

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF SEPTEMBER 3, 2008
BOARD OF DIRECTORS SPECIAL MEETING**

CALL TO ORDER.

The special meeting of the SSCAFCA Board of Directors was called to order by John Chaney, Chairman, at 9:05 a.m.

ROLL CALL OF DIRECTORS.

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

PLEDGE OF ALLEGIANCE.

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

APPROVAL OF AGENDA.

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

ANNOUNCEMENTS.

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

ATTORNEY'S REPORT.

1. Action/Acceptance of Board of Directors Election Amended Resolution 2008-11.

Mr. Metzgar stated that the yellow on the Resolution is what has changed. There was one precinct removed and five were added. Eddie Gutierrez, at the County, indicated that this needed to be published in English and in Spanish. The changes were made after the Resolution was originally passed with the precincts given to SSCAFCA. These were changed very late in the process. Mr. Conkling stated that some of these are not new and they were polling places in the past.

A motion was made by Mark Conkling to accept the Amended Resolution 2008-11 as presented. It was seconded by Donald Rudy. Roll call vote: John Chaney, yes; Mark Conkling, yes; Donald Rudy, yes; and Dub Yarbrough, yes. The motion passed 4-0.

OTHER BUSINESS.

Mr. Conkling stated that on the "Please Vote" flyer prepared by SSCAFCA, that the wording that says "...0.87 mills out of 30.105 of your residential property tax goes to SSCAFCA..." he suggested changing the wording to read, "(\$11.00 on a \$200,000.00 house)" or some other translation of that because it does not communicate to the typical homeowner how much really goes to SSCAFCA. Mr. Metzgar suggested that the wording be added that it is not an increase. As long as SSCAFCA is just asking people to vote and what is stated on the flyer are facts, it can be done this way.

Mr. Stoliker stated that it was the idea that this flyer was going to go out to many places. Mr. Stoliker stated that the total mil is at 1.494. Mr. Yarbrough stated that this total amount should be reflected. Mr. Stoliker stated that the 0.87 is simply for debt service. The total amount of 1.494 includes the general fund, which is not voted on. If this implies the total mil levy, it should be re-written to correct the amount. This is only for capital improvements to allow SSCAFCA to issue debt and repay it with debt service. It is an accurate statement. It can be changed to be clearer. Mr. Stoliker stated that the general fund pays for everything else that SSCAFCA does and has nothing to do with debt service.

Mr. Chaney stated that David Stoliker and Laura Davis had a suggestion that wording also be changed to read, "SSCAFCA makes its property available to other local governments and the public for the watershed park system comprising all of the arroyos owned by SSCAFCA throughout its jurisdiction funded by your existing taxes" instead of just "parks."

Mr. Stoliker suggested, where it says that SSCAFCA was established, to also add wording that states, "SSCAFCA has the authority to issue bonds for capital improvements."

Mr. Conkling stated that there was an Executive Committee meeting yesterday and the issue at that meeting was whether or not SSCAFCA had to follow bond counsel's recommendations on how to phrase the bond question. After much discussion and pressing bond counsel to answer the question, it was determined that SSCAFCA could write the bond question in any way it wished. However, his point was that if his recommendations were followed, SSCAFCA wouldn't be challenged in court. There was further discussion as to what that meant and apparently it means that within 20 days of the election, someone could file a lawsuit to overturn the vote based on problems with the question. Those problems might be generally phrased as lobbying in favor of the question; i.e, phrasing the question as such that it was no longer neutral.

Mr. Conkling stated that when they asked what SSCAFCA could say that would say the least but would still be legal and sound, Mr. Strumor said that SSCAFCA could say, "SSCAFCA is issuing bonds pursuant to its legislative charge." Then, someone could read the statute if they wanted to know more. He stated that Mr. Strumor then guessed that

SSCAFCA ran a risk of somewhere around 20% of being challenged if it was written that way. If it's written the way it is written presently, there is nearly a 0% risk of being challenged because it simply restates the statute.

Mr. Metzgar stated that one of the things that SSCAFCA could do, in that statutory language, SSCAFCA could take out those stilted words and substitute clearer words. It would be more reader friendly. He stated that Mr. Strumor could have been using nationwide statistics and cases in which he may have been involved. He stated that a judge is going to look at any lawsuit that might be filed and then look at the statute and then throw the case out because the wording is based on the statute. Bond counsel are very conservative because they are sued a lot.

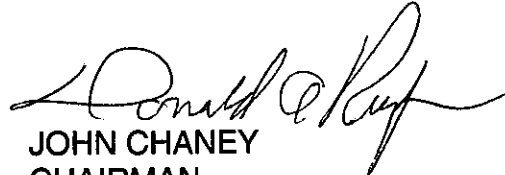
Mr. Yarbrough stated that there was a recent article in the newspaper with regard to SSCAFCA using \$5 million in Corrales. It is a very misleading article. Mr. Rudy stated that he spent most of the time telling them that SSCAFCA's list of projects was general and undefined. He did mention that the amount of money over the next 20 years was along the order of \$5 million. That was as far as it got. The reason it probably got into the paper is that one of the council members wanted to modify the resolution to commit SSCAFCA to spend a minimum of that amount in Corrales. It didn't pass, but it came close. Mr. Metzgar stated that even if the article is remembered later, it is not a commitment by the Board, it is simply a newspaper article.

Mr. Chaney asked if Mr. Stoliker had followed up on sanctions for persons who deface SSCAFCA's facilities. Mr. Stoliker stated that he went back and found everything that had been done before and all the paperwork that he had received from the Sheriff's office. He stated that he and Bernie Metzgar need to sit down, look at the statute, make sure that what is being proposed is appropriate. He estimates taking it to the Board in October or November, if they can work out the language.

Mr. Conkling stated that he spoke with one of the councilors in the district where SSCAFCA had discussed making a motorcycle park. That was Tributary A Dam. He stated that it was a pretty good idea. The more they talked about it he cooled with regard to upsetting the homeowners in that area because of noise. Mr. Stoliker stated that berms could be put up. Then you would only hear the noise when you're up above the dam.

ADJOURNMENT.

A motion was made by Donald Rudy and seconded by John Chaney to adjourn the meeting. It was carried unanimously. Meeting adjourned at 9:50 a.m.


JOHN CHANEY
CHAIRMAN

STEVE HOUSE
Secretary



DATE APPROVED: 9/19/08

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