Mark Conkling to approve Resolution 2001-5 General Obligation Bonds as presented. It was seconded by Guy McDowell. Roll call vote: John Chaney, yes; Mark Conkling, yes; Richard Deubel, yes; Guy McDowell, yes; Dub Yarbrough, yes. The motion passed 5-0.

LEGAL COUNSEL REPORT (continued).

2. Action/Approval on Resolution #2001-6 on Policy on Title Insurance on Property Ownership.

Mr. Metzgar said that it is a policy decision as to when SSCAFCA should have title insurance on any property that it owns in fee simple. When SSCAFCA received the property from AMREP where it is going to build its office building, SSCAFCA purchased title insurance. He stated that SSCAFCA has title insurance on other properties; but there is no set policy. The resolution states that it is the policy of SSCAFCA, anytime it owns property, to purchase title insurance on it.

Mr. Chaney asked about limiting the title insurance policies to properties that are being used for flood control structures. Mr. Conkling stated that if property is acquired through condemnation, you should not have any title problems so title insurance would not be necessary. Mr. Metzgar agreed that a condemnation action is like a quiet title action, but in a normal condemnation project, 80% of the property is bought by negotiation and not by condemnation.

Mr. Stoliker stated that any time SSCAFCA purchases property, it is brought to the Board for approval. He thinks that SSCAFCA should have title insurance on its properties.

Mr. Metzgar stated that policies from \$1,000 to \$9,000 cost \$185 per year. It starts going up after that.

A motion was made by Mark Conkling to approve Resolution 2001-6 to purchase title insurance on properties valued at \$5,000 or above. It was seconded by Dub Yarbrough.

Mr. Deubel asked if SSCAFCA might want to explore the option of purchasing title insurance on a case-by-case basis.

Mr. Metzgar stated that there was a lot of property acquired in the Dams 4 to 1 project. Prior to that, the most property acquired was when the CWD did the Harvey Jones and Dulcelina Curtis channels. The Enchanted Hills Project has a small potential condemnation acquisition. Mr. Metzgar stated that title insurance cost is a one-time payment when the property is acquired.

Mr. Conkling amended his motion to approve Resolution 2001-6 to purchase title insurance on properties valued at \$25,000 or more. Mr. Yarbrough stated that he would not like to approve the resolution and take the matter up on a case-by-case basis. Mr. Conkling withdrew his motion.

EXECUTIVE DIRECTOR REPORT.

1. Action/Approval Selection Advisory Committee Report Ranking EDI First to Proceed to Contract.

Mr. Stoliker stated that EDI was ranked first by the Committee as the building architect and the architect of record would be Kris Callori. This matter is being brought to the Board for approval and to allow SSCAFCA to negotiate a contract with EDI to be brought back to the Board for final approval.

Ms. Callori introduced her partner, Stace McGee. She stated that the firm has been in existence for about three years and began doing residential work. Mr. McGee stated that they have professional liability insurance that covers their work on the job. They have done large commercial work with other architectural firms before starting their own firm. They do not do building construction, just the architectural work.

Mr. Metzgar stated that by approving the architects in this ranking, it would allow Mr. Stoliker to negotiate a contract. The contract would then be brought back to the Board for approval. Under the procurement statutes, if a favorable contract cannot be negotiated, then you go to the second ranked. If no favorable contract can be achieved, then SSCAFCA would have to re-advertise.

Mr. Conkling asked why SSCAFCA should spend money on a building, since it is not a flood control project. Mr. Stoliker stated that since SSCAFCA was formed, the office has

been moved four or five times. Each time SSCAFCA moves, all the paper gets shuffled around, some files are misplaced. One of the buildings SSCAFCA was in had a roof that collapsed and SSCAFCA had to move. SSCAFCA is responsible for storing public information that must be protected. Right now, SSCAFCA is not in the correct facility to be able to store information that it must archive.

A motion was made by Mark Conkling to approve the report ranking of EDI to proceed to contract. It was seconded by Richard Deubel.

Mr. McDowell stated that any money SSCAFCA spends should be justified. A cost analysis should be done on what it is costing SSCAFCA on its current facilities, and project it ahead for as many years as the building might meet SSCAFCA's needs. The final costs should be analyzed. Mr. Metzgar stated that the committee was not formed to make a decision on whether or not to build a building. The committee was simply to select an architect to design the building. The determination to build SSCAFCA's own building was made prior to the formation of the committee. One of the reasons SSCAFCA decided to move forward with building a building was the amount of money that had been spent on rent as opposed to building its own building. The money for the building did not come from bonds. It came from the sale of excess property that SSCAFCA received from Corrales Watershed District when it dissolved.

Mr. Stoliker stated that SSCAFCA's rent is about \$2,500 per month, plus the conference room is rented at about \$300 per month, plus a storage shed is rented at about \$100 every six months.

Mr. Metzgar stated that when SSCAFCA was doing the Dams 4 to 1 Project, AMREP had ownership of Dam #4, which had a lot of liability associated with it. SSCAFCA did a new project and eliminated Dam #4. In that process, AMREP donated some land for the pipeline and with Mr. Yarbrough's negotiation, gave SSCAFCA additional property. Certain land was acquired with the idea that SSCAFCA could put its building on the property.

Mr. Chaney stated that SSCAFCA is spending a lot of money on O & M contracts rather than doing it themselves. If it has its own building with room for maintenance storage, it would be able to do O & M itself and save money on those contracts. Mr. Chaney stated that if SSCAFCA had its own building, it would no longer be throwing money away on rent.

Mr. Yarbrough stated that when SSCAFCA was created, it encompassed the Corrales Watershed District's boundaries. In absorbing CWD, SSCAFCA received approximately \$300,000 cash money. That cash deposit was the basis for SSCAFCA's building, along with sale of excess properties that has gone into the fund ever since. Mr. Conkling stated that he is comforted in knowing that the money for the building is not coming out of the bonds and there has been an informal analysis done.

The motion passed unanimously.

2. Rosko Field Pond Project Status Report.

Mr. Stoliker stated that there are three options on this project. One is to continue as it is now and finish design; either keep the wetlands or take them out; or change the bid process on the wetlands and allow it to be an additive or deductive alternate. These options are presented because no indication has been given by NMED on the potential for grant funding. If grant funding were possible, then the wetlands would need to be bid after the grant is awarded. These options would allow SSCAFCA to delay approval of the wetlands. Mr. Stoliker recommended that the Board allow him to bid the wetlands as an additive or deductive alternate, dependent upon what information is provided on the grant by NMED.

Mr. Yarbrough stated that if SSCAFCA goes forward with the wetlands portion of the project now, it will not be reimbursed if the grant is not authorized. It will not be known if the grant is given or not until the 27th of this month. The bid will still be put out for RFP.

Mr. McDowell stated that the Corrales Elementary School has had a wetlands project for quite some time and the water that comes out of it is near drinking water quality. He feels that the wetlands is a good idea, but that SSCAFCA needs to be careful about getting into the water quality business.

A motion was made by Mark Conkling that the wetlands portion of the project be an additive or deductive alternate depending on the receipt or non-receipt of the grant. It was seconded by Richard Deubel and passed unanimously.

Mr. Stoliker stated that if the grant is received, it will reduce SSCAFCA's cost in the project by \$315,000.

FOR THE BOARD'S INFORMATION:

1. General Landscaping and Maintenance Service RFP 2001-01.

Not discussed.

2. Governor Johnson's December 20, 2000 Response on TMDL.

Mr. Conkling stated that the Governor's letter states that a work group out of the environment department has been formed. He stated that SSCAFCA is very concerned about the alternative approaches to treatment of storm water and possible funding sources.

OTHER BUSINESS.

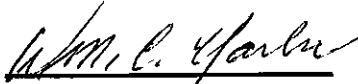
Mr. McDowell stated that Garrity & Miller is a company that has taken on water quality issues. Garrity & Miller are specialists in arsenic removal. There is a local man putting in a well for two houses in Corrales and treat the well for arsenic. Mr. McDowell

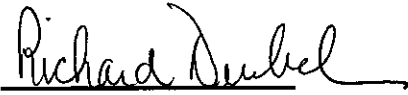
feels that the time is now to hire a firm if SSCAFCA is going to get involved in the water quality issues.

Mr. Yarbrough stated that SSCAFCA cannot hire this company without putting out an RFP. He stated that he is not sure if SSCAFCA should take the lead on the water quality issue.

ADJOURNMENT.

A motion was made by Mark Conkling and seconded by Richard Deubel to adjourn the meeting. It was carried unanimously. Meeting adjourned at 5:05 p.m.


WM. C. YARBROUGH
Chairman


RICHARD DEUBEL
Secretary

DATE APPROVED: 2/20/01