

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF APRIL 20, 2007
BOARD OF DIRECTORS REGULAR MEETING**

CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by John Chaney, Chairman, at 8:57 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Mark Conkling, Steve House, Donald Rudy, and Dub Yarbrough. David Stoliker, Executive Director, Bernard Metzgar, SSCAFCA's attorney, and members of the public were also present.

PLEDGE OF ALLEGIANCE.

The Board was led in the Pledge of Allegiance by John Chaney.

APPROVAL OF AGENDA.

Mr. Chaney stated that since Mark and Steve have to leave early, he suggested that the Chairman's comments and the Board of Director's comments be put after the discussion of the Presbyterian Hospital. Mr. Stoliker stated that staff would like to add an item, "Selection of Financial Advisors" which could happen any time during the meeting. Mr. Chaney stated that this item would be added as #11 under the Executive Director's Report.

A motion was made by Mark Conkling to approve the Agenda as amended. It was seconded by Steve House and passed unanimously.

ANNOUNCEMENTS.

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

PUBLIC HEARING : SSCAFCA NPDES STORMWATER MANAGEMENT PLAN.

Mr. Stoliker stated that the United States Environmental Protection Agency requires that SSCAFCA carry a permit for storm water discharge. The permit needs to be prepared, presented to the public, and comments need to be received in order to comply with the Federal Register. A copy of the permit has been placed at the receptionist's desk for some time, and advertisements have been placed as per the requirements for review of the permit and for the public to attend this meeting and provide comments at the public hearing. Any comments received will be reviewed and addressed by the Board and staff.

John Chaney opened the public hearing and the public was invited to address the Board about this issue and SSCAFCA's proposed permit.

Eddie Paulsgrove, of the Corps of Engineers, stated that on one of the best management practices, he believes that joining with all the municipalities in helping to support their invasive and

obnoxious weed control on SSCAFCA facilities may be a benefit to water quality issues. Another issue that he sees that may come up is the discharge of soils with fecal coliform into arroyos. This is a problem that is happening in the La Barrancas, which is a tributary to the Rio Grande. It is contrary to place dredged sediment into arroyo systems that contains fecal coliform. The Corps could help SSCAFCA with a proposal for establishing a "land bank" for loss of natural arroyo systems to come back and try to conserve land, as a mitigated measure to re-establish, or obtain land that contains natural arroyo systems. This concluded Mr. Paulsgrove's comments.

Mr. Conkling stated that sometimes SSCAFCA has to manage a balance between existing goods. For example, it's good to put earth in an arroyo where there is a very dangerous situation for the public, and it's good to use earth that is wet from the storm water runoff, but if it has fecal coliform in it, it's bad because it can end up in the river. How to manage that is something that SSCAFCA is interested in looking at. If there were drop structures that would prevent the earth from moving that would be different than just dumping it in an arroyo.

Mr. Paulsgrove stated that SSCAFCA's staff is well qualified to work with the Corps to find a solution. One of the agencies that would need to be consulted is the Fish and Wildlife Service with regard to re-depositing this type of sediment back into a water course. SSCAFCA can anticipate them saying no. Mr. Chaney stated that a lot of the sediment has washed into SSCAFCA's facilities because of mass grading and he asked if there were any federal rules regarding mass grading. Mr. Paulsgrove stated that when it comes to mass grading, as far as their jurisdiction lies, it is primarily within the waters of the United States below the ordinary high water mark. A lot of these projects, such as the Loma Colorado Project, were evaluated under an individual permitting process. They do look at the mass grading site specifically. The Corps will work with anybody when it comes to an individual permitting process.

Mr. Rudy stated that the dominate pollution into the Rio Grande is fecal coliform, and the largest component is avian, second is canine and third is human. The human is being addressed by most municipalities by cleaning up the uncontrolled septic systems. Every community is cooperating in working with people to be sure that they pick up after their pets. This needs to be stated more specifically. The dominant is avian, which is usually on the surface. One of the concerns with respect to moving soil from one place to another is burying it. As it is moved, it gets turned over, and if it gets buried it survives for a very long time.

There were no other public comments. The public comment period was closed and the Board moved on to other issues.

2007 LEGISLATIVE REPORT.

Larry Horan, the registered lobbyist for SSCAFCA, stated that the first session was pretty successful. SSCAFCA received \$450,000.00 in capital outlay severance tax money. Considering how late SSCAFCA entered into the game, this was a great result. The money has to be used for the project in the area as specified by the particular legislator, \$400,000.00 was designated for Phase I of the Unit 17 flood control. The other \$50,000.00 was for flood control in Corrales. This is the first time that any flood control authority has ever received this type of legislation. The goal in the future is to keep trying to get funding from the legislature for capital projects.

Mr. Horan stated that in addition to the capital outlay, the significant issue they dealt with was the proposed boundary expansion for SSCAFCA. This involved SSCAFCA, Sandoval County and the Town of Bernalillo with regard to flood control in Eastern Sandoval County, including Placitas. They had proposed legislation to involuntarily expand SSCAFCA's boundaries to include that area.

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Instead of expanding the boundaries, which would affect the bonding capacity, and the ability to serve SSCAFCA's needs, they decided to create the Eastern Sandoval County Arroyo Flood Control Authority. The concern with the proposed legislation is that it allowed the people in the new area to tap into the bond money raised in Rio Rancho to fund their projects, but it would not go both ways. One provision in it is that if the new Board chooses, they can contract with SSCAFCA to assist in the management of the authority. They also received about \$145,000.00 for projects in the new flood control authority.

Mr. Horan stated that in eminent domain, two bills were passed into law. They are identical, one coming from the House and one from the Senate. The eminent domain bills amended the Metropolitan Redevelopment Code and they eliminated eminent domain for the purpose of economic development. There was a provision written into the new eminent domain laws that allows for the use of eminent domain and condemnation where there is obsolete or impractical planning of a subdivision in a municipality for the purpose of protecting persons and property from erosion, flooding or inadequate drainage.

Mr. Horan stated that there were a couple of ethics reform bills that may affect SSCAFCA. The first of those relates to procurement and disclosure of campaign contributions. If you have a prospective contractor who is bidding on a project and they have given an aggregate of \$250 or more to any elected official, it has to be disclosed within the closed bid. The agency procuring the service has to indicate on the disclosure form who possibly could have, or did, receive those funds. The only other ethics reform which possibly might affect SSCAFCA would be the limit on gifts for state officers of \$250.00 for a one time gift, or an aggregate of a \$1,000.00 gift from anyone proposing to do any kind of business with SSCAFCA. He stated that there was legislation proposed to give the state engineer more control over dams, but both of the bills were tabled. These bills would have affected SSCAFCA's dams, so these bills should be watched in the future.

Mr. Horan stated that before the next session, is the time to start developing a relationship between SSCAFCA and the legislators so that it is easier to ask for funding next year. The important thing to do, particularly with the ones who gave SSCAFCA money this year, is to invite them to any openings of any projects in their districts, and to provide them the opportunity to show their voters how the money was spent to benefit them.

Mr. Yarbrough asked how the state engineer's proposal for dams affects SSCAFCA. Mr. Stoliker stated that even the small dams would fall under their jurisdiction, which means that it would be another regulatory loop that SSCAFCA would have to go through and which might mean that SSCAFCA would have to develop emergency action plans even on the small dams. SSCAFCA might have to construct emergency spillways on them which would increase the cost of them. Plus, it would require by statute that SSCAFCA could not exceed 96 hours detention. SSCAFCA's main concern is that holding onto the storm water longer may allow more of the sediment to fall out, taking out more of the contamination, which when the water is evacuated SSCAFCA could haul it off and treat it. This legislation may not allow SSCAFCA to do that in the future.

EXECUTIVE DIRECTOR'S REPORT.

1. Discussion of Presbyterian Hospital Drainage Plan.

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Mr. Stoliker stated that SSCAFCA approved the Black Arroyo Watershed plan in 2002. The Board approved the necessary improvements to control the storm water runoff in a flooding event up to a 100 year event under fully developed conditions. All of the flow goes to AMAFCA's Black Dam. SSCAFCA has to have a facility on Lisbon; it must have a facility on Sunset and one on Sugar. On Sunset, Wallen Development has agreed to dig out the dirt, approximately 55,000 cubic yards of dirt for an outlet structure.

Mr. Stoliker described the area where the Presbyterian Hospital was going to be located. SSCAFCA needs to get 19th Avenue and the Gateway Dam constructed. At some time, something would need to be done with the remainder. He stated that if the developers want the hospital completely protected, all of the facilities would have to be built. Staff is recommending a higher standard of protection be placed on the emergency services facilities, protection up to a 500 year event. SSCAFCA does not have any funds to build any of the facilities except to buy the acre needed for Sunset and the acre for Sugar. SSCAFCA would have the money in a future bond issue to do these projects.

Mr. Dodge stated that if the hospital was not going in, SSCAFCA would still have to protect Unser and the box culvert, so 19th Avenue Dam would still be needed. The option of rerouting the arroyo would still mean that SSCAFCA would need the 19th Avenue Dam. The level of flood protection for developments in this area is a function of the design. The 500 year event will overtop Unser, so it will be messy in any event. If the channel was designed to meet the criteria, it would add the same level of protection as if SSCAFCA leaves the arroyo where it is and, by the same token, provided 500 year protection with freeboard. The Tributary A has a bigger impact on the 19th Avenue Dam.

Mr. Dodge stated that if the dam is built at the "park site" it would help dramatically. Mr. Stoliker stated that this is a fall back position for SSCAFCA because it is more expensive than the other sites. Mr. Conkling stated that SSCAFCA's regulations don't really allow the movement of arroyos that are already in place. SSCAFCA is really looking at how to accomplish moving the arroyo, what variances are needed, how to accomplish public safety and how to share in the burden of making that happen. Mr. Stoliker stated that the total cost for all of the facilities is around \$19 million with \$4 million just for right-of-way acquisition.

Mr. Metzgar stated that the City could put a moratorium on developing a piece of property, but it is unsure as to how long it could be done. Mr. Conkling asked if there were any drainage impact fees in this area. Mr. Ken Curtis, of the City of Rio Rancho, stated that currently the impact fees for drainage are citywide, so there are some fees. The City has discussed this in depth and would like the hospital to be on this site. He stated that any official request be put in writing to the City with regard to any resources for land acquisition.

Mr. Paulsgrove stated that they have received a 404 permit application on 19th Street Dam as well as the hospital. The Corps is not a big proponent of concrete channels. They remove a lot of the environmental ecosystem functions. The Corps' first evaluation line is the water dependent on the project being proposed. The relocation of this arroyo is a very significant project. The Corps feels that this is an inappropriate place to build the hospital because it can be built in other areas. If a permit is required from the Corps for any work in the Black Arroyo, it can require that the applicant acquire the property necessary for the construction of the 19th Street Dam. The mitigation for the

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relocation of the concrete channel would be significant. Without additional, strong supporting information, he would not support a concrete channel. He would support an earthen feature with the LEE lines left in place. In order for the concrete channel to be constructed, the storm water management facility has to be constructed. The orientation and the dimensions of the concrete channel would not allow for unregulated discharge through the box culverts.

Bo Johnson, of Curb, Inc., who is a consultant to the Developer, stated that he is in support of the hospital in this location. This is an urban area and is not looked at by anyone as a rural area. The channel is intended to be concrete lined and the east branch is concrete lined. They have spent a lot of money on landscaping to try to keep it as pleasing as possible. The opportunity for this site might soon be lost if a decision cannot be reached. The building of this hospital would mean a lot of tax money for the City.

Mr. Conkling stated that the long term value to the entire City of Rio Rancho is not in question. He is eager to find a solution as well, however, there are many variances that will be needed to put the hospital on this site. Mr. Johnson stated that with the earth removed and with the rundowns into the 19th Street Dam in place, the pond would be complete and functional, lacking only the water quality feature. Mr. Conkling stated that SSCAFCA does not have the resources at this time for land acquisition for the dam site, but SSCAFCA would be happy to work with the developers to obtain the land needed.

Mr. Yarbrough asked if it was reasonable to move the arroyo and still engineer the same capacity, etc. that the old arroyo has. Mr. Paulsgrove stated that he does not believe so. Mr. Johnson stated that the arroyo will have to be hardlined in some capacity. He stated that the hospital site cannot take the channel through its property. Mr. Johnson stated that the hospital is anxious to start the building as soon as possible with the first phase of 105 beds being available in late 2009. The developer has the site plan done and a local architect is helping. A significant amount of money has been spent in developing the site. A 500 year event would not be a major issue because the hospital can meet the requirement. Mr. Yarbrough stated that the capacity of the box culvert under Unser is the driving force for the 19th Avenue Dam. The channel being proposed is going to follow Westside Boulevard all the way down to the Black Dam. Mr. Johnson stated that the total right-of-way, including the dam, is a significant replacement of manufactured landscaping and pedestrian amenities, but he doesn't have a calculator to multiply it out.

Mr. Conkling stated that SSCAFCA looks forward to working with all entities involved, keeping in mind that SSCAFCA has to keep minimal levels of safety to protect the entire community. Mr. Chaney stated that the Executive Committee is going to address the issue on Monday. A discussion was held with regard to getting information back to the Board for a decision.

CHAIRMAN'S REPORT.

Mr. Chaney stated that the Executive Committee has discussed for quite some time that it might be cheaper for SSCAFCA in the long run to have some tasks that are being contracted out be done by in-house staff. This would mean hiring more staff. This includes land acquisition, surveying, O & M, etc. This has come up because SSCAFCA is having a hard time finding qualified people to act in the time frames needed by SSCAFCA. Mr. Stoliker stated that staff just hired a new engineer, Trevor Alsop. It is in the budget to hire two more people - one for financial and one for

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field work. Staff would also like to hire additional field maintenance personnel. SSCAFCA does have space issues, DFA approval issues, and budget issues beyond what is currently budgeted. Mr. Stoliker stated that somebody has to be at the Sportsplex Dam site representing SSCAFCA eight hours a day. It can be done either through companies under contract with SSCAFCA, or by Jim Service. Mr. Yarbrough stated that he is disturbed about the way that Mr. Campbell was hired by having Mr. Dodge hire him. Mr. Stoliker stated that it was always set up in the contract that Mr. Dodge would hire somebody. Mr. Conkling suggested that staff bring back to the Board possibilities of bringing these issues back to the Board with ways on how to handle them in-house.

Steve House and Mark Conkling left at 11:00 a.m.

BOARD OF DIRECTOR'S COMMENTS.

Action/Acceptance of Dulcelina Curtis Memorial.

Mr. Yarbrough stated that he does not have the most recent portrait of Dulcelina Curtis for the memorial. Mr. Stoliker stated that staff will look into the issue and will work with the contractor.

EXECUTIVE DIRECTOR'S REPORT.

1. **Action/Acceptance of La Plazuela de Sandoval (Justice Center).**

Mr. Stoliker stated that this is the Justice Center. It is a drainage plan that takes the flows from the surrounding area on their site to historic. Mr. Demeule has looked at the area and there is a capacity issue off of Willow Creek Road; it does not overwhelm the facility, but it is at maximum capacity. Staff is proposing that the Board allow Sandoval County to proceed with this matter and as new development comes in, SSCAFCA will address any issues at that time. Generally in the past, when a facility is at capacity, SSCAFCA would have the developer look at it again and not utilize all of the capacity. In this case, the Sandoval County facility is doing two things - it is taking all of the drainage north of Idalia Road and west of 528 and keeping it to the existing flow conditions underneath Idalia; and it is a County facility and they will protect themselves up to a 100 year event.

Mr. Yarbrough stated that sometime back SSCAFCA had made some concessions to some property owners above this facility with regard to a SAD that was involved. Mr. Stoliker stated that this facility will take care of all of the SAD east of the proposed Paseo del Volcan and make sure that it goes back to historic. Mr. Rob Demeule described how the facility would handle the flows. Mr. Stoliker stated that the County is solving their problems on site, they are helping address problems off site and staff would probably still be saying okay, but recognizing that there is a problem downstream.

A motion was made by Donald Rudy to approve the plan as presented. It was seconded by Dub Yarbrough.

Mr. Stoliker stated that the design downstream at Willow Creek Road is that the road is on top with a culvert underneath it and with a notch in the curb to allow the overflow to go over the road.

The motion passed unanimously.

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Mr. Chaney stated that since the Board is having a special board meeting next Friday, he suggested that the rest of the Executive Director's report be tabled and held at next Friday's meeting. Mr. Stoliker stated that there are a few items that need approval before next Friday, Item 5, Item 6, and the acceptance of the financial advisors.

A motion was made by Mr. Rudy that the agenda be limited as discussed above in order that all Board members are present. It was seconded by Dub Yarbrough and passed unanimously.

2. Action/Acceptance of Intergovernmental Agreement with the City of Albuquerque for Insurance.

Mr. Stoliker stated that this follows the same insurance SSCAFCA had last year, they just wanted a new agreement.

A motion was made by Donald Rudy to accept the agreement as presented. It was seconded by Dub Yarbrough and passed unanimously.

3. Action/Acceptance of Contract Renewal for Legal Services with a \$5.00 increase with The Law Offices of Clayton Ewing Crowley, Esq., P.C.

Mr. Stoliker stated that staff is recommending approval of the renewal of legal services contract with a \$5.00 per hour increase.

A motion was made by Donald Rudy to accept the contract renewal for legal services with a \$5.00 per hour increase with The Law Offices of Clayton Ewing Crowley, Esq., P.C. It was seconded by Dub Yarbrough and passed unanimously.

4. Action/Acceptance of Financial Advisor.

Mr. Baird stated that three firms replied to the RFP for financial advisor, Casey Consulting, George K. Baum & Company, and RBC Capital Markets. He, along with Donald Rudy and David Stoliker chose RBC Capital Markets as SSCAFCA's financial advisor because of their long experience and success with SSCAFCA. Staff recommends approval.

A motion was made by Donald Rudy to approve RBC Capital Markets as SSCAFCA's financial advisor as discussed above. It was seconded by Dub Yarbrough and passed unanimously.

Action/Approval of the Minutes of:

- a. February 16, 2007;
- b. February 23, 2007;
- c. March 16, 2007;
- d. March 30, 2007.

A motion was made by Dub Yarbrough to approve the minutes of February 16, 2007; February 23, 2007; March 16, 2007 and March 30, 2007 as presented. It was seconded by Donald Rudy as passed unanimously.

RECOGNITION/ACKNOWLEDGMENT OF THE TREASURER'S REPORT FOR MARCH 31, 2007.

Mr. Rudy stated that the Treasurer's Report is available for review by the Board members. There were no questions on the report and it was acknowledged by the Board.

PUBLIC FORUM.

Ron Myers stated that SSCAFCA staff were recently out at his place and they discussed filling in the dirt, but it will not work because work is needed up above. If it is necessary for them to consider granting SSCAFCA an easement to resolve the problem, he would certainly consider it. As it stands, there is nothing he can do to fix his property. He can only grant an easement to the portion of the arroyo that is on his property, but he doesn't own it all the way up.

Jim Fahey, Corrales Councilor, asked when SSCAFCA might begin the work on the contracts that are out for bid. Mr. Stoliker stated that SSCAFCA has a contract to take out material from the Venada and they are 40 days into it and they have a 90 day contract. The work will most likely start within two weeks of May 4, 2007, but the work must be done by July.

Mr. Yarbrough asked about getting an easement for the arroyo on the back of Mr. Myers' property. Mr. Stoliker stated that generally SSCAFCA doesn't accept just an easement on an individual. It has usually been that SSCAFCA has looked at an area more regionally and solved problems regionally rather than individually. He recommended that the SAD process by the City proceed, and then look into the issue if help is still needed. Mr. Metzgar stated that SSCAFCA must be very careful to avoid anti-donation.

ATTORNEY'S REPORT.

Update on Water Quality for Santiago's.

Mr. Metzgar stated that the Village attorney sent a letter to the developer and told them that they may be violating ordinances by failing to build the water quality feature on the property as they agreed. To his knowledge, the Village attorney has not received a reply.

FOR YOUR INFORMATION.

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

1. March 17, 2007 Newspaper Article, "Lawmakers OK Flood Board".
2. Request from PNM for Easement on Proposed CB Line Second Circuit.
3. March 19, 2007 Letter from Pete Domenici.
4. March 22, 2007 Newspaper Article, "Franklin's Earthmoving is Reshaping the Land".

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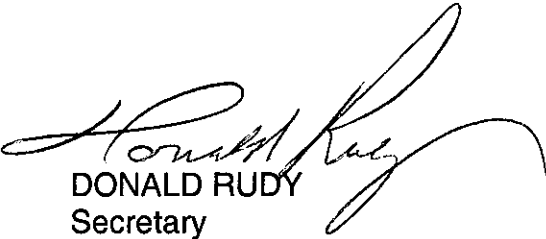
5. March 23, 2007 Correspondence from Fish and Wildlife Service.
6. Warranty Deed Recorded January 25, 2007 on Property Purchased in Unit 17.
7. The Sportsplex Dam Project has received its 9th application for payment for \$328,433. This brings the total for payments to date to \$3,044,433 out of the total project cost of \$4,572,927 or 67%. Salls Bros. Con. Prepared the ROW for Pulte for their dry utility extension on the 9th of April and will turn over the roadway ROW on April 30th so that Pulte can begin their construction of Loma Vista Blvd.
8. The following infrastructure plans were signed by the Executive Director:
 - a. Alberta Watershed Drainage Improvements, Phase I, the Executive Director signed the mylars on March 21, 2007.
9. April 11, 2007 Correspondence from Corps of Engineers regarding West Branch of Blacks Arroyo for commercial development for Cabezon.
10. April 2, 2007 Executive Committee Meeting Minutes.
11. Selection of Financial Advisor.

OTHER BUSINESS.

None.

ADJOURNMENT.

A motion was made by Donald Rudy and seconded by Dub Yarbrough to adjourn the meeting. It was carried unanimously. Meeting adjourned at 11:30 a.m.


DONALD RUDY
Secretary

JOHN CHANEY
Chairman



DATE APPROVED: 5/18/07