

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF NOVEMBER 16, 2007
BOARD OF DIRECTORS REGULAR MEETING**

CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by Mark Conkling, Chairman Pro Tem, at 9:05 a.m.

ROLL CALL OF DIRECTORS.

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

PLEDGE OF ALLEGIANCE.

The Board was led in the Pledge of Allegiance by Mark Conkling.

APPROVAL OF AGENDA.

Mr. Conkling stated that there are some people here who would like to address public issues unrelated to the Agenda. If they are here to offer comments unrelated to any of the presentations on the Agenda, he will move the Public Forum to the beginning of the meeting. A motion was made by Donald Rudy to approve the Agenda as amended. It was seconded by Dub Yarbrough and passed unanimously.

ANNOUNCEMENTS.

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

PUBLIC FORUM.

Mr. Eric Maddy stated that he has started the state's first totally on-line community newspaper covering Rio Rancho and Sandoval County. The site is www.the-score.info.

EXECUTIVE DIRECTOR'S REPORT

1. **Update on Arrowhead East/Montoyas Ridge.**

Mr. Bo Johnson stated that the cost of improving 528 is a large cost and this project is not on the back burner, but they are waiting for some help from the State. Mr. Yarbrough stated that when the initial presentation was made, SSCAFCA was led to believe that if the approval was not done that day that the deal was dead. Here it is over two years later and nothing has been started. Mr. Johnson stated that they still own the land and the project is still in the queue, but he cannot give an exact start date. Mr. Conkling stated that in SSCAFCA's cooperative stance with the development community, a couple of things happen as time passes. One is that the market changes. As the market changes, the pace of development changes. The other thing that happens is that standards

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get harder to meet. Mr. Rudy stated that many of the considerations that go into the initial decision need to be revisited after such a long period of time has passed.

Mr. Johnson stated that as a representative of the group responsible for putting in the infrastructure for the hospital, one of the important aspects that had to be finished was the 404 Permit, which had certain sensitive species of birds, which required some habitat replacement. He stated that they are in the process of purchasing 14 acres of habitat that is suitable and has been approved by the Department of Fish and Game. The rest of the channel progress should be known by Monday. Mr. Conkling stated that SSCAFCA's approval was driven by the need of other agencies with regard to the habitat replacement. SSCAFCA was concerned with the manner and style of accomplishing that. SSCAFCA's approval definition and the criteria to be met are managed by its Executive Director. There is an Executive Committee meeting scheduled for next week with regard to this issue. It is premature to have Board approval of an exact plan today, but it is anticipated that it will be approved shortly after the Executive Committee's meeting next week.

Pete Metzner, of Metric Corporation, stated that they are doing the environmental work associated with this project. There is an area shown in yellow on their board, which is an area that was proposed by the State Game & Fish Department as an adequate replacement area for habitat of the bank swallow and the burrowing owl. They did not consider property boundaries. The area shown in red is the 14 acres which was mentioned by Mr. Johnson and is in the acquisition process. This has been approved by the State Game & Fish Department as an adequate habitat area for the two bird species. It is nearly coincident with the area they proposed. It has been approved in writing. Mr. Rudy stated that there is an area outlined on the board in vicinity in which the area is very closely adjacent to what is platted for development. He asked whether the habitat, as it is defined right now, would still be appropriate after the platted area is developed. Mr. Johnson stated that the land is intended to be held in its natural state for a very long time. The red is the existing platting and they are purchasing existing lots with the intent of turning it over to SSCAFCA. Mr. Metzner stated that the yellow bounded area is the area where the State felt would make an acceptable tract to preserve in perpetuity in open space for the two bird species. The area in acquisition is the red area and it does contain three bank swallow colonies with an adequate buffer between the colony location and the area outside the boundary.

Mr. Randy Floyd, of the State Game and Fish Department, stated that the yellow was what the State had recommended as habitat, without regard to property boundaries. They received a map from Metric Corporation with the red indicating what they were going to be able to purchase. They looked at the southeast area and the fact that the boundary of the red did not include both sides and they had a little concern about that, but they did not correspond back and forth about that. They decided that based on the acreage of the upland to the west that this was going to be adequate. In an ideal world, it would be wonderful to purchase the lots in the southeast corner to include the entire arroyo, but they decided to concur with the proposed acquisition. The purpose of the upland habitat is to provide habitat for the burrowing owls that are occupying the arroyo system. This is an essential part of the mitigation piece. Mr. Conkling asked what would happen if someone built a house in the area and how it would impact the well-being of the habitat. Mr. Floyd stated that this is always a potential on what a landowner does on their lot. The wider the buffer, the more protection there would be. It was a concern, but they did not go back to Metric and discuss whether they could purchase additional property. Mr. Floyd stated that the Game and Fish Department concurs with the proposed purchase as shown in red.

Mr. Johnson stated that there is 3/4 of a million dollars worth of land being purchased for the habitat. They have not really considered purchasing more as the lots are very, very expensive. Mr. Williams, Mayor of the City of Rio Rancho, stated that he could suggest, but cannot guarantee, that the City could put a moratorium outside the red area until next year for SSCAFCA to go out for bonds, with the opportunity for SSCAFCA to purchase the land. Mr. Rudy stated that it would be a good idea to have the City and SSCAFCA staff discuss the feasibility and appropriateness of doing that.

Mr. Paulsgrove, with the Army Corps of Engineers, stated that the areas that are identified as being protected, the foraging aspect and having the habitat are really important, and it can work and be sustainable. The same vehicle that they used through the permitting process for a Section 404 permit to require the replacement of the habitat is applicable to obtain additional properties down the road so that applicants coming in and doing similar kinds of projects. He would agree with the Department of Game and Fish with the area that they have approved. If all of the area in yellow could be obtained, that would be ideal. This property will be protected in perpetuity.

Mr. Stoliker stated that this is to be taken to the Executive Committee and he is going to recommend approval to the Executive Committee as it has been presented.

Mr. Floyd stated that the Department of Game and Fish supports the purchase of the additional property downstream of the mitigation property just discussed. It would add to a highly valuable piece of property and would be an excellent addition. Mr. Rudy stated that this other parcel is a major step forward in SSCAFCA's ability to provide environmental protection and public protection in terms of flood protection. Mr. Conkling stated that the idea that will become part of SSCAFCA's vision is to get out ahead and buy wildlife habitat in ideal locations, particularly in places where it helps public safety, and then require future developers to focus their efforts in that area for replacement property to ultimately be paid back.

2. Action/Acceptance of Budget for Sunset Dam Project and Notice to Advertise
 - 2a. Allowance for Dulcelina Curtis Memorial;
 - 2b. Allowance for Northern Meadows Pond Outlet Piping;
 - 2c. Allowance for Enchanted Hills Concrete Channel Repair;
 - 2d. Allowance for Miscellaneous Fencing;
 - 2e. Allowance for Rio Oso East.

Mr. Stoliker stated that Mr. Dodge is going to present this issue. SSCAFCA needs to establish a budget and give staff and Mr. Dodge approval to advertise and go to construction. The construction contract will be brought back for approval by the Board.

Mr. Clint Dodge, of ASCG, stated that the Sunset Dam 95% specs have been submitted for review and they are getting comments from the City and will be ready to advertise in a couple of weeks. The tentative schedule is to advertise the first week of December, open bids the first week of January, and come to the Board on the 18th of January for award of the bid and start construction shortly after. They estimate 120 to 150 days of construction and it would be completed in early July.

There are three components to the project. One is the Aldaba Storm Drain which goes from 10th Street down to Inca and into the Sunset Pond. The estimate for that without tax, etc., is \$1.1 million. The Sunset Dam itself which has the storm drain outfall into the existing channel is \$1 million. The third is allowances, which are listed above, for several miscellaneous projects that are partly a result of the flooding and other projects which aren't large enough to bid on their own. The estimate for these is in the neighborhood of \$300,000. Some of these are still in design and that's why we're talking about an allowance rather than an actual estimate amount. The total for all of this, including observation, contingencies and tax is \$3 million.

Mr. Stoliker stated that this project is part of the bonds that were approved in 2006 and falls right in line with what SSCAFCA has been planning since 2002. Currently, there is no dam site in the Black Watershed. There is a saving opportunity in a previous agreement whereby Mr. Wallen agreed to take out sediment. The Sunset Dam property has been acquired and SSCAFCA has the money. Mr. Rudy asked if SSCAFCA was to find an accelerated way to do the allowances, could it be pulled out of this. Mr. Stoliker stated that it cannot be done faster than this.

Mr. Yarbrough stated that on the Dulcelina Curtis item, if the design was completed, there are a couple of contractors available that would be able to get on it fairly soon, i.e., in December. Mr. Dodge stated that the plans are 95% complete. The plans have been submitted to staff for review and approval. Mr. Conkling stated that this is the continuation of the normal operations of SSCAFCA pursuant to the timing levels that were set by the bond offering and funding. Mr. Stoliker stated that Mr. Wallen's subdivision did everything that SSCAFCA wanted with regard to his development. This project provides the connection to that subdivision and he recommends approval. Mr. Stoliker stated that the Dulcelina Curtis item can be pushed to the front of the project to be done as quickly as possible.

A motion was made by Donald Rudy to approve the Budget for Sunset Dam as presented. It was seconded by Dub Yarbrough and passed unanimously.

3. Action/Acceptance of Final Adjusting Change Order for Rio Oso Sediment Basin.

Mr. Dodge stated that the project under-ran about \$23,000 overall and this project was completed several months ago. The contractor has not been paid the final amount and he is still owed roughly \$6,000. The project looks very good and is connected to the City's storm drain.

A motion was made by Donald Rudy to approve this change order as discussed. It was seconded by Dub Yarbrough and passed unanimously

4. Action/Acceptance of Final Adjusting Change Order for Barrancas Arroyo.

Mr. Dodge stated that the final adjusting change order for the Harvey Jones Channel inlet has not been approved by the contractor and cannot be approved today. This project overran by about two months and they had numerous problems with the project. As a consequence, their cost overran for testing and inspection and meetings, etc. There is a task order for the additional work in the Board's packet for \$47,000. No action was taken on this issue.

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Mr. Stoliker stated that there are some legal issues with regard to items 4 and 4a and these items will be discussed in Closed Session.

- 4a. Action/Acceptance of Final Adjusting Change Order/T.O. for Harvey Jones Channel Inlet.
- 4b. Action/Acceptance of Final Adjusting Change Order for Dam #1.

Mr. Dodge stated that this item is not ready yet either, as there is no agreement with the contractor. No action was taken on this issue.

- 4c. Action/Acceptance of Final Adjusting Change Order for Enchanted Hills Lot "F".

Mr. Dodge stated that this project also under-ran by about \$62,000. The original contract was \$220,000 and the final contract is \$170,000.

A motion was made by Dub Yarbrough to approve the change order as presented. It was seconded by Donald Rudy and passed unanimously.

- 5. Action/Acceptance of Selection/Budget of Architects for SSCAFCA Building Expansion.

Mr. Stoliker stated that in SSCAFCA's budget for fiscal year 2008, there was about \$940,000 for a building expansion, plus there was money internal to the general fund for additional work. SSCAFCA put out an RFP to get architects on board. Only two architects responded, John Jarrard with Huitt-Zollars, and Chris Callori and Kent Beierle of EDI. They are here today to present their proposals for building expansion and an O & M building. If acceptable, the Board can vote on approval for the technical services wing expansion, which is about \$975,000 and possibly go ahead with right-of-way acquisition/design for an O & M building and a budget. John Jarrard, of Huitt-Zollars, has a lot of experience with maintenance buildings and staff will recommend that he go forward with that part of the project. Mr. Stoliker stated that SSCAFCA owns the land necessary for the building expansion, but requires additional land acquisition for the O & M building.

John Jarrard, of Huitt-Zollars, stated that the scope of work they were asked to address in the original RFP was to look at both an addition to SSCAFCA's building for engineering and records and a new maintenance facility. Their approach to the design of the office building addition was to keep it separate and make it a little more economical rather than adding onto the building but with a connection through the main corridor. SSCAFCA would lose a small area of its break room. They would then convert the current records area for a training room, and above that would access the new engineering area of the building. They were advised ten days ago to focus on the maintenance building and that EDI was selected to do this portion of the project.

They further refined the maintenance building. The initial plan was to do four bays for the maintenance building that are approximately 30' x 80'. Given the current needs and the anticipated budget, they reduced that to two bays, two small offices, a break room, toilet, locker room and outdoor patio. Where they have located it on the site would require the acquisition of four lots. They propose in their design to have doors on both sides of the facility that would provide both vehicle access from the entrance area and service drive and also drive through into the storage and

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material area. Given the types of vehicles and equipment being used, they propose concrete paving. The bay doors would be 16' wide x 16' high.

Mr. Jarrard stated that they are looking at using a modified saw tooth which would have drainage in one area versus one end. The office area/break room would emulate the masking and textures and colors already in place on SSCAFCA's building. There is room for future expansion to four bays when needed. The central drainage area would lead to a landscaped area or a cistern. As part of the preliminary design they were asked to look at solar energy panels, which would be mounted on the south facing sloping roof.

Mr. Jarrard stated that, given the budget, they would be looking at either masonry or concrete for the building and the lower areas being masonry with stucco. A metal building would be slightly less expensive, but given the life of the building, with the uses, etc., it would be a lot more durable and have a longer life with the masonry. Another option would be to look at a hybrid of the masonry and concrete for the building, with steel paneling on the upper portion. The site is actually on a site that is four or five feet below the existing office building.

Ms. Kris Callori, of EDI, stated that they came up with this shape so that it matched the shape of the existing building but also followed the original design idea. She stated that this addition essentially tacks onto the back of the building. You go out the side door of the Board room they are in right now and out through the kitchen and around into a Board member chambers, which would be a sound proof private meeting area. Off to the other direction, there is a hallway with some technical service offices with windows to a courtyard outside. At the end there would be a technical services conference room which would seat up to 20 people. It is a one story addition.

Mr. Kent Beierle, of EDI, stated that their idea for the maintenance facility started with what SSCAFCA is all about. Their idea is to put the building into the ground. A building on top of the environment has a relative adverse effect on that environment and has costs that increase as time goes on. A building in the ground as part of the landscape supports growth and has a cost that, over time, pays itself back. Their idea was to bury the whole building and draw all of that dirt back up over the building. By putting the building in the ground, it minimizes the impact on the neighborhood. To eliminate all mechanical units, they have built in a solar tower to superheat the top and create a draw like a chimney. Through the back end of the hill, they would place earth tubes and as the hot air rises it would create a draw through the building through the tubes to keep it cool and ventilated. No mechanical systems would be used. The southern end of the building show the array to generate power for the inside of the building. As part of the proposal, they recognize that it would be more expensive initially, based on an 8,000 square foot building there is an approximate increase of \$80,000 to do this idea. By covering the roof in earth you eliminate half of the problem with the roof. An earth roof will eliminate runoff because it is part of the landscape.

Mr. Stoliker stated that staff would like to assign the "Technical Services Wing" to EDI. EDI is in agreement with the very rough numbers of \$200 per square foot, or \$400,000 for the construction of a 2000 square feet building plus \$575,000 for other costs listed in the information provided to the Board. Solar panels can provide SSCAFCA with all the energy it uses in a year and would cost approximately \$200,000. Miscellaneous improvements to the existing office building would cost about \$50,000. Leed certification is something that has not been done on the building and is now required. Site work construction and miscellaneous other work will bring the building

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cost to approximately \$975,000. The second phase is the O & M expansion and SSCAFCA is looking at \$2.25 million. He is asking for direction on whether to proceed with the earthen concept or not. He is looking for general approval for Huitt-Zollars to do the O & M building at a cost of \$150,000, plus lead certification, and some site work. SSCAFCA is looking at getting a couple of million dollars from FEMA for reimbursement. He was thinking about using that money as it comes in to buy the right-of-way and to do the design work and then budget for the actual building next year. The third phase is to look at future personnel and equipment to fill that O & M void. Personnel should be on board to address flooding and do the O & M.

Mr. Stoliker stated that he is asking today for the Board to allow staff to proceed with the contracts to hire Huitt-Zollars and EDI to perform these two designs. He will bring the contracts back to the Board at the next meeting for final approval. Mr. Conkling stated that he is uncomfortable doing anything at this meeting and would rather wait for the missing Board members to be present. Mr. Conkling stated that the consensus of the members present is that there be a special meeting with the whole Board on this issue and only this issue and until that time no action be taken.

A motion was made by Dub Yarbrough that this matter be considered at a special board meeting. It was seconded by Donald Rudy and passed unanimously.

ACTION/APPROVAL OF THE MINUTES:

SEPTEMBER 21, 2007;

SEPTEMBER 26, 2007.

A motion was made by Donald Rudy to approve the minutes of the meetings of September 21, 2007 and September 26, 2007. It was seconded by Dub Yarbrough and passed unanimously.

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

Mr. Rudy presented the Treasurer's Report for October 31, 2007 and asked if there were any questions. There were none.

1. **Action/Approval of Resolution 2007-16 FY/08 Budget Adjustment.**

Mr. Rudy stated that SSCAFCA has sold the bonds and this Resolution takes the action needed on the budget. He presented Resolution 2007-16 FY08 Budget Adjustment for the Board's approval. This money will now be applied to the construction fund. The money will be invested with the State and SSCAFCA will get a return on it. Since SSCAFCA is getting a return, there are legal restrictions on SSCAFCA's ability to use the money and it must be used within eighteen months.

A motion was made by Donald Rudy to approve Resolution 2007-16 as presented. It was seconded by Dub Yarbrough. Roll call vote: Mark Conkling, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion passed 3-0.

2. **Action/Acceptance of Grant Agreement in the Amount of \$450,000.**

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Mr. Stoliker stated that according to DFA this is the first time that the State has given a grant to a special district. This is money that came as a result of the Unit 17 flooding last year. It meets all of the State's conditions. It allows \$50,000 to be used for land acquisition and \$400,000 that must go to planning, design and construction of drainage improvements.

A motion was made by Donald Rudy to accept the Grant Agreement as presented. It was seconded by Dub Yarbrough.

Mr. Don Chapman, from the Chamisa Neighborhood Association, stated that they are the ones who went to the Legislature and raised this money. He was unaware of the stipulations with regard to the use of the money. Mr. Stoliker stated that they cannot be changed. Mr. Stoliker stated that there was approximately \$3 million that was going to go toward Unit 17 in the last bond election; SSCAFCA has spent \$1.4 million of that. This allows the remainder of that money to be used in this area. SSCAFCA's bond money can be used for land acquisition, with Board approval. Mr. Conkling stated that anything with regard to flood control projects will go through SSCAFCA.

Mr. Conkling called for a roll call vote on the Motion: Mark Conkling, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion passed 3-0.

CHAIRMAN'S REPORT.

Mr. Conkling stated that SSCAFCA is going to seek ways in its vision to establish a bank of habitat land that SSCAFCA can later ask development projects for reimbursement.

Political District Expenditures.

Mr. Conkling stated that he has in process a project that when someone asks how much SSCAFCA has spent in certain political districts, it can respond. The intent is to have each political district get a reasonable estimate of the amount of money spent from bond issues in that district with the amount of money remaining on some given date. On the back will be a photogramatic demonstration with each district outlined on it to overlay watersheds. Then, a person can say, in any district, this is what SSCAFCA has done and is doing in any political boundary. The political boundaries are remarkably close to the watersheds. SSCAFCA's treasurer will look at the numbers.

SSCAFCA will have a date certain on each of the districts. Mr. Rudy asked that the Village of Corrales and Town of Bernalillo be added. Mr. Conkling stated that every political boundary in its political jurisdiction will be on its own sheet.

BOARD OF DIRECTORS' COMMENTS.

Discussion of Lobbyist Initiatives.

Mr. Rudy stated that there has been a request that SSCAFCA discuss this subject. He attended a meeting of the COG executive board and they are in discussion of the items and actions that they are going to take to the Legislature. This particular session is a short, funding session and it will be difficult to get anything extraordinary done. It is very important to have SSCAFCA's lobbyist watching everything they do and that the Board have a discussion as to specifically what items

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SSCAFCA wants pursued this year and taken to the Legislature with a view that most things won't get through this year, but SCAFCA wants them at the head of the list next year.

Mr. Conkling stated that he would like to ask that its lobbyist take the leadership and utilize the resources of the neighborhood associations in concert with his efforts.

ATTORNEY'S REPORT.

Mr. Metzgar stated that his entire report will be in Closed Session.

FOR YOUR INFORMATION.

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

1. The following infrastructure plans were signed by the Executive Director:
 - a. High Ridge Offsite Improvements, the Executive Director signed the mylars on October 15, 2007.
2. October 30, 2007 correspondence from USACOE regarding the sewer line placement project in Arroyo de la Lomitas Negras.
3. The Law Offices of Clayton Ewing Crowley, P.C. is changing its name to Crowley & Gribble, P.C. effective this month.
4. SSCAFCA is advertising for the following contracts:
 1. Accountant;
 2. Fiscal Services Director;
 3. Legal Services.

Mr. Yarbrough asked what a fiscal services director is. Mr. Stoliker stated that this is Perry's position. Legal services and Perry Baird's position have to go out for bid. It is not for a new position. The accountant is a new position and was approved in the budget last year.

5. November 1, 2007 request from Lobbyist to renegotiate contract for 2008.
6. Update for Sportsplex Dam Project: October pay application for \$210,147 has been submitted. This brings the total to date to \$4,497,747 out of \$4,717,421, or 95% of total project cost.
7. November 6, 2007 correspondence regarding lot split at 3043 Oculus Loop.
8. November 6, 2007 newspaper article "Newly Built Rio Rancho Home Razed".
9. November 7, 2007 newspaper article, "Waste of Sandoval Tax Dollars a Dam Shame".
10. November 8, 2007 newspaper article, "Voters' Concerns Defeated Bond".

11. November 15, 2007 newspaper article, "Razing New Home Was Prudent Thing to Do".

Mr. Stoliker stated that the op-ed piece that he wrote out went into the paper yesterday. He has received many calls thanking him for responding, as it was important that they hear SSCAFCA's side.

12. November 13, 2007 correspondence from Richard W. Hughes, Attorney at Law, regarding the Pueblo of Santa Ana.

PUBLIC FORUM.

Comments from the public were taken with regard to a six month moratorium on building near arroyos. Mr. Conkling stated that unless there is a moratorium on a particular property and unless SSCAFCA has identified property that is needed, it can't really get a moratorium or stop a person who chooses to build in an undesirable location, even when maps show that their property will be in a future pond. SSCAFCA can't request a moratorium in certain areas unless it is planning to buy the land and can pay for it within six (6) months. SSCAFCA must follow the correct process.

Mr. Metzgar stated that it is not necessary to do it within six months. Governmental units are very concerned about putting moratoriums on for longer than six months at a time because they could possibly be sued on the basis that it has taken the land anyway by not allowing the owner to develop his or her own property. Right now SSCAFCA knows it needs certain property, but it can't pay for it and it is doubtful that a moratorium will go through.

Mr. Conkling stated that SSCAFCA is identifying what sites it will need, and is also identifying alternative sites to make sure that the work can be accomplished. SSCAFCA is eager to spend the \$450,000 in Unit 17 and proceed quickly. SSCAFCA also knows that it can be at cross purposes with engineering that is being designed right now by other firms. SSCAFCA can't go in and duplicate efforts and not respect other plans. This is a "wait and hurry up" dilemma.

Mr. Paulsgrove, of the Corps of Engineers, stated that the October 26th letter to the City was based on a site visit that he made to the only sewer line that is in an arroyo that they've issued a permit on. They were reluctant to authorize the placement of that sewer line based on the fact that scour, erosion and degradation of arroyo systems here is so prevalent. In order to permit the placement of that line, they required that specific activities be conducted by the City of Rio Rancho, which was the applicant. The monitoring requirements were extensive, involved and costly and there was the question of whether or not the cost of routing the line through an upland location over the long term would have actually been cheaper. The monitoring requirements were not followed through by the City and they have sent a cease and desist letter to the City. According to the City's monitoring people, a surveyed elevation was conducted about fourteen months ago and showed significant degradation of the manhole covers. There is a consensus with regard to the level of attention on this activity for consideration of any other utility lines being placed within arroyos. They would want to make sure that they provide comments to the Board with regard to the DMP that allows utility corridors within arroyos.

CLOSED SESSION.

A motion was made by Dub Yarbrough to go into Closed Session for the purpose of discussing potential litigation on the sediment removal contracts. It was seconded by Dub Yarbrough. Roll call vote: Mark Conkling, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion carried 3-0.

RESUMPTION OF OPEN SESSION.

A motion was made by Donald Rudy to resume open session. It was seconded by Dub Yarbrough and passed unanimously.

A motion was made by Dub Yarbrough to accept staff's recommendation with regard to the settlement of the Quick matter.

The recommendation is:

1. Fifty six (56) days of liquidated damages on the La Barranca portion.
2. On the Harvey Jones inlet, agree that the actual amount of material removed was 45,755 cubic yards as established by Quick's survey.
3. Due to the high increase in gas prices and a change in haul routes/access to mitigate environmental constraints since the bid, and the change in the haul road, allow \$1.35 per cubic yard mile for off-road haul (approximately 3.5 miles) and an additional \$0.30 per cubic yard mile for on-road haul (approximately 7 miles).
4. Extend contract time to one hundred twenty (120) days total.

The motion was seconded by Donald Rudy. Roll call vote: Mark Conkling, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion carried 3-0.

OTHER BUSINESS.

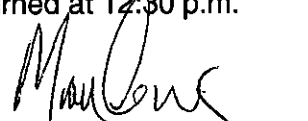
The next regular Board meeting will be held on December 21, 2007 at 9:00 a.m.
An Executive Committee meeting will be held on Tuesday, November 20, 2007 at 9:30 a.m.

ADJOURNMENT.

A motion was made by Donald Rudy and seconded by Dub Yarbrough to adjourn the meeting. It was carried unanimously. Meeting adjourned at 12:30 p.m.



DONALD RUDY
Secretary



MARK CONKLING
CHAIRMAN PRO TEM

DATE APPROVED: 12/21/07
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