

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF MAY 8, 2009
BOARD OF DIRECTORS SPECIAL MEETING**

CALL TO ORDER.

The special meeting of the SSCAFCA Board of Directors was called to order by Mark Conkling, Chairman, at 9:00 a.m.

ROLL CALL OF DIRECTORS.

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

APPROVAL OF AGENDA.

Mr. Conkling stated that there would be no Closed Session held today and that the Closed Session portion of the meeting should be removed from the Agenda.

A motion was made by Steve House to approve the Agenda as amended. 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.

EXECUTIVE DIRECTOR'S REPORT.

1. Action/Acceptance of NMDOT Offer to Purchase SSCAFCA Rights-of-Way for Paseo del Volcan.

Mr. Stoliker stated that the Department of Transportation wants to bid this project quickly and to do so requires the acquisition of all property, including those pieces owned by SSCAFCA. Although no offers have been received to date, Mr. Stoliker asked if it was possible that, given the fact that SSCAFCA knows it's going to sell the right-of-way to the Department of Transportation, if this matter could go to the Executive Committee and let the Committee handle it. Mr. Conkling stated that this matter will be removed from the Agenda and that the Executive Committee should handle the matter.

2. Action/Acceptance of Joint Powers Agreement with Sandoval County for the Construction of Roadway Improvements in the Chihuahua and Guadalajara Area of Unit 17 in the City of Rio Rancho
- To date the project is 80% complete and paving will begin in June.

Mr. Ralph Montoya stated that they did the final walk through inspection yesterday. All that remains is some clean up items. SSCAFCA's efforts are concentrated on that stretch because the County is going to begin its roadway improvement project that is slated to begin on May 18, 2009. Early in the project, they did the pavement design along Guadalajara down to Sonora to include paving over all the inlets, as well as the storm drain. Mr. Stoliker stated that SSCAFCA has a task order for WHPacific for about \$19,000.00, \$14,000.00 of which was to design this project. Staff thought that if it was designed and a little extra money put into the construction, then the County could be enticed to pay for the rest of it. The County came back and said that it would only be able to contribute about \$15,000.00 to the project. With SSCAFCA's \$50,000.00, it comes to \$65,000.00, which is less than 50% of the project. Mr. Montoya stated that it is about 1/3 done. The paving amount is right around \$145,000.00. The intent is to stretch the \$65,000.00 as much as can be done. Staff's intent is, that if the pipeline is put in, and enough drop inlets are put in, and armor plating is put on top of it, with curb and gutter, the road will never be destroyed by rain again.

Mr. Stoliker stated that there are three options. Not to enter into the JPA and the project is completed down to where Ralph just pointed out. Second, to include only the amount of funds that we can identify to date and do a portion of the remaining roadway or, lastly, to allocate more funds and do the entire job. Ralph stated that if SSCAFCA does nothing, the County will still move forward with paving as shown on the limits in the green hatched area. If the other \$65,000.00 is added, the paving will include the full intersection and a little distance to the east on Guadalajara. If the full amount is paid for, the paving will be done correctly and SSCAFCA can show the City and the County how to do projects.

Mr. Yarbrough asked when the County goes in and paves, if it is going to fix the pavement cuts. Mr. Montoya stated that the hatched area shows the extent of what the County is going to do. The area will include a standard city section from Rio Rancho that includes concrete curb and gutter, as well as paving. The hatched areas will be removed and replaced with new asphalt.

Mr. House asked if it would be worthwhile to get governmental leaders together to discuss how to pave the road. Ralph stated that he has been down that road with regard to people at his level. It might be productive to take it to a higher level. Mr. House stated that SSCAFCA is not in the paving business, but he wonders how much damage can be done to the area if it's not paved.

Mr. Stoliker stated that the two constraints with regard to this project are money and time. We have been told that the County is going to start on May 18, 2009. The City and the County are both broke right now and to get a JPA approved in the time remaining requires approval today to allow time for process to then provide funding to complete the job. If the Board wants SSCAFCA to do it, we can do it. We just need to know today.

Mr. Montoya stated that, from SSCAFCA's standpoint, the combination of paving, as well as concrete curb and gutter, provides a benefit at some level because it protects the infrastructure that SSCAFCA has put in the ground. He agrees that SSCAFCA is not in the paving business, but it

must still consider protecting its infrastructure. Mr. Chaney stated that this sets a bad precedent for SSCAFCA.

Mr. Scott Sensanbaugher, of the City of Rio Rancho, stated that, in the time the City had to try to find money for this project, it was unable to do so. The City would like to see this get paved. This is something that the City has spent the last two or three months discussing on what roads are getting paved with the bond money. This was not one of the roads. They had not counted on it coming through so quickly. He is going to suggest it to the Council, but he has not had the opportunity yet. It might be helpful to have a formal request from SSCAFCA to have the City use its road bond funds for this paving.

Mr. Yarbrough asked if there was going to be rip rap or something put in the area to keep the sand out. Mr. Montoya stated that for this phase of the project, what you see is what you get. For future phases, there will probably be additional work in the area. The only item that remains is some fencing, but there will be limited erosion protection at the end of pipe.

Mr. Conkling stated that one of the problems that the City has always had in areas that are not totally built out, are street cuts for utilities. He asked if this project was complete as to utilities. Mr. Montoya stated that there is electric and the dry utilities. Most of this area is either on septic or wells. Street cuts are unlikely.

Mr. Conkling stated that this fits the shovel ready project under the stimulus plan and he doesn't know if anybody has checked with the State with regard to the stimulus plan money. This looks like a natural fit. Mr. Stoliker stated that this has not been looked into, but will be done.

A motion was made by John Chaney to table this matter pending a formal request with the City for the money and further investigation of the stimulus plan as a resource. It was seconded by Steve House and passed unanimously.

A motion was then made by Donald Rudy to give the Executive Committee authority to take action on this item when it comes up again. It was seconded by Steve House and passed unanimously.

3. Action/Acceptance of Joint Powers Agreement with the Town of Bernalillo for Design and Construction of Drainage Improvements in Calle Baack in the Town of Bernalillo.

Mr. Stoliker stated that this JPA splits the cost for the drainage improvements in Calle Baack with the Town of Bernalillo, with each party to pay \$100,000.00 each. He has not heard from the Town and thinks this should be tabled until SSCAFCA hears from the Town.

A motion was made by Donald Rudy to table this matter until SSCAFCA hears from the Town. It was seconded by John Chaney and passed unanimously.

4. Action/Acceptance of Selection of Auditor.

Mr. Perry Baird stated that this is the second year in a row that proposals were sent out for an auditor. The reason it was done last year is because SSCAFCA needed a single audit because

of the FEMA federal funds expenditures and it was different from the contract with Maddox. That has gone away and SSCAFCA has had no federal expenditures and doesn't need the single audit. There is quite a difference in the scope of the audit, so staff chose to put out another RFP.

Debbie Casaus stated that they had a committee that reviewed and evaluated the proposals. The committee unanimously selected Mackie Reed & Company to be SSCAFCA's auditors for fiscal year 2009. It's a one year contract with two one-year renewals.

A motion was made by John Chaney to accept the selection of Mackie Reed & Company as presented. It was seconded by Donald Rudy and passed unanimously.

- 5. Action/Approval of the Fiscal Year 2010 Preliminary Budget
: If approved, discuss cancellation of May 15th Regular Board Meeting.

Mr. Baird stated that the estimated increase in tax base was 8% and SSCAFCA has been using that in its financial planning for bonds as well as operating. The initial numbers from the County Assessor is that it will be more like a 6% increase. The yield control calculation appears that it will have a reverse impact on SSCAFCA and cause its rate to go up slightly because the increase in tax base due to reassessment is less than the index number that the state law uses, which is a number put out by the Bureau of Economic Analysis. There are also quite a few protests that are held from the tax base. The rate for the current operating levy is .612, which was down from the previous years. The proposal in this budget, which is different from the one the Board received before, is to take the operating mil levy back to .761. They calculate the additional revenue, if this rate had been at .761, would generate \$338,000.00 in the coming fiscal year. This has been put in the budget for right-of-way acquisition. The proposal is to submit the budget at .761. DFA has control over the yield control calculation. If DFA does not allow this number, the revenue would be down \$338,000.00, which is still an increase over this year.

Mr. Baird stated that, in discussions with DFA, they have gone back and looked at how particular rates were set in prior years to determine if yield control was set properly in the past. They are in the middle of that. Staff has not found anything yet that proves that it was misapplied. Mr. Chaney asked about the implication with regard to the tax rate on the yield control. Mr. Baird stated that the tax rate that appears for this year for SSCAFCA is .612 – that would go to .761, which is where it was from 2000 to 2007. The Board is not asking for a tax increase, rather administrative relief for corrections on yield control that SSCAFCA believes were inappropriately made by the state.

Mr. Stoliker stated that he has asked the Board repeatedly for higher tax rates on SSCAFCA's operational budget. He has also asked for it on debt service, and has been told no. Staff has figured out a funding plan for the capital improvements. On the operational side, as SSCAFCA adds additional structures, it must have O & M funding in order to handle that. SSCAFCA is still below where it needs to be to fund adequate operations and maintenance of its facilities. If SSCAFCA doesn't keep an eye on the yield control, it could consistently be ratcheted down and, given that this is a rapidly growing area, SSCAFCA will never be able to have sufficient funding to complete its mission of proper O & M on its facilities.

Mr. Baird stated that there is also the issue of AMAFCA giving up a portion of Corrales. It is referred to as Baja de Corrales. Robert Strumor, SSCAFCA's bond counsel, stated that they have

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been participating with staff on this issue. They issued a Memorandum which summarized SSCAFCA's conclusions and took it to the meeting with AMAFCA and Sandoval County. It is SSCAFCA's conclusion that based on the current statutory framework, SSCAFCA has no legal authority to levy, cause to be levied, or cause to be collected, ad valorem taxes on the property in Baja de Corrales, for the benefit of AMAFCA. SSCAFCA has no authority to make any payment to AMAFCA for any tax liability in Baja de Corrales. SSCAFCA is not saying that it will impair or oppose AMAFCA's tax collections, but SSCAFCA has no authority to make payment to AMAFCA.

Mr. Stoliker stated that he has had about eight meetings with members of Sandoval County, AMAFCA, DFA and others, along with counsel, and we have come to the conclusion that the best result is to start to impose SSCAFCA's tax rate, which would be on bonds voted on people in Baja de Corrales after 2005. The financial advisor has identified this as a mil rate of about .42. AMAFCA's rate is .215, which is less than AMAFCA imposes elsewhere in Bernalillo County. By 2013, AMAFCA's will diminish and go to zero. Mr. Conkling stated that SSCAFCA should express its regret to AMAFCA that it can't take any action and just go from there. Mr. Baird stated that, with the Board's approval, staff will request a tax rate for debt service that is the same as it's been, except for Baja de Corrales. That way those residents won't pay for bonds that were issued when they were in Bernalillo County.

Ms. Debbie Casaus stated that the budget allows for a cost of living adjustment for all employees at a rate of 3.8%. This is the same methodology used in the past. There is not a lot of change in health benefits, same percentage is paid at 17% to 83%. There is an increase of about 3% for Presbyterian, which will affect all employees with Presbyterian. Cigna was replaced by Blue Cross/Blue Shield.

Also, in the preliminary budget that was brought to the Board, they had two new positions on that budget, the administrative services director and a field engineer. Those positions were supposed to be filled sometime through the year, one midway and one a little later. Those positions have been removed from the budget. The full impact of those positions would have been seen in fiscal year 2011, and staff found that it was too much for the budget at this time. SSCAFCA has two employees retiring and retirement leave will be paid out. Staff will look at adding the new positions late in the fiscal year for 2011.

She stated that O & M is budgeted at \$425,000.00 for fiscal year 2010. The general fund reserve remains at \$750,000.00.

Mr. Stoliker stated that the two new positions can be added some time during the budget year. Staff wanted to see what SSCAFCA's June receipts will be, as it is one of two big payments that it receives from the County. If that ends up being pretty good, and the tax rate is pretty good at the end of the year, the positions can possibly be added back in. Staff felt it was better to notify the Board that staff will not pursue those positions unless something happens, rather than having to take them out later. Mr. Conkling stated that it is possible that the property taxes could free up some money for the extra staff and that housing permits might actually go up. Mr. Chaney stated that the cost of living adjustments should be looked at to see if savings could be obtained there.

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A motion was made by Steve House to approve the fiscal year 2010 preliminary budget as presented. It was seconded by Donald Rudy. Roll call vote: John Chaney, yes; Mark Conkling, yes; Steve House, yes; Donald Rudy, yes; and Dub Yarbrough, yes. The motion carried 5-0.

FOR YOUR INFORMATION.

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

1. Task Order for Guadalajara Paving Design in the amount of \$19,215 was signed by the Executive Engineer on 04/28/2009.
2. Request from Ryl Adamson to film in SSCAFCA's drainage structures.
3. R.O.W. Update.

OTHER BUSINESS.


- HEC-HMS Training is scheduled for May 12th – 14th and May 20th at Bohannon-Huston.
- Open Enrollment on insurance begins on May 5, 2009 continuing through June 12, 2009. If you have any questions, please see Laura Davis.
- Next Regular Board Meeting is on Friday, June 19, 2009 at 9:00 a.m.

ADJOURNMENT.

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



STEVE HOUSE
SECRETARY


MARK CONKLING
Acting CHAIRMAN

DATE APPROVED:

6/19/09