

SOUTHERN SAN JUAN COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)

MINUTES OF MARCH 16, 1999
REGULAR BOARD OF DIRECTORS MEETING

I. CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by Dub Yarbrough, Chairman, at 1:10 p.m.

Directors in attendance were James Dorn, Guy McDowell, John Chaney and Dub Yarbrough. Bill Joiner was noted as absent. Staff members present were David Stoliker, Executive Director, and Pam McGrath, Administrative Secretary. Bernard Metzgar, SSCAFCA's attorney, Jim Service, consultant to SSCAFCA, and members of the public were also present.

APPROVAL OF AGENDA.

A motion was made by John Chaney to approve the Agenda as presented. It was seconded by James Dorn and passed unanimously.

II. SECRETARY'S REPORT.

Approve Minutes of February 16, 1999.

A motion by James Dorn to approve the Minutes of February 16, 1999 as presented was seconded by Guy McDowell and passed unanimously.

III. TREASURER'S REPORT.

1. Approve Expenditures 01/01/99 - 01/31/99.

A motion by James Dorn to approve the expenditures for January, 1999, as presented was seconded by Guy McDowell and carried unanimously.

2. Approve Treasurer's Report dated 01/31/99.

A motion by James Dorn to approve the Treasurer's Report dated January 31, 1999, as presented was seconded by Guy McDowell and carried unanimously.

3. Approve Expenditures 02/01/99 - 02/28/99.

A motion by James Dorn to approve the expenditures for February, 1999, as presented was seconded by Guy McDowell and carried unanimously.

4. Approve Treasurer's Report dated 02/28/99.

A motion by James Dorn to approve the Treasurer's Report dated February 28, 1999, as presented was seconded by Guy McDowell and carried unanimously.

IV. EXECUTIVE DIRECTOR REPORT.

1. Discussion of Venada Arroyo Final Punch List Letter.

Mr. Stoliker stated that the letter sent to Mr. Castillo dated February 23, 1999 contained everything the Board asked for, including the issue of property ownership, the warranty deed issue and Tenorio/Longley access easements. Mr. Stoliker then reviewed the letter with the Board to insure it contained everything they wished. Mr. Stoliker stated that the Army Corps of Engineers agreed to let SSCAFCA apply for the O & M permit on the Venada. He stated that an additional item was to clear the debris from the channel, which SSCAFCA will take care of at an approximate cost of \$1,200.00. Mr. Stoliker stated that SSCAFCA wants AMREP to convey to it any warranties it has on the project. If AMREP responds to all items contained in the letter, SSCAFCA will accept ownership.

SSCAFCA has incorporated Bill Moore's letter into its final punch list letter. AMREP has to respond to all of Mr. Moore's concerns also. AMREP delivered information on many of the items to Mr. Stoliker late in the evening before this meeting. Once he has had a chance to go through all the information they provided him, if it meets all the requirements, then he will bring it back to the Board for approval and acceptance of the Venada. No additions nor deletions to the letter were required.

Mr. Yarbrough expressed his concern regarding this project.

2. Renewal of Building Lease.

Mr. Stoliker stated that the building lease is up at the end of March. SSCAFCA has the ability to renew it from April 1st to September 30th of this year (1999). After that, SSCAFCA needs to look at an additional lease at the current location, or to move to another location. Mr. Stoliker stated that if SSCAFCA gets the commercial property from AMREP tomorrow, there is the possibility that within one year, SSCAFCA could have its own building designed, built and be moved in. There is enough money set aside for designing and building SSCAFCA's own building in the general fund.

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His estimated cost, besides land, is \$600,000.00, which is probably high. Mr. Stoliker stated that all estimates are preliminary.

Mr. McDowell stated that the Board needed to get together and decide what it wants in the way of work space, conference room space, yard space, etc. before any decisions are made on the building. Mr. Chaney suggested that Mr. Stoliker contact AMAFCA and get a copy of its plans for its building to see if SSCAFCA could modify the plans for SSCAFCA's property. Mr. Stoliker stated that state law requires public entities to use an architect if the building costs more than \$50,000.00, but that it might be possible to use AMAFCA's plans and alter them by an architect.

There was a discussion regarding the trading of SSCAFCA lots off Corrales Road with Dr. Gross and rezoning of property. John Chaney instructed David Stoliker to pursue this possibility with Dr. Gross and give a definite deadline of May 1, 1999. Once we explored this possibility, then bring this back for further discussion.

Mr. Metzgar stated what should be negotiated with the owner of the building is a one year extension of the lease, and two six month options. That would give SSCAFCA more flexibility with regard to the construction of its building.

A motion was made by John Chaney to authorize David Stoliker to exercise SSCAFCA's option based on the present rental contract from April 1, 1999 to September 30, 1999. It was seconded by Guy McDowell and carried unanimously.

3. Approval for Renewal of On-Call Engineering Contracts: Smith Engineering, Easterling & Associates, Wilson & Company, Avid Engineering, Bohannon-Huston, and Leedshill Herkenhoff.

Mr. Stoliker stated that the on-call engineering contracts are up for renewal and the contractors have requested extensions on the contracts. The contracts call for an initial one year contract, and then three annual extensions, if approved by the Board.

A motion was made by John Chaney to approve for one additional year a renewal of the On-Call Engineering Contracts for the following engineering firms: Smith Engineering, Easterling & Associates, Wilson & Company, Avid Engineer, Bohannon-Huston, and Leedshill Herkenhoff. It was seconded by Guy McDowell and carried unanimously.

4. Approval for Renewal of On-Call Surveying Contracts: Wilson & Company and URS Greiner.

Mr. Stoliker stated that the on-call surveying contracts are up for renewal and the contractors have requested extensions on the contracts. The contracts call for an initial one year contract, and then three annual extensions, if approved by the Board.

A motion was made by James Dorn to approve for one additional year a renewal of the On-Call Surveying Contracts for the following surveying firms: Wilson & Company and URS Greiner. It was seconded by Guy McDowell and carried unanimously.

5. Approval for Renewal of Legal Counsel Contract.

Mr. Stoliker stated that the legal counsel contract is also up for renewal as of April 1, 1999. Mr. Stoliker stated that Mr. Metzgar has asked for an increase of \$10.00 per hour, which would take his fee from \$105.00 to \$115.00 per hour. This is the last annual extension of Mr. Metzgar's contract.

A motion was made by Dub Yarbrough to approve the renewal of the legal counsel contract for one year, effective April 1, 1999, with the increase from \$105.00 to \$115.00 per hour. It was seconded by James Dorn and carried unanimously.

6. Discussion of Financial Advisor and Bond Counsel RFP's.

Mr. Stoliker stated that SSCAFCA does not have a financial advisor or bond counsel at this time, as the contracts have expired. Mr. Metzgar has prepared the RFPs to allow SSCAFCA to advertise for the two services.

Mr. Metzgar stated that because SSCAFCA still has some bond money that has not been issued, SSCAFCA needs a financial advisor and bond counsel. Mr. Metzgar stated that he has prepared the legal notice for each of these in addition to the RFPs.

Mr. Metzgar stated that a financial advisor makes the determination on what amount of bonds can be issued without raising the mill levy. The financial advisor checks the number of citizens, owners of property, and what could be issued. The financial advisor also sets out the criteria for an election and sells the bonds, whether it's a private sale or public sale. The bond counsel advises the Board what it needs to do legally when you are issuing bonds or having a bond election. Both of these matters are specialized areas of the law.

A motion was made by Guy McDowell to allow Mr. Stoliker to advertise requests for proposals for financial advisor and bond counsel, as indicated. It was seconded by James Dorn and carried unanimously.

7. Discussion of \$1M Bond Issue from 1998 Bond.

Mr. Stoliker stated that SSCAFCA needs approximately \$4.6 million to provide the necessary funding for all the current projects, which assumes a high bid on Dam 4 to 1 Outfall Project. The high bid estimate for Dam 4 to 1 Outfall Project right now is \$2.62 million. Twenty four plan sets have been picked up by every major contractor.

Mr. Stoliker stated that SSCAFCA has \$4.75 million in the bank right now including both general funds and bond funds. The bond fund has \$3.7 million. This means that every contract obligation SSCAFCA has right now can be met. If the Dam 4 to 1 comes in at \$2.62 million, money will have to be taken from the general fund. Mr. Stoliker would like the Board to consider allowing him to issue another \$1 million in bonds out of the \$4.5 million issue it still has available. This would protect the general fund. This would only be done if it could be done without raising the mill levy.

General consensus was given to hiring the Bond Counsel and Financial Advisor first. Then determine our options on new issues and bring it back to the Board.

The Board questioned whether publicizing the engineer's estimate affects the bid amount. Mr. Metzgar stated that it does not matter if SSCAFCA has publicized its estimate because the contractors are bidding against each other and they want the contract.

V. CHAIRMAN'S REPORT.

1. Urban Pond #4.

Mr. Yarbrough stated that Mr. Dodge has indicated that they will be ready to start the seepage blanket on Urban Pond 4 March 17, 1999. The dirt has already been moved out of the Pond.

Mr. Yarbrough stated that the Board should go forward with the advertising for SSCAFCA's part of the Urban Pond 4 project, which is the soil cement cap and the emergency spillway. The Village of Corrales has an easement that SSCAFCA needs to protect the Chavez

property and right now the Village is not willing to give it to SSCAFCA. If the Village does not give SSCAFCA the easement, Mr. Stoliker will need to write a letter to Mr. Chavez and make him aware that without that easement to protect his property he is at risk.

Mr. Metzgar stated that the lawsuit should be discussed in the closed session.

2. Corrales Road property owned by SSCAFCA.

Mr. Yarbrough stated that SSCAFCA needs to go forward with the Corrales Road property zone change request if an agreement can be worked out with the adjacent owner on a replat request.

3. Harvey Jones Channel.

Mr. Yarbrough stated that SSCAFCA received a 404 permit on the cleaning of the Harvey Jones Outlet from the Corps of Engineers (COE) to remove the clay and replace it with sand in order to put it in its original condition.

Mr. Korzdorfer, of the NRCS, stated that the Clean Water Act was to stop the discharge of materials and debris into the river that would change the channel flow. As it progressed, it also said that excavation within the boundaries of the river flow water line could not be done. However, the only time the COE has ever taken anybody to court was over discharge into the river, not on excavation. At the end of the COE letter it states, "Maintenance dredging activities and excavation for currently used flood control projects may be types of activities potentially covered by the court's decision and will require a case by case examination to determine whether they are affected by the court's decision." Mr. Korzdorfer stated that there should be no further problems with the cleaning.

Mr. Stoliker stated that in his conversations with Ms. Manger, of the COE, who is SSCAFCA's permit writer, that she has indicated that when SSCAFCA is ready to clean up the willow area, SSCAFCA should submit something in writing that states what it intends to do. At that time she'll provide something in writing that says yes or no.

Mr. Yarbrough stated that he wants to get the channel cleaned out like it is supposed to be and then be able to maintain it. Mr. Yarbrough stated that he wants it done as quickly as possible.

4. Engineer Trainee.

Mr. Yarbrough stated that Mr. Stoliker needs some help with his work load. He stated that he would like to get an engineering trainee that would release Mr. Stoliker from doing the "grunt work".

5. Expense Account.

Mr. Yarbrough stated that he would like to explore setting up an expense account for Mr. Stoliker.

6. Retreat - Open Meetings Act.

Mr. Yarbrough stated that the SSCAFCA Board should have a retreat to discuss some important matters where they can get away and brainstorm.

Mr. Metzgar stated that a retreat may be able to be justified. Any organization has to look at where they're going, how to set priorities on projects, etc. Mr. Metzgar stated that he would have to look at the Open Meetings Act to make sure that a retreat would not violate the Act.

VI. OTHER BUSINESS.

Mr. Korzdorfer stated that the re-vegetation never took and some maintenance problems are arising because of that. Mr. Korzdorfer had Ramona Gardner and Michelle Jespersen, native plant specialists, list ideas on why some of the plantings failed and how to resolve the matter. He stated he had some sketches and some plant species on how to do the re-vegetation and that SSCAFCA could contract with NRCS to do the work. This contract will be worked on over the next month or two and brought back to the Board. He stated that NRCS could grow out the plants for SSCAFCA's use in the future. The biggest problem is the wind and a possible "fix" would be to construct a wind fence.

VII. DIRECTOR'S COMMENTS.

None.

VIII. PUBLIC FORUM.

None.

IX. CLOSED SESSION.

A motion was made by John Chaney to go into a closed session for purposes of discussing potential and pending litigation for Dams 1 & 4, Lot 116, and Urban Pond #4. It was seconded by James Dorn. Roll call vote: John Chaney, yes; James Dorn, yes; Guy McDowell, yes; Dub Yarbrough, yes. Motion passed 4 to 0.

The Board went into closed session at 2:50 p.m.

X. RESUMPTION OF OPEN MEETING.

The Board reconvened in open session at 4:10 p.m.

The matters discussed in the closed meeting were limited only to those specified in the motion for closure.

A motion was made by John Chaney that SSCAFCA proceed with Urban Pond #4 project including: proceeding with a task order for Leadshill Herkenhoff to complete the 528 watershed DMP and to accept a soil-based liner for O&M by SSCAFCA. It was seconded by James Dorn and carried unanimously.

A motion was made by Dub Yarbrough to approve the Wilken Agreement as presented. It was seconded by Guy McDowell and carried unanimously.

XI. ADJOURNMENT.

A motion was made by John Chaney and seconded by Guy McDowell to adjourn the meeting. It was carried unanimously. Meeting adjourned at 4:20 p.m.

Wm. C. Yarbrough
WM. C. YARBROUGH
Chairman

Bill R. Joiner
BILL R. JOINER
Secretary

DATE APPROVED: April 13, 1999