

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY  
(SSCAFCA)  
MINUTES OF FEBRUARY 20, 2009  
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, at 9:05 a.m.

**ROLL CALL OF DIRECTORS.**

Directors in attendance were Mark Conkling, Steve House, Donald Rudy and Dub Yarbrough. John Chaney was noted as absent. 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 Mark Conkling.

**APPROVAL OF AGENDA.**

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

**ANNOUNCEMENTS.**

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

**STAFF REPORTS.**

***Fiscal Services Director:***

1. Action/Acceptance of Fiscal Year 2008 Audit Report.

Mr. Perry Baird stated that the Audit Report was submitted on the deadline of December 1, 2008 to the state auditor for review. There were no findings by the auditor. The audit contract did have to be amended this year for \$2,000.00 higher than the original contract because of the complexity of the FEMA reimbursements. The state auditor agreed that it should cost more to get through all of the paperwork. The total audit cost was \$10,000.00, plus tax. It has been reviewed and is ready for Board acceptance. Mr. Conkling stated that the reimbursement money should be coming from FEMA shortly.

A motion was made by Steve House to accept the Fiscal Year 2008 Audit Report as presented. It was seconded by Donald Rudy and passed unanimously.

Mr. Baird stated that, with regard to the FEMA reimbursement, the amount of \$903,000.00 is the total project amount. Part of that is local participation of \$63,000.00 and there is a sub-recipient administrative cost of \$9,000.00. Therefore, the amount of money expected to be received by SSCAFCA is \$849,203.00. This will complete what SSCAFCA requested.

2. Recognition/Acknowledgment of the Fiscal Services Report for January 31, 2009.

Mr. Baird stated that the information that SSCAFCA receives by the state treasurer's office was given to the Budget Committee last month. They experienced a loss in the pool in which SSCAFCA participates, due to a security they invested in that was downgraded from AAA to D. The pool lost \$5.7 million. They have come up with a plan to amortize the loss without taking away the principle of investments of all of the participants. The way they recommended to do this is to reduce the investment earnings over the next ten months in the amount of 34 basis points, which is .34% on an annual basis. They have asked for SSCAFCA to keep its money in the program, but SSCAFCA can take it out and find another investment. The Budget Committee recommends leaving it in the pool and allowing the amortization process to work. He stated that this would be just a few thousand dollars in interest to SSCAFCA. One option being looked at by staff is to put some of the recent \$4 million issue into a certificate of deposit in a local bank. This may yield additional interest over the state fund.

A motion was made by Steve House to leave the money in the Local Government Investment Pool. It was seconded by Donald Rudy and passed unanimously.

Mr. Baird stated that on the receipt of property tax revenues, they estimated 15% growth, and with this year's tax collections over last year, SSCAFCA is getting 14.2%. The debt service collections are at 17.7% over last year.

Mr. Conkling stated that if it is decided to move any of SSCAFCA's money to a CD, he would like that consideration be given to local banks for the CD. General consensus was that if staff wished to pursue utilizing certificates of deposits, they must limit this amount to \$1 million and they must get the approval of the Budget Committee.

Mr. Stoliker stated that this is the first year ever that SSCAFCA has exceeded \$50 million in its capital assets.

**Executive Engineer:**

1. Action/Acceptance of selection of contractor for SSCAFCA Office Building Expansion and award of contract.

Mr. Kent Beierle, of EDI, stated that there was as great turnout for bids on the building with outstanding numbers that were effectively \$300,000.00 below the estimate. The last couple of days they have been reviewing the three low bidders and have asked them to provide their Schedule of Values so that they can compare them with the estimate. They compared them line by line and checked on their bonding, etc. All three low bidders have good standing in the community and have active licenses and all three companies are worthy of doing the work. They did find some omissions on the low bidder's schedule of values, which was revised and did not alter the bid. There is no reason any of the three should be disqualified and they propose that it be awarded to the low bidder.

Mr. Beierle stated that they identified in the bid two alternates, for extra work depending on how the bids played out. One portion is named "B" for an additional landscaping

package as part of the north side of the site; and “C” which was an upgrade of the lumber package for the construction. The additional lumber would be about \$20,000.00 and the landscaping is \$4,000.00 and both would help with LEEDS certification.

Mr. Stoliker stated that, to put the package together, there is the construction side that they are asking for approval on, and then for the architect to do needed work, and extra services in the contract for LEEDS certification in the amount of \$89,566.00. The request is for approval of Michael S. Rich Contractors at \$1,042,977.00, without gross receipts tax.

A motion was made by Steve House to approve the award of the contract to the low bidder as presented. It was seconded by Donald Rudy.

Mr. Yarbrough stated that in the drawings there is an underground tank where the addition is to go. A rectangular tank for fluid is not a good idea because of the expansion on the sides. If the tank is underground, there has to be additional electrical work for the installation and the pump and more maintenance. He would prefer to see another above-ground tank instead of the underground tank.

Mr. Beierle stated that everything mentioned is correct. An above-ground tank makes a lot of sense and that is why it was done on the first portion of the building. However, with the rest of the building, they wanted to showcase additional technologies that exist that people can adapt for their own project. It has been designed for maintenance to be easy, but there will be future maintenance for an underground tank. The view is the first reason for the underground tank and the time it would take to make the changes would be reasons to not change the plans.

Donald Rudy stated that the motion should be amended to defer this type of technical decision to a discussion between the architect, the Executive Director, and any Board members who would like to be involved to make such changes as are deemed appropriate and cost effective.

Mr. Conkling stated that there is a motion to approve the contract, with a second. The amendment being offered is that it be approved with the understanding that the issue of the tank’s location, underground or above-ground be decided at a later date with the architect, the Executive Director and the Executive Committee. Mr. Beierle stated that it would be a good idea to include the contractor. This would allow immediate feedback on costs, etc. Mr. Rudy stated that he does not want this option to be with regard to just the tank. He would like it expanded to any option of the design which is considered necessary. Mr. Conkling stated that the bids have all been received. A change order can be done occasionally in the course of construction, but to say that SSCAFCA will review and make changes throughout will create problems.

Mr. House stated that if SSCAFCA wants the contractor to look at anything before the bid is accepted, the entire thing will have to be re-bid. It has to be accepted as is and if there are change orders that will be needed, then those parties who need to be involved can get involved in the change orders.

The motion passed unanimously.

2. Action/Acceptance of Contract Amendment for Architect Construction Related Services.

Mr. Stoliker stated that the additional services for the architect include the construction related services and any additional architectural issues that go with that, along with the push for platinum LEEDS certification, plus going back and looking at the existing building LEEDS' certification. The total for this is around \$90,000.00. Staff recommends approval.

A motion was made by Donald Rudy to approve the contract amendment as presented. It was seconded by Steve House.

Mr. Yarbrough asked why this issue was not included in the original contract. Mr. Stoliker stated that it wasn't originally included in the contract and it is being brought in now because the Board was tentative on whether it was going to approve the building. Mr. Conkling stated that this is not part of the construction bid. It is part of the architectural services. It would have been inappropriate for the architect to assume that he was going to do this work until after the Board approved the construction.

Mr. Metzgar stated that when the Board was going through the initial project, the only thing that the Board wanted to approve at that time was the design by EDI and that it was not approving anything about future work to oversee the job or anything like that. The Board was very restrictive on what it did.

The motion passed unanimously.

3. Action/Acceptance of task-order in the amount of \$32,558.75 for mapping near NM 528 & NM 550.

Mr. Stoliker stated that he requested a task order from Bohannon-Huston to do some mapping in the Town of Bernalillo. It came in at a cost of \$32,558.75. Mr. Stone stated that this should be done in thirty days and will include the mapping and orthotopography and topo. It is in an area that has recently been changed in the last year. Mr. Stoliker stated that SSCAFCA has the JPA with the Town of Bernalillo and this fits in very well with it. It is a rapidly developing area. This information will be shared with the Town and the County, which will help with their assessments.

A motion was made by Steve House to approve the task order as presented. It was seconded by Donald Rudy and passed unanimously.

**CHAIRMAN'S REPORT.**

Mr. Stoliker stated that SSCAFCA received the voting information on the bond election and they have a map of SSCAFCA's precincts. All of the precincts voted in favor of SSCAFCA's bond. Corrales strongly supported SSCAFCA's bond.

1. Action/Acceptance of Resolution 2009-6 Supporting the City of Rio Rancho's \$25 million General Obligation Bond Election.

Mr. Conkling stated that Resolution 2009-6 is in the Board's packets and will require a roll call vote. It speaks to the City of Rio Rancho's extension of an existing bond program and offers SSCAFCA's support for the infrastructure which Rio Rancho wants to build with these bonds.

Mr. Rudy stated that he has heard some grumbling with regard to the City wanting to pass a bond at this time when the economy is so bad, but he believes SSCAFCA support at this time would be appropriate. Mr. Conkling stated that the article that spoke about residents opposing the bond turned out to be four residents.

A motion was made by Mark Conkling to approve Resolution 2009-6 as presented. It was seconded by Donald Rudy. Roll call vote: Mark Conkling, yes; Steve House, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion carried 4-0.

**BOARD OF DIRECTOR'S COMMENTS.**

Mr. Rudy stated that yesterday he attended the vote of the legislature. Ms. Powdrell's bill to raise SSCAFCA's bond limit authorization was submitted, voted on, and passed 66-0 in the House.

Mr. Metzgar stated that the original bill called for an authorization of \$80 million. In committee, it was reduced to \$60 million, the reason being that the committee chairman asked what the bond authorization for AMAFCA was, and they advised him it was \$80 million. He then asked about the different size of the organizations. After discussion, he asked for a friendly amendment to \$60 million.

Mr. Yarbrough asked about the status of the Salce Park project in Corrales. Mr. Stoliker stated that staff and Howard Stone and Clint Dodge have met with the Village of Corrales about all of the projects in the Village. The idea was for SSCAFCA to do the conceptual plan for Salce Park. He thinks the Mayor of the Village had an expectation that SSCAFCA would not only be doing the design, but also expected SSCAFCA to do the construction. Fortunately, Mr. Rudy was there and informed the Mayor that SSCAFCA is only doing the conceptual design. Mr. Rudy stated that the property is entirely under the ownership and control of the Village of Corrales. Mr. Stoliker stated that it would be a good idea to get a written agreement between SSCAFCA and the Village in order to ensure that both parties know their roles. Mr. Rudy stated that the precise location of Salce Park is not integral to SSCAFCA's flood control authority. SSCAFCA is doing its best to be as helpful as it can to the Village on this issue but there are serious negotiations left with regard to this project.

**ACTION/APPROVAL OF THE MINUTES OF DECEMBER 19, 2008 AND JANUARY 2, 2009.**

A motion was made by Steve House to approve the Minutes of December 19, 2008 and January 2, 2009 as presented. It was seconded by Dub Yarbrough and passed unanimously.

**ATTORNEY'S REPORT.**

Mr. Metzgar stated that there are a couple of bills in the legislature that could affect SSCAFCA. He learned of these bills through the department of transportation legal staff. Larry Horan was following them, but they were preliminary and had not been approved by any committee. There is House Bill 799, which the legal staff of the highway department felt might affect condemnations. It is really a tort bill under the tort claims act and Mr. Metzgar thinks it would be a real stretch if someone could bring any kind of action against a condemning authority for failing to

give proper offers, etc. to property owners. House Bill 40 relates to municipalities being prohibited, in certain cases, from condemning property outside municipal boundaries and limiting jurisdiction in certain situations. When SSCAFCA is doing flood control, the statute says that it can go outside of its boundaries to prevent flooding within its boundaries. His suggestion on these bills is that maybe the Executive Committee could discuss them and see if SSCAFCA wants to take any position with regard to them. The third bill is Senate Bill 100 and again relates to condemnation proceedings and providing legal expenses for certain successful condemnees with regard to paying attorney fees and costs. Right now, the law is that there is no payment of attorney fees by either party. A lot of SSCAFCA's bonds are for land acquisition and these bills could be important. Mr. Metzgar stated that Senate Bill 379 is another bill that SSCAFCA might want to keep an eye on. It relates to off-road vehicles and mentions some amendments to the present law and provides for penalties.

**FOR YOUR INFORMATION.**

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

1. Delegation of Central Purchasing Office Responsibilities to the Fiscal Services Department.
2. December 28, 2008 newspaper article, "Presbyterian Puts Bond Plans on Hold".
3. December 28, 2008 newspaper article, "SSCAFCA Dedicates Dam".
4. January 15, 2009 newspaper article, "25M in Road Bonds Will Be Sent to Voters".
5. Los Rios Neighborhood Association Newsletter Regarding the Los Rios Walking Trail.
6. Black Arroyo Dam Storm Water Quality Facility Letter of Acceptance.
7. January 27, 2009 correspondence to the Department of Homeland Security and Emergency Management regarding Sub-grant Agreement Amendment Number 5.
8. February 8, 2009 newspaper article, "Proposed Bill Could Increase Limits on SSCAFCA Bonds".
9. February 8, 2009 newspaper article, "Mayor Wants a Bond Election in March".
10. Tuesday, February 24th @ 6:30 p.m. at City Hall (3rd Floor Atrium) Community Workshop to get citizen comment on the strategic plan.
11. February 7, 2009 newspaper article, "Corrales Levee 'Unacceptable' to Prevent Flood".
12. February 12, 2009 newspaper article, "SSCAFCA Sells First \$4M in Bonds in Latest Cycle".
13. February 15, 2009 newspaper article, "Residents Speak Out Against Bond".

**PUBLIC FORUM.**

Mr. Yarbrough asked when Bo Johnson was going to start on the 19th Avenue Dam. Mr. Stoliker stated that he has not started on it yet and staff has not seen any plans for the 19th Avenue Dam. They are still reviewing the plans set for the channel itself. Staff is concerned about the channel because of the lack of progress. It has gotten quite far in the design and staff feels comfortable that the design can be finished in the near future, but had hoped for construction to have begun. In order to remove the flood plain for the hospital, the channel has to be built and the LOMR must be approved.

Susan Barton stated that on March 21, 2009 in the morning, another erosion control water harvesting workshop will be held at City Hall.

A motion was made by Donald Rudy to go into closed session on the matters specified in the Agenda. It was seconded by Steve House and passed unanimously.

**CLOSED SESSION.**

1. Discussion of Personnel Matter – David Stoliker’s New Contract.
2. Discussion of ROW – Potential Litigation on Wallen Matter.

**REOPEN SESSION.**

A motion was made by Donald Rudy to reopen the meeting. It was seconded by Steve House. Roll call vote: Mark Conkling, yes; Steve House, yes; Donald Rudy, yes; Dub Yarbrough, yes. The motion carried 4-0. The Board was back in open session at 11:32 a.m. The matters discussed in Closed Session were limited only to those specified in the Agenda.

A motion was made by Steve House to approve the new contract for David Stoliker as presented. It was seconded by Donald Rudy. Roll call vote: Mark Conkling, yes; Steve House, yes; Donald Rudy, yes; Dub Yarbrough, no. The motion carried 3-1.

**OTHER BUSINESS.**


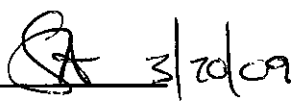
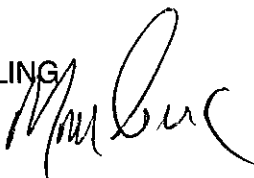
Next Regular Board Meeting is on Friday, March 20, 2009 at 9:00 a.m.

**ADJOURNMENT.**

A motion was made by Donald Rudy and seconded by Steve House to adjourn the meeting. It was carried unanimously. Meeting adjourned at 11:35 a.m.

STEVE HOUSE  
Secretary

DATE APPROVED:

  3/20/09 

MARK CONKLING  
CHAIRMAN