

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY  
(SSCAFCA)  
MINUTES OF OCTOBER 21, 2003  
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 1:10p.m.

**ROLL CALL OF DIRECTORS.**

Directors in attendance were Mark Conkling, Richard Deubel, Donald Rudy and Dub Yarbrough. John Chaney was noted as absent. David Stoliker, Executive Director, and other staff were present. Bernard Metzgar, SSCAFCA's attorney, was also present.

**APPROVAL OF AGENDA.**

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

**CLOSED SESSION.**

A motion was made by Richard Deubel to go into closed session to discuss the Executive Director's contract renewal. It was seconded by Mark Conkling. Roll call vote: Mark Conkling, yes; Richard Deubel, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion passed 4-0. The Board went into closed session at 1:12 p.m.

**RESUME OPEN SESSION.**

A motion was made by Richard Deubel to resume the open session. It was seconded by Donald Rudy and passed unanimously. The open session resumed at 1:37 p.m.

**PLEDGE OF ALLEGIANCE.**

The Board was led in the Pledge of Allegiance by Dub Yarbrough.

**ANNOUNCEMENTS.**

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

## **EXECUTIVE DIRECTOR ' S CONTRACT.**

A motion was made by Richard Deubel to approve the Executive Director ' s Contract. It was seconded by Donald Rudy and passed unanimously.

A motion was made by Richard Deubel to approve the revised evaluation criteria of the Responsibilities and Authority of the Executive Director. It was seconded by Donald Rudy and passed unanimously.

## **CONSENT AGENDA.**

### **Minutes of September 16, 2003 Regular Meeting.**

A motion was made by Richard Deubel to approve the Minutes of September 16, 2003 as presented. It was seconded by Mark Conkling and passed unanimously.

### **Recognition/Acknowledgment of the Treasurer ' s Report for September 30, 2003.**

Mark Conkling indicated that the Treasurer ' s Report for September 30, 2003 was in the Board members ' packets for review, acknowledgment and recognition and that he would be happy to answer any questions on it.

Mr. Conkling stated that the audit is complete. The auditors were very complimentary of the management of funds in the past year. There were no recommendations for changes, nor findings of any nature. The audited statement has been sent to the appropriate state agency. The audit itself will become public on October 25, 2003.

## **PUBLIC FORUM.**

Mr. Pineda, a member of the audience, stated that he is seeing more of the same type of apathy in the general public with regard to the bond election. He stated that he feels that Mr. Jaramillo ' s signs are doing great damage to SSCAFCA ' s bond election. He has spoken with the Secretary of State, Rebecca Vigil-Giron, who told him that, according to the laws of New Mexico, there is nothing she or anybody in Santa Fe can do about somebody putting up signs that are untrue. He is concerned about what will happen if this bond election is defeated. Mr. Yarbrough stated that if that happens, SSCAFCA will go into a "maintenance" mode.

## **CHAIRMAN ' S REPORT.**

Mr. Yarbrough stated that he attended the City Council meeting the other evening and made SSCAFCA ' s pitch to the City Council. The Council supports SSCAFCA wholeheartedly and passed a unanimous resolution in support.

**BOARD OF DIRECTOR ' S COMMENTS.**

Mr. Conkling stated that he was pleased that the Rio Rancho Chamber of Commerce supported the bond issue and sent out an email to all of its members. Sandoval County Commission supported the bond issue also and made a public resolution to that effect. He was pleased to see a brochure of supporters in the paper and a number of letters to the Editor that were printed. He does sense that there is some apathy in the public. He also stated that he was pleased to see the substantial increase in voter turnout with regard to the mail-in ballot as opposed to the prior vote.

Mr. Yarbrough stated that he has found that a lot of people don ' t understand about not raising taxes by not raising the mil levy. Mr. Rudy stated that most people seem to forget that the most likely big increase in taxes would come if Sandoval County has a disastrous flood and every municipality has to do a great deal of repair work. Mr. Deubel stated that SSCAFCA has gone the extra mile to get all information out to the public. It can do nothing about voter apathy.

**ATTORNEY ' S REPORT.**

Mr. Metzgar stated that he does not have anything of a general nature to present. He will, however, be commenting on specific items coming up in the Agenda.

**EXECUTIVE DIRECTOR ' S REPORT.**

1. Presentation of the SSCAFCA Policy Book.

Mr. Stoliker stated that Erika and Laura have worked on the SSCAFCA policy book. Laura stated that staff has met several times to go over items that needed to go into this book and this is the final outcome. It contains all of SSCAFCA ' s policy documents and will provide a quick reference for anybody looking at it. Mr. Stoliker stated that this book also shows what staff has to do when it goes through the review process. This book will become a very valuable resource for the Board and will be available for every meeting.

2. Tierra de Corrales Presentation and Action/Declaration of Excess Property Situated within the NW Sector of Corrales.

Mr. Stoliker stated that Mr. Jack Westman is developing property in the Northwest Sector of Corrales, entitled ' ' Tierra de Corrales. ' ' He would like to purchase any excess SSCAFCA property adjacent to his development. Mr. Stoliker stated that there are a couple of parcels of property in and adjacent to the drain inlet to the Dulcelina Curtis Channel which were purchased by CWD and staff thinks SSCAFCA can relinquish part of that property.

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Mr. Jack Westman stated that he is an engineer and contractor by trade and that he has been in the development business for a number of years. He stated that the far Northwest sector of Corrales, which is bounded by the Curtis Channel and the Harvey Jones Channel, has been landlocked for a number of years and there have been all kinds of planning done as to what to do with that area. Mr. Youngberg, a state representative for Corrales and part of Rio Rancho, did a subdivision and built a crossing to cross the channel. The rest of the land was owned by a number of the old families in Corrales. He wanted to work with those families and get them to put their land together and do a subdivision that follows the terrain and makes better use of the land than what has been seen in the past. About four months ago, 15 families deeded their land into a new limited liability corporation, the Tierra de Corrales, LLC. The corporation is owned in the proportion of the land which was contributed. He has no ownership interest in that corporation; however, the corporation has signed an agreement with him to develop the land for it. He will also provide the financing for developing the land and he will then share in the profits of the land sales. Mr. Westman stated that he hopes that this situation will greatly enhance the land value to the landowners and enable them to develop a subdivision to be proud of.

Mr. Westman stated that SSCAFCA owns a very irregular shaped piece of land in this area. There is a box culvert that enters the channel and a Y shape piece of property, and there is another two acre tract that is also owned by SSCAFCA. They have been working with Huitt-Zollars to discuss with SSCAFCA how to utilize what SSCAFCA has in terms of getting flows into the channel and they would like to acquire any excess land owned by SSCAFCA to add to their land. The development they are doing will be financed by First State Bank, who had already hired Bryan Godfrey as an appraiser. Mr. Godfrey is on SSCAFCA's approved appraiser list. They have asked Bryan, in conjunction with the appraisal he is doing for First State Bank, to also do an appraisal of any excess land that SSCAFCA might have. Mr. Westman stated that Mr. Godfrey has given him a verbal value, but he does not yet have the written appraisal.

Mr. Westman stated that what they would like today is an acknowledgment that all or part of the land that SSCAFCA has in that location is surplus. Bryan Godfrey's appraisal for the irregularly shaped tract is \$12,000.00 per acre, which will go into his written appraisal. Mr. Westman stated that Mr. Godfrey has indicated to him that finished lots, which would include all the infrastructure, the improvements, the bridge across the channel, the road along the south side of the bridge to tie into Loma Larga, will be \$100,000.00 per lot. However, he stated that he had discussed with the landowners the value of the raw land at \$15,000.00 per acre. This would have been an establishment of what raw land would sell for.

Mr. Pineda stated that he is concerned that there are members of the community who are interested in this sale because they want SSCAFCA to get the highest income

from the sale of the property. He stated that if this goes under a private sale, the public will be unhappy. If it was open bidding, then the rules of the market will come into play.

Mr. Stoliker stated that he would like to stick to SSCAFCA policy and have Mr. Pineda make his comments at the end of the presentation. Mr. Metzgar stated that he does not believe that the rules the Board has established for Board meetings allows for the public to be asking questions during a presentation. It is rather to make a comment, or to ask the Board to consider something, at the end of that item, prior to the vote

Mr. Westman stated that he has two objectives today. One is to let the Board know what he considers to be excess property; the second is to discuss an acquisition price. Before finishing the discussion on the acquisition price, he would like to let Mr. Grayson show the Board how he has tried to accommodate the needs of the engineering staff of SSCAFCA.

Russ Grayson, a project manager of Huitt-Zollars, stated that they have been contracted by Tierra de Corrales to be the engineers on this project. They were also the engineers for the Eldorado de Corrales project that went through last year. They have had some preliminary discussions with SSCAFCA staff on this project. This project is in the very preliminary stages. All of the layouts are conceptual. The drainage basin for this area is about 90 acres that feeds into the existing box structure that was built as part of the Dulcelina Channel. It is cut off at 528. There is a storm drain system that runs down Industrial Park within Rio Rancho that carries run-off across 528 into the Montoyas. In reference to this project, they are dealing from 528 down. The Y shaped inlet structure to the box consists of some constructed soil cement berms to deflect water into the structure. The first area that they are trying to acquire is the area below the berm, described as the "Vegetation Project." It is approximately two acres. It has no real impact on the drainage structure or the hydraulics of the structure.

Mr. Grayson stated that on-lot ponding will be required on every lot to mitigate the flows within the development of each lot. Increase in runoff caused by the road system will be conveyed to a series of ponds within the project. The main pond would be right above the inlet structure. There is a portion of the project that will not drain to the box due to existing topography. There will be another pond put in to deal with this drainage. The way a treatment facility could be done would be to spread it out very flat, about a foot deep, and allow settlement in a big flat basin. In looking at the layout of the project, the SSCAFCA Y ends below the shaded area, and the cross-hatched area is the portion of the Y that SSCAFCA currently owns. With the road configuration and the layout that they have, they feel that they can make a two acre pond work within the berm area by taking about 8/10 of an acre of private land and swapping it for 8/10 of an acre of SSCAFCA land, and they get their two acres of ponding area that 's required.

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Mr. Westman stated that as a result of the Village Council meeting last night, he has decided to abandon the horse facility. The Village Council in Corrales is considering an ordinance that would prohibit any covenants on any piece of land that had any restrictions for animals.

Mr. Yarbrough stated that he was under the impression that the biggest part of the subdivision would drain toward the subdivision. Mr. Stoliker stated that the area drains into a pipe and the western two thirds drains naturally into their subdivision. Mr. Grayson stated that there is cross-lot drainage that follows the natural terrain. Mr. Westman stated that even though this subdivision is platted, it is not filed.

Mr. Westman stated that by trading a piece of land with SSCAFCA, they can square up what SSCAFCA has and give SSCAFCA what Mr. Stoliker wants, which is a pre-treatment facility. The second part of this issue would involve the two acre tract and its value. A piece of raw land bears little resemblance to the value of a finished lot after the financing, the infrastructure, the improvements, and the marketing of that land. It is not a key piece of land for them and they can work around it; however, if they did not purchase it and it was put on the open market at a later date by SSCAFCA, it would possibly not have access and would not have utilities to it.

Mr. Conkling stated that Mr. Stoliker's background summary states that staff has looked at the area in the inlet and wishes to preserve it for a future water quality feature. Mr. Grayson has suggested that the pond would become the water quality feature. Mr. Stoliker stated that is correct, if the property is reconfigured. He stated that staff has no problem with declaring the area that is south of the channel inlet as excess.

Mr. Metzgar stated that any sale made by SSCAFCA as a public entity has to be approved by DFA or the Board of Finance. Those agencies require an appraisal. They will review that appraisal through the Tax and Revenue department's appraisers. They ensure that the appraisal is valid and that they agree with its conclusions. The Board will still need to review Bryan Godfrey's appraisal before it decides whether to hire its own appraiser. DFA also requires that this Board declare the property excess, which is left to the discretion of SSCAFCA.

Mr. Metzgar stated that the rules about selling excess property in the past have been that you could only sell by way of some kind of bidding to the public. This ensures that there is no question about any "buddy system" of selling properties. In the last Legislative session, the Legislature passed a bill that allowed for a negotiated sale to private persons. This has become a real problem because of the way the Governor signed the bills. There was another bill that was introduced on this section of the statute to exclude two agencies from its requirements. Both bills passed and the Governor signed the bill allowing the negotiated sales to private people first. Then he signed the bill that excluded a couple of the agencies. Under another statute, if you are amending a statute

twice in a session of the Legislature, the second one that is signed prevails. So, it could have effectively killed the first statute that allowed negotiated sales to private persons. He has called the Assistant Attorney General who represents DFA, Marty Daly, and she said that the problem did exist and she was concerned about it. Ms. Daly told Mr. Metzgar that she has given DFA an opinion that both statutes are effective because they are not in opposition to each other. Mr. Metzgar stated that there still might be another problem because the Governor has indicated that he does not like the new legislation of selling to private parties and that he might, in the next Legislative Session, introduce a bill deleting this. In the meantime, it's legal, but it may not continue to be available very long.

Mr. Yarbrough stated that since everything has changed since the Executive Committee meeting that considered it, he wants to table this matter until the Executive Committee can take another look at it. Mr. Westman stated that on the valuation, one of the things that the appraiser considers is the appraised full market value by the County Assessor. The Assessor has appraised this land at \$7,000.00 per acre. He would also like the Board to consider whether this is an excess piece of land and to consider the land swap further. Mr. Yarbrough stated that these are the reasons he would like to table this matter now because he doesn't think that the Board can make an intelligent decision today in light of this new information.

Mr. Metzgar stated that a trade or land swap would be subject to DFA approval also because DFA has to know that the traded properties are of equal value or that the difference is being made up in money.

Mr. Stoliker stated that part of this issue is staff's desire to take care of the water quality feature, which came out of the idea that the drainage includes Rio Rancho Industrial Park. Staff wanted to make sure that SSCAFCA had the possibility of a water quality feature.

A motion was made by Dub Yarbrough to table this matter and to place it on the Special Meeting Agenda for October 30, 2003. It was seconded by Donald Rudy and passed unanimously.

3. Action/Acceptance of Grant of Easements for Small Subdivisions and Acceptance of a 0.68 acre feet Pond in the 12 acre Milagro Ridge Subdivision.

Mr. Stoliker stated that there is a small subdivision going in that is located south of Northern in Rio Rancho and east of Unser, called the Milagro Ridge Subdivision, in the Montoyas Arroyo Watershed. The subdivision is approximately 12 acres and creates 29 residential lots. As part of that subdivision, they are planning to put in a .68 acre pond and dedicate it to the City of Rio Rancho. The development is less than 50 acres and staff has deferred to SSCAFCA's designee, the City of Rio Rancho, for approval, as allowed per the designee agreement. There is an issue that staff would like to bring to the Board which

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has to do with developments of this size, which are becoming the norm. Staff is asking that the Board allow the Executive Director permission to accept grants of easement for operation and maintenance of this particular pond and to extend that into all future subdivisions comprising less than 50 acres and pond volumes less than 10 acre feet.

Mr. Deubel asked if approval of the smaller ponds changed the nature of the Sportsplex retention dam specs. Mr. Stoliker stated that the Sportsplex dam is taking care of an existing deficiency. What this would do would possibly eliminate the need for an additional dam site in the future. The way the system would work today is that the City would be responsible for the maintenance and upkeep of the ponds. All this does is allow SSCAFCA to have some oversight on it and log it into its system. When the developer comes in, he would grant the fee simple ownership to the City and give SSCAFCA an easement at the same time so the process doesn't have to be duplicated. Mr. Stoliker stated that SSCAFCA has accepted the larger ponds in the past, normally ten acre feet or more. Last month, with Sierra Norte II, SSCAFCA accepted something smaller because the subdivision was greater than 50 acres.

Mr. Stoliker stated that it is not necessary for just the Executive Director to have the ability to sign off on these. Other options include bringing them to the Board each time; having the Executive Committee reviews them each time; having the Chairman review it with staff. If the Executive Director was authorized to sign off on them, staff would always make sure that the Board sees that it has happened. It can be done ahead of time, or it can be done afterwards, but the Board will know that it has happened.

Mr. Metzgar stated that if the easement is granted in the plat and the political subdivision accepts it, he doesn't see any problem with the Board giving that authority to an individual to sign. The President has that authority automatically, however, if it needs to be delegated to another party that can be done. He stated that if Rio Rancho is going to be responsible for maintenance, he is wondering why SSCAFCA is getting involved if it is not going to be responsible for maintenance. Mr. Metzgar stated that it means nothing to have it state on a plat that SSCAFCA has an easement. You have to have an easement for a purpose. It would be best to state that SSCAFCA has an access easement to the drainage facility, if Rio Rancho is going to get the property and have the maintenance responsibility.

Mr. Stoliker stated that they have asked to accept a grant of easement for operation and maintenance of the drainage facility. He is hoping that the City will still step up on the smaller infrastructure to maintain it. SSCAFCA will maintain the larger ponds. However, if it came down to it, SSCAFCA would still need to go in and help maintain it. Mr. Metzgar stated that if it is put in the plat that SSCAFCA has an easement for operation and maintenance, the City is quickly going to say that it is not their responsibility. If that's the case, SSCAFCA would be responsible. Mr. Conkling stated that SSCAFCA's policy states that it defers any subdivision of less than 50 acres. Now, staff wants the policy changed to



say, "except that, we are not going to defer any subdivision of less than 50 acres" and that it is willing to accept the maintenance. This would extend SSCAFCA's tentacles of control over something that it has already given away, and does SSCAFCA want to do that given the budgetary impact.

Mr. Yarbrough asked if the City would bring the subdivision plats to David for approval. Mr. Stoliker stated that the plats would be prepared and SSCAFCA would be part of that process. Right now, each of those developments comes through and is brought to SSCAFCA. He stated that SSCAFCA does have oversight of its designee, the City. SSCAFCA must make sure that the designee does its job, but it does not maintain those facilities.

Mr. Stoliker stated that he is resistant to counting small ponding in SSCAFCA's overall Master Plan, unless SSCAFCA has some control over it. The City is not able to maintain them. Mr. Conkling stated that it probably is best in the long run for SSCAFCA to count all drainage structures in its Master Plan, but SSCAFCA can't then say that anything less than 50 acres is deferred to its designee, the City. Rather, SSCAFCA should approve them all and accept maintenance for all of them. Mr. Stoliker stated that the review right now is done by the Drainage Engineer for the City. Mr. Deubel stated that it seems as if SSCAFCA should have a lower limit as to its responsibility. He does not agree if the City doesn't maintain them, that it's SSCAFCA's responsibility. It remains the City's responsibility. This request is contrary to SSCAFCA's present policy.

Mr. Metzgar stated that the agreement with Rio Rancho does not talk about operation and maintenance at all. It is approval of subdivisions. It says that if the subdivisions are below a certain level, then Rio Rancho, as SSCAFCA's designee, can approve them for SSCAFCA. The reason that was done is that SSCAFCA said it would be overburdened if it had to approve every small subdivision drainage facility that was going in. SSCAFCA does not know what will happen with O & M on a project. At the time the agreements with the different entities were going through, the Board had indicated that SSCAFCA could not afford to maintain all of the small facilities and that was the responsibility of the entity within which those facilities were being built. SSCAFCA would really be going against prior policy to say that SSCAFCA would be responsible for every drainage facility that was within SSCAFCA's entire jurisdiction.

Mr. Conkling stated that SSCAFCA can count the ones that are built, since they impact the drainage. They can be counted without being maintained. Mr. Stoliker stated that wouldn't be easy because SSCAFCA doesn't see all of them, since the City approves the smaller ones. He stated that when SSCAFCA set up those master plans, the models were set up to take into account all the drainage from those developed conditions. SSCAFCA never counted anything that wasn't under SSCAFCA's auspices. The smaller ponds that were put in weren't counted in the model. He stated that he has concerns about the way the City is maintaining those facilities. If the Board wishes to count them,

that's fine, but if the area then has a flood and the facilities were not maintained properly, SSCAFCA may have a problem.

Mr. Stoliker stated that if SSCAFCA could set it up where the City would maintain the smaller facilities, but SSCAFCA could still count them, and SSCAFCA could inspect them annually, and work closer with the City to have some oversight over them. This may allow for the elimination of some of the larger dams with possible cost savings to SSCAFCA. Mr. Deubel stated that if SSCAFCA were to get an access easement that should fulfill Mr. Stoliker's desire, instead of having an operations and maintenance easement. Mr. Deubel said that he is concerned about taking over a responsibility that SSCAFCA does not need and which will cost money in the long run.

Mr. Metzgar stated that the Board has stated in the past that it will be reviewing its Drainage Policy. Developers are questioning some of the policies, and this issue is part of the policies that should be reviewed. He does not believe that the Board wants to adopt a new policy now.

A motion was made by Dub Yarbrough to table this matter for further discussion. It was seconded by Donald Rudy and passed unanimously.

Mr. Stoliker requested that items 4 and 5 be switched.

5. Action/Acceptance of Fisher Right-of-Way Problem.

Mr. Stoliker stated that the Fishers have an erosion problem on their property. They are south of Corrales Road, just east of the Thompson Fence Line, just below Tree Farm Pond A. Staff thinks that the problem was supposed to be dealt with by the developer, Dorothy Smith and Richard Norton, when they filed the original plat. Staff thinks that they attempted to give the easement for the pipeline underneath the outlet for Tree Farm Pond to the Village and the Village tried to give it to SSCAFCA and SSCAFCA built some improvements. Staff does not believe that this actually happened. Staff is recommending that SSCAFCA negotiate with the Fishers to obtain fee simple ownership of the drainage easement across Lot 12, their lot, for that portion that is underneath SSCAFCA's hardened channel in exchange for SSCAFCA erecting a two foot high wall, 280 feet long.

Mr. Fisher stated that they bought their house in April 2001. On the north side of the property is a wall that is adjacent to the home. The footer of the wall on the side where the sand is has suffered some erosion. The design of the topography of the land was an effort to try to accommodate the improvements made by SSCAFCA in putting in the drainage pond and connecting to the sewer line. On top of that they put in a soil cement culvert. Its lowest point is almost two feet lower than the surrounding topography. He would like to suggest to SSCAFCA that something be done to finish the job which would allow him to

reclaim the normal topography of the area, which would require some kind of retaining structure.

Mr. Yarbrough stated that the concept of the pond was for a 'low-flow' flow. Mr. Stoliker stated that the 15 inch pipe under it is SSCAFCA's primary outlet. SSCAFCA put the hardened surface on top. Before the volume was increased in the Tree Farm Pond, that pond did not take the 100 year event. Mr. Fisher stated that, since the pond has been enlarged, the need to have this as an overflow is no longer there.

Mr. Stoliker stated that SSCAFCA must have that facility in there if for no other reason, to make sure that SSCAFCA can take care of the pipe and it acts as an emergency spillway for flows overtopping the dam. Mr. Rudy stated that if the facility is not there, everybody in the neighborhood will get flooded out if the dam overtops. Mr. Fisher stated that he is not interested in reducing the effectiveness of the structure. He would like to have some recognition that in the design of this system, it wasn't complete in terms of looking at what happens with sand when there is a hard structure which is clearly lower than the surrounding natural topography. He would like a wall built on both sides of the channel to reduce the erosion. He stated that he does not have the figures on what it would cost to build the wall that he would like.

Mr. Stoliker stated that Jim Service has gone out and looked at it and it looks like the wall will need to be 280 feet long, two feet high. He stated that the pipeline serves a public purpose and an easement should have been given to SSCAFCA when the structure was put in. If SSCAFCA got the property into its fee simple ownership, Mr. Fisher would not have to pay taxes on it. SSCAFCA could then maintain it. SSCAFCA does have to be concerned about anti-donation and giving something to an individual. He stated that if SSCAFCA can't get something from Mr. Fisher, SSCAFCA can't build a wall. He is very concerned about anti-donation. If SSCAFCA got an easement on the property, the problem is that Mr. Fisher would still be paying taxes on it. Mr. Stoliker stated that the Fisher's lot is approximately 1.6 acres, and if SSCAFCA took over this part of the property, it would be about .23 acres. Mr. Fisher stated that he is concerned about the market value of his property. He did not come here to sell the land. He wants the work done to fix the problem.

Mr. Metzgar stated that the original subdivision agreement was entered into in 1988 between Dick Norton and the prior owner of that property, and the Village. There were a couple of badly drafted agreements. One agreement said that Dick Norton and the owner were responsible to build a drainage facility on it. Neither SSCAFCA nor CWD nor the Flood Commissioner were involved in this property at that time. Dick Norton and the owner said that they would build some kind of drainage facility on Lot 12. Nothing can be looked at historically to see if they built anything on it. They also gave the Village the right to go in there if they failed to maintain the facility, to maintain it and to charge back to the owner whatever the Village paid for maintenance. The Village assumed from the documents that

they had an easement because they could go onto the property. SSCAFCA never found that there was any facility built but SSCAFCA's. The Flood Commissioner, Johnnie Losack, was working on the whole Tree Farm Pond drainage development. He went to the Village and asked the Village if they would grant the Flood Commissioner an easement to build the present facility that is there. The Village granted the Flood Commissioner an easement, specifically stating that it was an easement within the easement that they already had. The Village did not want to give up its right to an easement. However, he has found no record of any easement to the Village in any document. An easement document to SSCAFCA was recorded in the public records on December 6, 1996. The present facility was built and the present pipeline was put in and the Flood Commissioner transferred the responsibility for maintenance to CWD, which then went to SSCAFCA.

Mr. Metzgar stated that if SSCAFCA got a grant of easement from the present owner, went in and built the wall, he does not believe that SSCAFCA would have a problem with anti-donation. He does not believe that the transfer of the easement was done correctly. SSCAFCA has been in there for over ten years, so SSCAFCA does have a legal easement. To get a clear easement which does not have to go to court to be determined, SSCAFCA could get a grant of easement from the Fishers, and build the wall. This would satisfy SSCAFCA's legal responsibilities and not in any way cause an anti-donation problem. Mr. Stoliker stated that the wall would be built within the easement, and would be SSCAFCA's responsibility to maintain.

Mr. Metzgar stated that the Fishers bought the land, subject to an easement. The question is whose easement. There is an easement by prescription because the pipeline has been in there for over ten years. By building the wall, the Fishers will give to SSCAFCA a Grant of Easement document, regardless of the muddled history of the easement. Mr. Stoliker stated that one of the things staff would do is to hire a surveyor, to have it surveyed correctly and have the proper documentation. This will cost approximately \$3,000.00 for the wall and another \$3,000.00 to get the property surveyed and include Mr. Metzgar's time to review the documents.

Mr. Conkling stated that he would like to caution Mr. Stoliker about going in and surveying the easement or the lot, because most likely, the new surveyor will find that the pipe is not where SSCAFCA thinks it is and that the Fishers' land is not where they think it is. He would rather describe it as it is in the history and not spend the money on the survey. That could open up a whole new can of worms.

A motion was made by Mark Conkling to approve the granting of an easement by the Fishers to SSCAFCA in exchange for a wall to be negotiated. It was seconded by Richard Deubel.

Mr. Fisher stated that the wall would be two feet high, but that he did not know if the wall builder would put the wall on the soil cement or if a footer would be needed. Mr.

Yarbrough stated that soil cement will hold a two foot high wall. Mr. Fisher stated that he is concerned that in the event he tries to sell the property, which he plans to do in five years, it will have a clouded title because of this problem with the easement. He does not know what he needs to do in order to get that matter clear before he makes an agreement to sign over something that he may not want to sign over, or that he may not have a legal right to sign over. Mr. Metzgar stated that when he bought the property, the title company assumed that the grant of easement from the Village to the Flood Commissioner was effective, so there is already an easement on the property. The granting of this easement will make it clearer. Mr. Fisher indicated that he would like to independently pursue some advice with regard to this matter. He would also like to have a different wall put up than a block wall because of the aesthetic value. He would not ask that SSCAFCA pick up any extra cost for aesthetic value.

Mr. Conkling amended his motion to grant authority to SSCAFCA's Executive Director to exchange a perfected easement for a wall within his spending limits. It was seconded by Richard Deubel.

Mr. Borman, a resident of the Village of Corrales, stated that to avoid any appearance of the violation of anti-donation, the Board needs a clearly defined easement to make sure that all of SSCAFCA's improvements are within that easement. He is concerned that the Board has decided to not have a survey done. He would rather have the survey done to ensure the easement is in the correct location. He stated that if a proper survey was taken to the Village and asked them to either vacate any easement they may have on the property, or quitclaim any interest in any easement that they may have, then that would ensure the property owners that SSCAFCA is the only government entity that has a drainage easement interest on the property. In essence, everything would be cleared up. Mr. Yarbrough stated that he agrees with Mr. Borman.

Mr. Stoliker stated that Clint Dodge, from ASCG, designed that last go-around on the Tree Farm Pond. The pipeline was done before Mr. Stoliker came to SSCAFCA. Mr. Yarbrough stated that he thought it was Wilson & Company who put in the pipeline. Mr. Metzgar stated that there were a lot of meetings between the Flood Commissioner and Wilson & Company. Wilson & Company could do the survey on the property. Mr. Metzgar stated that he doesn't believe that a survey always needs to be done for a 20 foot easement that borders the property owner's lot. At the eastern end of the property, the easement comes down into the property in a southerly direction. That would be very difficult to determine without a survey. To determine where SSCAFCA's easement would be, he does feel that a survey of the property would be helpful. Mr. Fisher has discussed this issue with his neighbor to the north, and she has indicated that she doesn't really care what they did. Mr. Metzgar stated that he wouldn't worry about that property because there is no easement running on it.

Mr. Metzgar stated that if the Board members agree to this motion, on the portion of the granting of the easement, it would be a surveyed easement. Then, on the wall portion, that's a negotiated matter as to the wall itself. If the Fishers add to the wall, they would be responsible for the maintenance of the wall. Mr. Rudy stated that there are too many open issues and too many unknowns in this situation right now for the Board to give approval. He would like to be able to allow staff to investigate this further and come up with something that is reasonably well defined before approval is granted to go further with this.

Mr. Deubel stated that the Board is leaving it up to staff to make the best possible decision. Mr. Stoliker stated that if some kind of problem arises, he will definitely bring it back to the Board.

The motion passed 3-1 with Mr. Rudy voting against.

4. Action/Acceptance of Declaration of Excess Property Described as Lot 6A, Lot 7 and Lot 8 of Unit 17, Rio Rancho Estates.

Mr. Stoliker stated that right next to the Lomas Negras Arroyo, south of Corrales Road, east of 528, there are three lots owned by SSCAFCA that Mr. Mares, a Realtor, has indicated that a Dr. Gross has an interest in purchasing. Staff would like the Board to reaffirm that these lots are excess and to grant permission to transmit the letter in the Board's packets to Mr. Mares. Mr. Yarbrough stated that he would like to add as excess the lot over by Dam 4.

A motion was made by Richard Deubel to declare the property described as Lot 6A, Lot 7 and Lot 8 of Unit 17, Rio Rancho Estates, and Lot 1A, Block 13, Corrales Heights, as excess property. It was seconded by Donald Rudy and passed unanimously.

6. Update on the Bond Election.

Mr. Stoliker stated that the information on the bond election is in the Board's packets. He stated that an editorial in the Albuquerque Journal stated that approval of the bond package to build roads, fire stations, parks and improvements of local libraries and the zoo won't raise taxes. This is what SSCAFCA has been reluctant to do. SSCAFCA needs to be able to say this in its next bond election. Mr. Metzgar stated that this isn't being said by a city person. It is an editorial in the paper. Mr. Stoliker stated that for SSCAFCA's last bond election, he had three phone calls, all negative. This time, he has had approximately 15 positive phone calls.

7. Web Site Presentation.

Mr. Stoliker stated that everything is up and running on the web site and if the Board would like to view the site, he would show it after the meeting.

**FOR BOARD INFORMATION:**

- A. Sandoval County Resolution Supporting the SSCAFCA Bond.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- B. Letter of Support from CIPCAC.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- C. City of Rio Rancho Resolution Supporting the SSCAFCA Bond.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- D. Comments Provided by SSCAFCA Regarding Drainage Plans for Northern Meadows, Library Pond and Cabezon Developments.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- E. Answer to Complaint for Declaratory Judgment Referencing the Montoyas Arroyo.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- F. October 6, 2003 Disposition Order for Case No. D-1329-CV 97-1287 Involving Urban Pond 4.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- G. Middle Venada Fencing.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- H. Enchanted Hills Boulevard Channel.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- I. A Special Board Meeting will be Held on October 30, 2003 at 1:00 p.m. to Certify the Bond Election.

- J. On October 2, 2003, SSCAFCA received construction plans for the Enchanted Hills Boulevard Channel. The City of Rio Rancho is the lead agency for this project and has received Hazard Mitigation Grant funding for the proposed modifications. SSCAFCA has provided \$100,000.00 to aid the City in receiving this grant. Staff is

in the process of reviewing the plans. Due to a desire by the City to proceed as soon as possible, staff is requesting that they be allowed to present the plans to the Executive Committee for approval.

Mr. Stoliker stated that this item is the one that SSCAFCA had agreed that the City would take the lead. They have received hazard mitigation grant funds, and SSCAFCA has previously agreed to provide \$100,000.00 match. The City is trying to move the process along, but if the Board wants, it can have the Executive Committee review it or try to delay it for the Board to look at it next month. This is a matching fund which has been set aside for years.

K. Personnel Action Form Adjusting Vacation Accrual Rate for Bob Foglesong.

Mr. Stoliker stated that this item is contained in the Board's packets.

L. October 16, 2003 Letter from Howard Stone Advising SSCAFCA of a Potential Conflict of Interest.

Mr. Stoliker stated that this item is contained in the Board's packets. He stated that Mr. Stone was approached to do some work for Stapleton Elementary School. Generally, if it's another government entity, he has no problem with it. This would appear to be a conflict because in SSCAFCA's watershed. The Board has it set up so that each one of SSCAFCA's engineers has control over the watershed, so if there is any question at all, staff can go to that engineer. He stated that the second conflict, which is Arrowhead East, is owned by Curb, Inc. and is also in the Montoyas Arroyo Watershed. In that one, they are going to put a check structure in SSCAFCA's facility. Mr. Stoliker said that he is confident that Howard Stone will not do anything to hurt SSCAFCA. By having a good engineer do the design, SSCAFCA will be protected. If a separate review is needed, another engineer will be hired.

Mr. Conkling stated that one of the things that could be of difficulty is if the same subcontractors are used as advocates for a developer and are used by SSCAFCA as its engineer. This is a case where it is very unlikely that there is any risk because Howard Stone does things well. Even so, the structure will be checked. He stated that it is very smart to hire the engineer who is the SSCAFCA engineer to get the drainage structure built, because you know it will be approved.

M. Johnnie Losack Obituary.

Mr. Stoliker stated that this item is contained in the Board's packets.

**OTHER BUSINESS.**



**BOARD OF DIRECTORS REGULAR MEETING**

**OCTOBER 21, 2003**

Mr. Yarbrough stated that he should have brought this up in his Chairman ' s Report. He stated that Mr. Losack has passed away. His wife, Evelyn, felt strongly enough about SSCAFCA ' s crusade for the bond election, wrote a letter to some editors which were published in the Corrales Comment. Mr. Yarbrough stated that David took it upon himself to send flowers to Mr. Losacks ' family. Mr. Metzgar stated that Johnnie Losack was the first Chairman of SSCAFCA. Mr. Stoliker stated that the flowers were paid for with the SSCAFCA credit card because he though that SSCAFCA should do something. Mr. Metzgar stated that something such as this is okay for persons who have served on the Board. If the auditors feel otherwise, they ' ll let the Board know.

**ADJOURNMENT.**

Mark Conkling moved to adjourn. It was seconded by Donald Rudy and passed. The meeting adjourned at 4:45 p.m.



RICHARD DEUBEL  
Secretary



WM. C. YARBROUGH  
Chairman

DATE APPROVED:

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