

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF NOVEMBER 19, 2004
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 9:06 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Donald Rudy, and Dub Yarbrough. Mark Conkling and Richard Deubel were not present. Bernard Metzgar, SSCAFCA's attorney, and members of the public were also present. David Stoliker, Executive Director and SSCAFCA staff members were also present.

PLEDGE OF ALLEGIANCE.

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

APPROVAL OF AGENDA.

A motion was made by Donald Rudy to approve the Final Agenda. It was seconded by John Chaney and passed unanimously.

ANNOUNCEMENTS.

Announcements were made by Dub Yarbrough that all electronic devices needed to be turned off during the meeting.

EXECUTIVE DIRECTOR'S REPORT.

1. Action/Acceptance of a Proposed Public Access at Corrales Road and State Highway 528 and a Bridge to Cross Unit 17, Tract D-1-C to Unit 17, Tract D-1-B.

Mr. Stoliker stated that Mr. Marty Mares is asking that a bridge be put in across the Lomitas Negras to service some property that he recently bought. Mr. Mares will agree that SSCAFCA has a final say with regard to how the bridge will go in. The traffic study has been completed by Terry Brown and is being presented to the City today and to the Department of Transportation. The study calls for 11.65 acres of SU-C-1. He recently met with the City on the zone change and he has agreed to have no storage units, no automotive repair, no auto dealership, no mortuary, and no industrial. The City wanted to make sure he had SSCAFCA approval with erecting a bridge over the Lomitas Negras. Mr. Mares stated that the structure will be whatever is most economical. If cost was no issue, it would be a free spanning bridge with stacked flagstone. He has a structural engineer and

a civil engineer working on the bridge right now, which will be submitted to SSCAFCA for approval.

Mr. Stoliker stated that this is really the City's responsibility to maintain and SSCAFCA approval of a bridge will be contingent upon the City taking over that roadway. Everything will be sized according to the watershed management plan done by Mr. Stone and approved by SSCAFCA. Mr. Mares wants this to be a prime development and that is why he has excluded certain businesses being in that development.

John Chaney suggested that approval be deferred until after the City plans are in place. Mr. Rudy asked if SSCAFCA could approve the principle with the requirement that the design be brought back to SSCAFCA before any construction is done. Mr. Stoliker stated that staff has already included the wording in the Board packet that the road right-of-way must be dedicated to the City of Rio Rancho and the City will maintain the road and the crossing structure. All costs associated with surveying and platting to dedicate the road right-of-way will be the responsibility of Mr. Mares. The design of the road and crossing must meet all requirements, including approval by Rio Rancho and SSCAFCA. All costs associated with the construction will be borne by Mr. Mares or the developer. A design analysis report must be prepared and approved by SSCAFCA and the City prior to submittal of construction plans and SSCAFCA has signatory approval of the construction plans.

A motion was made by John Chaney to approve the bridge, contingent upon the conditions required by SSCAFCA staff. It was seconded by Donald Rudy and passed unanimously.

2. Action/Acceptance of the Agreement for Construction and Maintenance of Storm Water Quality Facilities in Black Arroyo Dam.

Mr. Stoliker stated that this agreement is between Curb, Inc., AMAFCA, and SSCAFCA for facilities in the Black Dam. The Board has seen this before, but some information has been added with regard to the O & M. It is believed that the O & M will include approximately 20 annual inspections. This is something that SSCAFCA does all the time. There will be two major cleanups annually, up to two man weeks with two men, a dump truck and a backhoe; with periodic cleanup as needed. This O & M will cost approximately \$10,000.00 annually. This takes care of at least half, if not more, of the entire watershed. AMAFCA will be doing the sediment removal portion of the O & M. Curb, Inc. has agreed to design and construct all of the facilities upon SSCAFCA's and AMAFCA's approval.

A motion was made by John Chaney to approve the Agreement as presented. It was seconded by Donald Rudy.

John Kelly, of AMAFCA, urged that this Agreement be approved.

The motion passed unanimously.

3. Action/Acceptance of the Sale of Property to Byron Voirin.

This item had been deleted from the Agenda.

4. Presentation of the Rio Rancho Parks Master Plan.

Ms. Carrie Moritomo, of the City of Rio Rancho, stated that she is the communications and marketing person for Parks and Recreation, now known as cultural enrichment. Over the last year, they have been working on updating their master plan. They looked at community and national trends in recreation and they also created their new framework and guidelines for what types of facilities and activities Rio Rancho will need in the next five to twenty years. They stuck with the established goals and objectives in the previous master plan to promote health and community safety, to support and promote environmental sustainability, to be fiscally responsible, and to proceed with being a regional center of excellence within the community.

Ms. Moritomo stated that they contracted with Sites Southwest, which is a landscaping, master plan sort of firm. They did a variety of studies by looking at population, information from the COG, as well as other census data to help project the growth of the City. Sites Southwest established that there were nine different user districts. Most of the growth in Rio Rancho will be in the upper half of the City, which are identified as districts 1 and 2 in the plan. This will double the existing size of Rio Rancho. They also incorporated the annexation in district 9, which is the Westwood Community and Black 's Ranch. Right now, there is no room for growth in districts 5 and 6, which is where the majority of the population currently resides.

Ms. Moritomo stated that there are a lot of existing programs offered for children and youth; the City is probably under serving adults and seniors. Seniors were not specifically looked at because there is a senior services division and department within the City. Fewer sports programs are offered, but the City does a lot of cooperation with outside sports programs. The City 's facilities were cited as a limiting factor for classes for adults or arts programs because the facilities are antiquated. Many programming opportunities are located in the southern part of Rio Rancho, while most of the growth will be in the northern part.

Ms. Moritomo stated that neighborhood parks are coming on line pretty regularly with the developers. The Sports Complex is overrun, as is Roskos Field and Haynes Park. The recreation centers are not state of the art and are in desperate need of updating or new facilities. All large facilities are far from the growing areas. There is no indoor pool and no state of the art recreation center, festival ground, or community park. Ms. Moritomo stated that they held many meetings to find out what the community thought about the City 's services. They found out that everybody was pretty much overall satisfied with what

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was being offered. They noted the need for the missing facilities and an indoor aquatic center. There is no theater or pavilion. The community input included asking for more climbing walls, a BMX course, and skate parks being incorporated into existing parks. More senior centers were requested.

Ms. Moritomo stated that the primary facilities that they will move forward on are an indoor aquatics facility, a recreation center, a community park, a sports complex north, and neighborhood park packages. She stated that they will include trails into any plan.

5. Discussion/Update of Sportsplex Dam Site R.O.W. Acquisition.

Mr. Stoliker stated that staff wrote a letter to Mr. Palenick regarding the redevelopment in Unit 13 and SSCAFCA 's need to coordinate that with the acquisition of the Sportsplex Dam site. This issue should be worked out within the next few months. Some right-of-way surveying will need to be done to acquire the rest of the right-of-way, not just the 2.7 acres from the private developer, but also an arroyo bottom owned by AMREP and an easement over land owned by Rio Rancho. Mr. Kemper was given a task order to survey the arroyo and acquire it from AMREP. Mr. Stone is going to do a survey with regard to an easement from the City for its property for the rest of the right-of-way that is needed that is adjacent to the Sportsplex itself. General consensus was to proceed with ROW acquisition as presented.

6. Action/Acceptance of JPA with the City of Rio Rancho for Bosque Restoration.

Mr. Stoliker stated that approximately a year ago, the Board gave approval to spend \$20,000.00 to help clean up the Bosque. It has taken time, but the Joint Powers Agreement is prepared and in the Board 's packets. In essence, SSCAFCA will give the City the money and the City will work with Ciudad Soil and Water Conservation District and a local non-profit agency in the Bosque to get the work done.

A motion was made by Donald Rudy to approve the JPA with the City as presented. It was seconded by John Chaney and passed unanimously.

CONSENT AGENDA.

Action/Acceptance of Minutes of:

a. September 17, 2004 Regular Meeting.

A motion was made by John Chaney to approve the minutes of the September 17, 2004 regular Meeting as presented. It was seconded by Donald Rudy and passed unanimously.

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**RECOGNITION/ACKNOWLEDGMENT OF THE TREASURER'S REPORTS FOR
SEPTEMBER 30, 2004 AND OCTOBER 31, 2004.**

GASB preliminary audited totals:

- Infrastructure \$25,527,036.00***
- Land \$5,809,725.00***

Mr. Stoliker stated that the Treasurer's Reports also include the recently completed infrastructure reports now required by the General Accounting Standards Bureau. He stated that the Treasurer's Reports for September 30, 2004 and October 31, 2004 were in the Board members' packets for review, acknowledgment and recognition and that he would be happy to answer any questions on them. There were no questions.

CHAIRMAN'S REPORT.

1. **AMREP R.O.W. Dedication with October 26, 2004 Executive Committee Meeting Minutes.**

Mr. Yarbrough stated that he had a meeting last week with AMREP with regard to property on the Los Montoyas from Broadmoor North to Northern Meadows, with some portions in the Venada. AMREP was gracious enough to give this land to SSCAFCA and he is extremely happy that AMREP is continuing to work with SSCAFCA in this way.

BOARD OF DIRECTORS COMMENTS.

Mr. Donald Rudy stated that SSCAFCA and AMREP should both get some publicity with regard to the right-of-way dedication by AMREP as indicated by Mr. Yarbrough. This is a major gain for the City of Rio Rancho and SSCAFCA's entire flood control projects. Mr. Yarbrough stated that he had been considering getting some sort of nice wall dedication plaque to give to AMREP and present it to them at a City Council meeting.

ATTORNEY'S REPORT.

1. **Action/Acceptance of Purchase Agreement Between Dr. Barry Gross and SSCAFCA for Lots 6A, 7 & 8 in Unit 17, Block 168, Rio Rancho.**

Mr. Metzgar stated that the Board had previously approved a sale to Dr. Barry Gross of Lots 6A, 7 and 8 in Unit 17, Block 168. Any sale of this nature is subject to Department of Finance approval. He drafted a purchase agreement, which contained that language in it and sent it to Dr. Gross. Dr. Gross is supposed to sign the agreement, deliver the earnest money with the signed agreement, and send everything to SSCAFCA. Assuming this happens, the Chairman would then sign it, and the \$5,000.00 would be taken to the Escrow Company. The deal would then go to the Department of Finance for approval. Everything is contingent on the Department of Finance approval. The Department requires

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an appraisal on the property which has to be approved by the Taxation and Revenue Department and this has been done. There was general consensus that this matter should proceed as presented.

- a. Approval Letter from Taxation and Revenue for Appraisal Report Update Review of the Above Lots.

Mr. Metzgar stated that the Taxation and Revenue Department has had their review appraisers review the appraisal and the appraisal has been approved by them. The appraisal had to be updated because it had been too long since the first appraisal, but the update has also been approved.

- b. November 10, 2004 Correspondence Received from Frank Larrabee Regarding the Sale of Lots 6A, 7 & 8.

Mr. Metzgar stated that SSCAFCA has received a letter dated November 10, 2004 from Frank Larrabee whereby he said that he would have liked to have known about the sale of these lots because he might have wanted to purchase the lots for more money.

Mr. Metzgar's understanding from Mr. Stoliker is that Mr. Larrabee had been shown the properties, but Mr. Larrabee had not followed up to purchase the properties until the contract with Dr. Gross had been negotiated and approved by the Board. SSCAFCA had been negotiating with Dr. Gross for a long period of time. These properties have actually gone out for bid twice and no bids were received, which is why the individual sale has been undertaken. There was general consensus that this matter is being handled correctly by the Board.

2. Adoption/Action of Resolution 2004-17 Declaring the Results of the Bond Election.

Mr. Metzgar stated that Bob Strumor had asked him to present the Resolution to the Board on his behalf; however, there is a problem. SSCAFCA got from the Sandoval County Bureau of Elections a fax yesterday with a certification of canvass results. Mr. Metzgar does not believe that this meets with SSCAFCA's requirement under its Resolution. The Certification does not have the actual results of the election, which SSCAFCA's Resolution requires. A fax would have been fine for the Resolution, but SSCAFCA's Resolution requires that the numbers be on the Canvass, which they are not.

A motion was made by John Chaney to table this matter. It was seconded by Donald Rudy and passed unanimously.

3. Unit 16 Public Improvement District Agreement.

Mr. Metzgar stated that in the Cabezon Development, a Public Improvement District has been formed and approved by the City Council of the City of Rio Rancho. The

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document requires SSCAFCA 's approval because most of the money that is going to be spent will be spent on drainage. The document has been prepared by bond counsel for the City. Ric Leverick, the attorney for Curb North is here and will present a synopsis of this agreement.

Mr. Ric Leverick stated that the City of Rio Rancho City Council approved the formation of a Public Improvement District (PID) on November 10, 2004 for the Cabezon project. The project involves a mix of single family homes, as well as mixed use areas. The PID was formed for two primary purposes, one to fund the channelization of improvements in the East branch of the Black Arroyo; and the other to do major landscaping improvements on both sides of a channel that will be built, as well as some common arterial roads within the project. The method of funding of the PID is to go to a bond sale in January to raise the monies for the improvements. The bonds will be supported by revenue which is generated by a special levy on the lots being developed within the project. As homeowners buy their homes, their tax bill will have an increment to help pay for the improvements over a term of thirty (30) years. Also, over a perpetual term, they will pay for a small yearly payment for the common area landscaping and the arterial roads. This Agreement is one of many bond documents generated by different counsel and primarily concerns the use of the funds that the district will generate from the bond sale. Once the proceeds are available to the Trustee, the Bank of Albuquerque, Curb North can make application to the Trustee to get reimbursement for the building of these improvements. Curb North will be the party that signs that contract with the contractors. The responsible party for paying the contractors is Curb North. Curb North gets reimbursement from the PID.

Mr. Leverick stated that SSCAFCA and the City are parties to this Agreement because they will be inspecting the improvements to make sure things are being done per plans and specs; and, when the channel improvements are finished, they will be dedicated to SSCAFCA. The landscaping improvements within the edges of the channel improvements and the arterial roads will be dedicated to the PID and the PID will maintain those. He stated that, under this Agreement, SSCAFCA and the City are to be held harmless by Curb North from any responsibilities financially, from any injuries to third parties during times of construction. Curb North will be providing liability insurance for this project during the term. SSCAFCA and the City will do the final reviews, inspections, and ultimately accept the improvements for operation and maintenance.

Mr. Stoliker stated that SSCAFCA has indicated approval of this Agreement by accepting the bulk plat and the Drainage Management Plan for the watershed that it would accept O & M responsibilities for this channel. He stated that he feels comfortable with regard to this Agreement from a technical standpoint, and from staff 's standpoint.

Mr. Metzgar stated that he has reviewed the PID document. The document itself talks mostly about the funding and was produced by bond counsel. As far as liability

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issues, SSCAFCA is very well protected under this Agreement. He sees no problem with the Agreement and recommends that the PID document be approved and that Mr. Yarbrough sign the document.

Mr. Leverick stated that the way the funding works is that they have 2,700 single family lots in the Cabezon Community, along with some mixed use areas. All of these areas will be subject to a special levy on their yearly tax bill. The County Treasurer will collect the monies and remit that portion of the tax bill to Bank of Albuquerque, the Trustee, who will then pay the bond holders. This infrastructure is not being paid for by the general public. This is paid by the people who actually move into this community. This ultimately saves the developers money because Curb North can charge less for the property, which in turn causes the developer to sell their homes for less money. They expect to start moving dirt within the next few weeks. Prior to the sale of any homes, Curb North will pay the contractors and has already paid for the engineering, surveying and other professional work to get to this point. Once the bonds get sold, the funds become available for Curb North to get reimbursement for those early monies that it has already spent. There is no bond payment or debt service until fifteen (15) months after the sale. The bonds being sold total approximately \$11 million. From that, \$2+ million is there to cover the bond issuance cost and interest reserve. By the time the fifteen month time period passes, approximately 70% of the project lots will have been sold. Those homeowners will be servicing the debt service on the bonds for their respective lots. Curb North will have some debt service because the entire project will most likely not be sold out within those fifteen months. Completion of sale is estimated to be in the two year range. They have already closed on approximately 30% of the project.

Mr. Leverick stated that they are going to start building the channel next month. They are going to pay for it from the bond proceeds. The hope is that the channel will be done by May 2005. They will then come back to SSCAFCA and ask to have the LEE line minimized. If the homeowner defaults, it is just like a property tax default. If the property taxes aren't paid, the County Assessor will notify the State, who will, after a certain period of time, send the homeowner a notice of delinquency. If the property taxes still aren't paid, the property will be put up for tax sale. There is a small area of commercial lots being created in the southeast corner of the project. For the most part, the project is mixed use and single family. Of the mixed use that exists, there is only 3 ½ acres currently in the project. The commercial property would be part of the PID, but the assessment will not be based on a per-lot assessment, rather it will be based on a per-acre assessment. These figures have been run by a financial consultant, Southwest Securities, who is the underwriter who will actually broker the bonds, and the City's bond counsel, Peter Franklin. All are comfortable with the allocations being used.

Mr. Leverick stated that the contract contains language that if the PID doesn't get sold at market and funded in January that Curb North can go back to its builders and ask them for \$1,500.00 more per R-4 lot. By being able to pass on the savings to the

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homebuilder, it allows the project to be more competitive because homes in the project are more affordable. The builders are mostly large, publicly traded companies and have the backing to be able to afford this project. There have been some areas broken away from the project to sell smaller groups of lots for more custom types of homes to some of the local builders.

Mr. Stoliker stated that there is still one remaining unresolved design issue and it is the coloring of the concrete. Bo Johnson believes that the coloring of the concrete is an excessive cost (> \$300,000), but that he is trying to be considerate of the homeowners who will ultimately be in the area. This is an issue for the Board because the Board has the responsibility to the property owners to ensure that everything is aesthetically pleasing. Mr. Metzgar stated that the PID is a political subdivision of the State of New Mexico under the statute. That District was formed and the five members of the District are the ones who will be responsible for the bond money. There are two members from Curb North and three members from the City of Rio Rancho. There is a question as to whether SSCAFCA could or should be a member of the District since most of the work that will be done with that money is for drainage purposes. Mr. Leverick has offered to go to the District and ask if this is a possibility if the Board is interested in having a member on the District. Mr. Leverick stated that after the bonds get sold and the channel improvements have been completed, the board will be primarily a landscape maintenance board. It will oversee the budget for the maintenance of the landscaping along the channel improvements and the common right-of-way areas of the roads. The way the PID document is written, the District itself will exist in perpetuity for the purposes of maintaining the landscaping and collecting the special levy fee from each homeowner. Mr. Stoliker stated that if SSCAFCA wants to be on the District, it will be more work and responsibility.

Mr. Rudy stated that he is concerned that SSCAFCA retain technical control over all things associated with drainage. If that is in the specifications of the Agreement, he doesn't see why SSCAFCA would want to take on any other responsibilities. Mr. Metzgar stated that all of the technical aspects are covered.

A motion was made by Donald Rudy to accept the Unit 16 Public Improvement District Agreement as presented. It was seconded by John Chaney and passed unanimously.

4. Mariposa Easement Agreement.

Mr. Stoliker stated that Mariposa has prepared the Mariposa Easement agreement for the Chairman to sign. This has been presented to the Board previously with approval to prepare the documents for signature.

CLOSED SESSION.

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Discussion of Personnel Issues.

A motion was made by John Chaney to go into Closed Session for the purpose of discussing personnel issues. It was seconded by Donald Rudy. Roll call vote: John Chaney, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion passed 3-0.

A motion was made by John Chaney to resume Open Session. It was seconded by Donald Rudy and passed unanimously.

Mr. Yarbrough stated that the only discussion held in closed session was for the purpose indicated and that there was no action necessary.

APPOINTMENT OF ACTING SECRETARY.

Mr. Yarbrough appointed Donald Rudy as Acting Secretary.

PUBLIC FORUM.

None.

FOR BOARD INFORMATION:

Mr. Stoliker stated that the following was for Board information only and/or contained in the Board ' s packets:

1. September 13, 2004 and September 27, 2004 Executive Committee Meeting Minutes.
2. September 24, 2004 request for limited use of a SSCAFCA easement by AAA Gas Co. and 10/14/04 Correspondence from SSCAFCA to Mr. Salzmann regarding his request for use of the easement.
3. Two sole source contracts for services have been approved:
 - a. Public Relations Consultant;
 - b. Website Consultant.
4. September 23, 2004 construction plan for Tierra de Corrales was signed.
5. The Tierra de Corrales purchase agreement between SSCAFCA and Tierra de Corrales LLC was signed September 23, 2004.

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6. October 5, 2004 correspondence to Russell Grayson of Huitt-Zollars regarding the drainage study for the Fulcrum Building parking expansion.
7. Ten Basic Rules for speaking with the press.
8. Rainfall update.
9. The following infrastructure plans have been approved by staff and the Executive Director:
 - a) *Blue Grama Drive & Desert View, Desert Highland, and Venada Estates Subdivisions, all within the Mariposa Development.* Signed by the Executive Director on November 2, 2004.
 - b) *Northern Meadows Units 14 & 15.* Signed by the Executive Director on 10/04.
 - c) *Astante at Cabezon - Phase 2.* Signed by the Executive Director on September 23, 2004.

The following infrastructure plans were reviewed by staff and comments provided to the engineer:

- a) *Trailside Road - Phase 2, Cabezon Road - Phase 2, and Black Dam Water Quality Structure, all within the Cabezon Development.* Comments provided to the engineer on November 1, 2004.
 - b) *Los Pinons Subdivision, located at the southwest corner of 10th Street and Kings Road and comprising approximately 35.5 acres, with 135 proposed dwelling units, and a developed discharge of approximately 66 cfs.* Comments provided to the engineer on November 5, 2004.
10. October 6, 2004 article from the Journal regarding local flooding.
 11. October 6, 2004 article from the Journal announcing the speakers scheduled for a candidates forum sponsored by the River's Edge Homeowners Association.
 12. October 12, 2004 letter from the New Mexico Society of Professional Engineers showing support of the SCAFCA bond.
 13. October 20, 2004 correspondence to James Palenick, City of Rio Rancho Administrator, regarding redevelopment of Unit 13 in Rio Rancho.

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14. October 27, 2004 correspondence to Walt Bettinger regarding a connecting street between Loma Colorado Drive and High Resort Boulevard.
15. November 5, 2004 correspondence from Robert Schulz regarding property exchange.
16. Upcoming Board meetings are December 17, 2004 and January 3, 2005.
17. Northern Meadows plats to e signed on November 19, 2004.

OTHER BUSINESS.

None.

ADJOURNMENT.

A motion was made by John Chaney and seconded by Donald Rudy to adjourn the meeting. It was carried unanimously. Meeting adjourned at 11:00 a.m.


DONALD RUDY, Acting Secretary


DUB YARBROUGH
Chairman

DATE APPROVED: