

SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)

MINUTES OF FEBRUARY 17, 2017
BOARD OF DIRECTORS REGULAR MEETING

CALL TO ORDER.

The regular meeting of the SSCAFCA Board of Directors was called to order by James Fahey, Chairman, at 9:05 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were Mark Conkling James Fahey, Steven House and Michael Obrey. John Chaney was noted as absent. Charles Thomas, Executive Engineer, Charles Garcia, SSCAFCA's attorney, and members of the public were also present.

PLEDGE OF ALLEGIANCE.

The Board was led in the Pledge of Allegiance by James Fahey.

ANNOUNCEMENTS.

An announcement was made by James Fahey that all electronic devices needed to be turned off during the meeting and that the microphones are voice activated.

APPROVAL OF AGENDA.

A motion was made by Steven House to approve the Agenda as presented. It was seconded by Michael Obrey and passed unanimously.

ACTION/APPROVAL OF THE MINUTES OF DECEMBER 20, 2016 AND JANUARY 3, 2017.

A motion was made by Steven House to approve the minutes of December 20, 2016 and January 3, 2017 as presented. It was seconded by Michael Obrey and passed unanimously.

PUBLIC FORUM.

Mr. Marquez registered a complaint regarding the floods of 2013. Mr. Marquez believes that the corrections for the damage, the improvements to the five acres north of his property owned by SSCAFCA, are already impacted and close to failure. Dr. Fahey indicated staff would look into his complaint.

STAFF REPORTS.

Executive Engineer:

1. Presentation and discussion on Conservation Easement - Rio Rancho Golf Course. (Josh Skarsgard).

Mr. Skarsgard made a presentation on the Rio Rancho Golf Course issue. Mr. Skarsgard stated that he is working on purchasing the property. He stated that the golf course has failed 4 times and is not viable as a golf course, or at least it would be very expensive to rehabilitate it as a championship course. The soils are adversely impacted and he was advised that one would need to replace the top 12 inches of soil and do a complete reseed, so the cost to rehabilitate would be very expensive. Also, he indicated that the golf course would need to have 35-40,000 rounds of golf annually to cover operating expenses, and currently it is averaging only 9,000 per year.

Mr. Skarsgard stated that he has looked at saving the golf course. Since the golf course was turned back over to the bank, he feels it is important to get the money owed back to the investors and the bank. He stated that since the golf course is not viable, he wants to do spot development and a conservation easement. Wants to preserve scenic views. The golf course sits between three (3) watersheds and development that increased impervious surface would be difficult. The drainage system in NM 528 is at capacity and cannot handle increased flow. Mr. Skarsgard stated that he believes that Club Rio Rancho is viable for restoration, it is an important amenity to community, but it has major repair issues, such as the sewer system and swimming pool. He wants to keep it open for meals and events.

Has asked SSCAFCA to negotiate with the CORR to draft a conservation easement to be granted to SSCAFCA. He is asking SSCAFCA to identify drainage needs on the course. He also wants to reach out to other groups to investigate adding open space amenities. He doesn't not want to develop the whole golf course as residential or commercial.

Mr. Skarsgard stated that regarding the conservation easement, the underlying property owner is responsible for maintenance. He stated that he would put bollards to prevent ATV's and vehicles. The easement would not include grass, but native vegetation. He doesn't want the property to become a tax burden and promises to maintain it.

Mr. Skarsgard also wanted to address the situation with the ponds and stated that he believes there are 12-14 ponds on the property. He stated that based on information from SSCAFCA, that full ponds do not help drainage. He stated that he does not need full ponds as part of this process either. He then asked the neighborhood associations to receive a gift of the land containing the ponds. He understands that the ponds are important to property value. He gives word that he will commit to donating ponds to interested Home Owners or Neighborhood Associations. He stated that he will re-plat them out of the drainage easement at his cost. The ponds are intended to hold water for irrigation.

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He stated he will produce a number and website for residents to report maintenance calls and hire a property manager to operate property. With flexibility in the easement it opens up other possibilities for use.

In response to a question, Mr. Skarsgard stated that the easement would cover all of the golf course acreage except for 25 acres surrounding the club house. That acreage would be developed as high density, senior apartments. A Zone Map amendment could be delivered to the City in the next month.

Mr. Skarsgard stated he is working on the easement and negotiating the sale. He clarified that, economically for him to get money back to depositors, he needs a high density component which subsidizes the land conservation easement. He is also looking at 4-5 acres near High Resort and 528, and would propose to develop a community retail office complex.

Mr. Chuck Garcia, Legal Counsel, provided a brief report on the conservation easement. He stated that a land use easement does provide for an easement to be granted to public entities, so SSCAFCA can negotiate terms for an easement. However, it would be in effect on property in perpetuity. There are provisions under NM and federal tax laws that enable owner to get tax incentives, but only if easement is in perpetuity.

Public Comments:

Mike Elrod, Board President for Islands of Rio Rancho – 101 homes, with primary inlet for ponds. He appreciates the opportunity to receive ponds. He has met with Josh and the CORR. What are benefits and liabilities for taking on ownership of ponds? The west ponds receive water from east ponds, but would need electricity and a way to meter which ponds take how much water. There are three (3) inlet lines, although this is unconfirmed. Are we in a floodplain? Would it create a floodplain? Would leaving ponds full have drainage impacts?

Chairman Fahey clarified that SSCAFCA is a flood control agency and we would leave ponds empty. SSCAFCA would not maintain the ponds.

Mr. Thomas clarifies that there is no agreement or easement drafted and the purchase of property is still not completed, which Mr. Skarsgard concurs with.

Micette Klaw – Who will assume maintenance of area after developer leaves area?

Josh – the new complex would have HOA fees for maintenance of site and surrounding property.

Will it be legally set up so no one can walk out? Mr. Skarsgard concurred, he states he does not want the HOA to be left in the lurch holding the responsibility.

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Cliff Cizan – President of enclave on west. He states that no one has contacted them and is concerned about the lack of communication. He indicates if their HOA takes on pond property, they would propose to fill them in. Josh promises to contact them and states there would be no restrictions from him on the use of any property donated to the HOAs.

The comment of not being previously contacted and requesting further information was also stated by Shelley Rappaport and Tom Deleo. Mr. Deleo also asked a question on whether home owners should get their property taxes reassessed.

John McGuire wants to see proposed plan for easements and plan for apartments, timeline, etc.

Mr. Skarsgard indicated that he is still in the process of hiring an architect. He promises to email out draft land plans, etc. He stated that it would take at least 5 weeks to develop plan. He stated he would offer a public meeting to discuss draft.

Thornton Schwenk wants record of Mayor's comments.

Julian Trujillo stated that he believes that there is an investment group interested in bringing back a golf course and he is interested in retaining the course and retaining value of residential property. This opinion is supported by Robert Elliot.

The Chairman announces the comment period will close. Chairman indicates that the Board will not make any decision today, but that our focus is flood control and the development of flood control infrastructure, but we do support option of easement if that is the preferred option.

Ms. Sarah Hurteau with the Nature Conservancy (NC) made a comment that they have been contacted by HOAs to participate in discussion of easement, although the NC is not interested in being a conservator. The NC has experience with conservation easements and would be willing to provide technical assistance of the drafting of the easement. The NC can also provide information on how to naturalize the property correctly.

In response to a comment by Mr. Skarsgard regarding the provision of the easement to multiple holders, Director Conkling stated that if multiple entities are included as easement holders, there could be conflict of interest between entities. He would recommend a public schedule of maintenance be developed and distributed. Also, could memberships to club house include others outside the HOA?

2. Presentation by the City of Rio Rancho - Rio Rancho Golf Course.

Honorable Mayor Hull read a statement into the record, included here:

- The City has always recognized the golf course property is private property that has the potential to affect the surrounding residential properties

- Should Southwest Capital Bank or Mr. Skarsgard move forward with the proposed Conservation Easement, the City requests they give formal written notification to all properties surrounding the areas affected by the conservation easement. Similar to a zoning change, this concept does potentially impact the adjoining properties and they deserve proper notification prior to the action being taken.

- It is the City's desire and preference that the property owner and the surrounding properties not shift any burden or expense for the upkeep or maintenance of the property onto the City and other tax payers. These are private properties and the burden of maintaining them should rest with the property owners and the benefitted properties.

- If this property is placed in a conservation easement -it is assumed the property will be allowed to return to a native/natural state. This will be assumed to be different than what the north nine has experienced over the past two years as there was some - granted absolute minimal -maintenance done on the north nine. The residential properties surrounding the conservation easement need to know the City will not:

- Require the mowing or maintenance of areas adjacent to residents' fences;
- Maintain the walking trails;
- Remove litter or trash blown into or dumped in this area;
- Provide additional security or patrols because of ATV's, motorcycles or trespassers in the area;
- Address issues or concerns about coyotes or other wildlife living in this area;
- Assume responsibility for the NMED's Discharge permits for the maintenance of the ponds

- If the City begins experiencing issues with this, we will look for avenues to place this cost against the benefitted properties. Again -we are not looking for these properties to shift cost or burden to other taxpayers in the community.

• As a point of reference - over the past three years the City has received multiple complaints from the properties surrounding the north nine for the following issues:

- Failure to control weeds and natural vegetation;
- Failure to control dust and blowing sand from the property;
- Motorcycles and ATVs riding on the property;
- Trespassers on the property;
- In the past 45 days (since January 1) the City's had three separate complaints of motorcycles or ATVs riding on this property. Just as we cannot patrol the arroyos, the City's Police Department cannot patrol this area. It is private property.

• It needs to be understood by the affected properties that if the golf course property moves forward in a conservation easement, it is assumed the property will not be maintained and the surrounding property owners are assumed to be accepting of the condition of the property.

• Should the property owner begin negotiations with SSCAFCA - or any other entity for that matter - the City formally requests that it be a party to those negotiations to ensure the taxpayers of our community that this private property will be maintained in a manner so as to not shift the burden onto the other taxpayers in our community.

Following this, Mayor Hull stated that should Mr. Skarsgard begin negotiations with SSCAFCA or others, he formally requests that the CORR is represented at all meetings, for input of tax payers of City. He is sad to see golf course fall into disrepair. He also wants to remind everyone that the conservation easement is in perpetuity, so not just making decisions about property values today, but how the City will look 200 years from now as well. It could be a cultural center, or it could be the 'Central Park' of Rio Rancho. Be very thoughtful with decisions because they are long term impacts.

Following these comments and in response to a question, Mayor Hull clarified that the City does not want to take on property as a municipal course, but the City would support the private re-development as a golf course.

3. Action/Acceptance of \$139,867 of State Capital Outlay from the River Stewardship Program - NMED, for the Bosque de Bernalillo Project.

Mr. Thomas stated that the capital outlay is through the River Stewardship Program for the Bosque de Bernalillo Project. This funding would be in addition to capital outlay received through the 2016 legislative session. Oversight of both funding sources is through NMED.

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A motion was made by Mark Conkling to accept the funding. It was seconded by Michael Obrey and passed unanimously.

4. Action/Approval of Selection/Agreement with CBKN Dirtworks for Bosque de Bernalillo Water Quality Project.

Mr. Thomas stated that at the recent bid opening, SSCAFCA received bids from four contractors. CBKN Dirtworks, Inc. was the lowest responsive bidder with a bid of approximately \$673,000 including gross receipts.

A motion was made by Steve House to approve awarding the project to CBKN Dirtworks, Inc. It was seconded by Mark Conkling and passed unanimously.

Fiscal Services Director:

1. Recognition/Acknowledgment of the Fiscal Services report for January 31, 2017.

Ms. Debbie Casaus stated that the Fiscal Services Report for January 31, 2017 is in the Board's packets. She stated that the operating property tax revenue after 6 months is 2.2% greater than at the same time last year, but it should be stabilizing now. General fund expenditures are about 31.19% of the total budget and SSCAFCA is about 58% through the fiscal year. There were 46 single family residential permits issued by the City of Rio Rancho in January, similar to the previous January. The Treasury Bill is yielding about 478% and we are about 10 basis points below the Treasury Bills. This discrepancy is temporary and we should match more closely soon. As the Fed begins to talk about raising rates, the Treasury Bills respond very quickly.

The Fiscal Services Report for January 31, 2017 was recognized and acknowledged by the Board.

2. Action/Approval of Selection/Agreement with the following contractors for Sediment Removal and Priority Maintenance Services.
 - CBKN, Dirtworks, Inc.
 - PG Enterprises.

Ms. Debbie Casaus stated that we had received two responses for our Request for Professional Services for on call Sediment Removal and Priority Maintenance Services. Our last on

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call contracts had expired after four years and we were required to re-advertise. Two contractors responded and both were accepted, CBKN Dirtworks, Inc. and PG Enterprises.

A motion was made by Steve House to accept CBKN Dirtworks, Inc. and PG Enterprises for on call services. It was seconded by Mark Conkling and passed unanimously.

OTHER COMMITTEE REPORTS.

None.

ATTORNEY'S REPORT.

None.

CHAIRMAN'S REPORT.

None.

BOARD OF DIRECTOR'S COMMENTS.

Director House inquired as to how the Board is going to get educated on doing a conservation easement.

Chairman Fahey replied that we will begin with consultation with our legal counsel. Chairman Fahey also reminded the Board that currently the existing land use does not create significant flood concerns, and SSCAFCA would not fill in ponds. He also stated that as noted by Mr. Schoener, investigation of existing drainage situation and any proposed alteration would require significant evaluation efforts.

Mr. Thomas indicated that SSCAFCA can provide the draft easement to Mr. Garcia and host a work-study session for the Board. He also suggested hosting a public meeting if one is not initiated by the City or Mr. Skarsgard.

Director Conkling stated that 'in perpetuity' can mean that all uses are restricted unless specifically referenced in the easement. He suggests including language to allow community gardens, orchards and related uses. Is a dog park allowed? Would irrigation be allowed? Broadening easement uses would make it more attractive. He remained concerned that specific uses might be restricted if not included, subject to approval of the easement.

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Director Conkling also brought up that any changes to the golf course, just like redevelopment of an existing property, may require the improvements to be brought up to current code, drainage or otherwise, and could increase impact of any improvements.

PROPERTY MATTERS.

1. Action/Acceptance - U25, Blk 110, Lots 24, 25, 28, 30, 31 & 32; - 3.55 acres - Unser Dam.

Mr. Charles Thomas stated that it is necessary to obtain this property for the Unser Dam project. This is 3.55 acres needed for the realignment of Unser Blvd. as part of the construction of the dam and is a key piece for this project.

A motion was made by Mark Conkling to approve the property acquisition as presented. It was seconded by Michael Obrey and passed unanimously

FOR YOUR INFORMATION.

None.

OTHER BUSINESS.

- Next Regular Board Meeting is on Friday, March 17, 2017 at 9:00 a.m.

ADJOURNMENT.

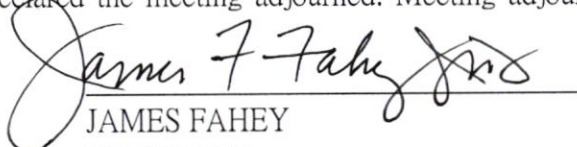
With no further business, Mr. Fahey declared the meeting adjourned. Meeting adjourned at 10:43 a.m.



MARK CONKLING

Secretary

STEVE HOUSE
FOR MC


JAMES FAHEY
CHAIRMAN

DATE APPROVED:

3/17/17

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