

**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
November 20, 2003**

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1. Call to Order and Roll Call

Chairman Eichenberg called the Regular Board Meeting to order at 10:00 a.m. Thursday, November 20, 2003. Roll was noted as follows:

Directors present: Chairman Tim Eichenberg
Director Linda Stover
Director Ronald D. Brown
Director Daniel Hernandez
Director Daniel Lyon

Others present: John Kelly, Executive Engineer
Sam Bregman, Attorney
Staff

2. Approval of Agenda

Director Stover made a motion to approve the agenda. Director Lyon seconded the motion and it passed (3-0). Directors Brown and Hernandez were not present for the vote.

3. Meetings Scheduled

- a. **December 18, 2003, 10:00 a.m. – Regular Meeting**
- b. **January 22, 2004, 10:00 a.m. – Regular Meeting**

Director Brown and Director Hernandez arrived during this discussion.

4. Approval of Minutes

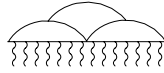
- a. **October 23, 2003**

Following a minor change to the minutes, Director Brown made a motion to approve the October 23, 2003 Minutes. Director Lyon seconded the motion and it passed unanimously (5-0).

5. Financial Matters

- a. **Approval of October 2003 Expenditures**

Director Brown made a motion to approve the October 2003 Expenditures. Director Hernandez seconded the motion and it passed unanimously (5-0).



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b. Investment Report

Mrs. Jeffries stated that interest rate for the repurchase of treasury notes is 1%. In regard to the interest rate for repurchase of bond funds, she negotiated with Wells Fargo Bank a rate equal to the interest rate that the general account is receiving.

c. Financial Recap October 16, 2003 thru November 15, 2003

In regard to the Construction Fund, Mrs. Jeffries stated that AMAFCA received income from the City of Albuquerque and SSCAFCA for the NPDES Water Quality Study.

For information.

d. Financial Forecast November 16, 2003 thru December 15, 2003

Director Stover made a motion to approve the Financial Forecast November 16, 2003 thru December 15, 2003. Director Hernandez seconded the motion and it passed unanimously (5-0).

e. County Treasurer Tax Distribution Update

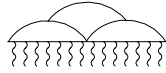
Mrs. Jeffries and Mr. Kelly reviewed the analysis done on tax revenues.

Mr. Kelly stated that the Bernalillo County Treasurer has not been able to provide a listing of delinquent payments paid tracking them back to the year in which they were due. He stated that in the audit, a ten year delinquent payment schedule is provided and also what is due to AMAFCA.

Mr. Kelly stated that the Bernalillo County Treasurer has not been able to provide a similar listing of the delinquent taxes received for Tax Years 1999, 2000, and 2001, allocated back to the year in which they were due. He stated that preliminary calculations show an underpayment to AMAFCA of \$125,000 for those tax years. He stated that Chester Mattocks will review the analysis prior to presenting it to the Bernalillo County Treasurer.

Mr. Kelly stated that the Bernalillo County Treasurer has been paying to AMAFCA short-term fund interest on the delinquent payments to AMAFCA.

After discussion, it was the Board's concurrence for staff to send a letter to the Bernalillo County Treasurer's Office informing them of the apparent underpayment and request payment in the same amount.



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6. Legal
a. Status Report

In regard to the Chaves matter, Attorney Bregman stated that he took the expert witness' deposition and the expert could not give an opinion yet since he did not have all of the information. Attorney Bregman stated that he will file a motion to strike that witness.

7. Executive Engineer Evaluation, Closed Session

Director Hernandez made a motion to close the meeting at 10:20 a.m. per Section 10-15-1-H (2) of the Open Meetings Act to discuss limited personnel matters. Director Lyon seconded the motion and it passed unanimously (5-0).

(Closed Session)

Chairman Eichenberg re-opened the meeting at 11:00 a.m. per Section 10-15-1-H (2) of the Open Meetings Act and stated that the Board did not take any action during closed session.

8. 2003 Special Legislative Session – Briefing by New Mexico Outsourcing

Maurice and Mary Hobson, representing New Mexico Outsourcing, were present.

Mr. Hobson gave a brief summary of the special session and discussed the bills that passed. He stated that the Legislature is approximately \$140 M short of having the funds needed to do business and to expect some tax increases. He stated that they will attend 4 or 5 more days of meetings in January to keep a watch on any property tax issues and any programs that might be cut which could affect AMAFCA.

9. FY-03 Audit – Exit Conference with Auditor, Closed Session

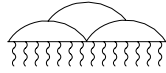
Chester Mattocks, CPA, was present.

Director Brown made a motion to close the meeting at 11:20 a.m. per NMSA 1978, Section 12-6-5 of the Audit Act. Director Lyon seconded the motion and it passed unanimously (5-0).

(Closed Session)

Chairman Eichenberg re-opened the meeting at 11:40 a.m. per NMSA 1978, Section 12-6-5 of the Audit Act and stated that the Board did not take any action during closed session.

Director Brown made a motion for the Board to accept the draft audit as prepared by Chester Mattocks, CPA, with the changes and cleanup that staff is preparing as described in closed session, and authorized Mr. Mattocks to forward the audit to the New Mexico State Auditor. Director Hernandez seconded the motion and it passed unanimously (5-0).



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10. Amole Arroyo, Amole Dam to Snow Vista Confluence – Consideration of Cost Sharing Agreement with Curb Inc.

Mr. Kelly stated that the Board has previously been briefed on this project and that the proposed agreement has been reviewed and approved by AMAFCA legal staff, and is currently in review by Curb's attorney.

Mr. Kelly stated that Mr. Johnson would like to set up a schedule for the financial guarantees triggered by development of tracts, rather than all up front.

Mr. Kelly requested review and comments on the agreement by the Board. He will present the agreement to the Board at the December 18, 2003 meeting for further consideration.

**11. La Cueva Arroyo Avulsion Four
a. Status Report on Discussions with Property Owners**

It was the consensus of the Board to request staff to continue with negotiations.

b. Consideration of Easement Agreement with Dream Builders, Inc.

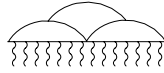
Director Brown made a motion to approve the proposed easement agreement with Dream Builders, Inc. Director Hernandez seconded the motion and it passed unanimously (5-0).

**12. Old Black Dairy Detention Pond
a. Approval of Turnkey Agreement for Cottonwood Crossing, Phase 2 at Black Ranch, Tracts 14-A & 14-B with Albert J. Black & Mary Jane Black Revocable Trust**

Dave Soule, representing Tierra West, and John Black, representing Black Trust, were present.

Ms. Mazur stated that the conceptual agreement item was presented to the Board in June 1999 and that the final design was never submitted. She stated that Mr. Black has recently engaged Tierra West as the design engineer for the project. They met with staff and submitted a drainage report with a preliminary design for the proposed improvements and staff has reviewed and approved the design concept.

Ms. Mazur stated that this facility is immediately above an AMAFCA-maintained facility, that it accepts substantial amounts of storm water discharge from public rights of way, and it will be constructed with appropriate storm water quality features.



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Director Brown made a motion to authorize the Executive Engineer to execute the Agreement to Provide Maintenance for the Old Black Diary Detention Facility Adjacent to the Corrales Main Canal on Tracts 14-A and 14-B of Black Ranch. Director Lyon seconded the motion and it passed unanimously (5-0).

b. Quitclaim/Release of Drainage Easements and Access Easement

Ms. Mazur stated that two floodway easements and one temporary access easement, all granted to AMAFCA encumber the property. Drainage improvements and development of the property will render these easements unnecessary. Therefore, Mr. Black is requesting consideration of quitclaim/release of the easements.

Director Hernandez made a motion to authorize the Chairman to execute the Quitclaim / Release of Easements as described. Director Lyon seconded the motion and it passed unanimously (5-0).

13. Manual Trash and Debris Removal Contract – Contract Change Order with Delgado Enterprises

Mr. Mainz stated that to date, all work has been done using a 3-man crew and that production has been very satisfactory up to this time. He stated that the 3-man crew is working out so well that he would like to process a change order on the contract to utilize all of the time designated for 5 and 7 man crews and use as 3-man crews.

Director Hernandez made a motion to approve and authorize the Executive Engineer to sign the attached Change Order No. 2 to add Bid Item 5, three-man crew at the Unit Price of \$96.00 per hour, and increase the total contract amount from the original contract amount of \$49,100 to a new total contract amount of \$74,100.

In order for Attorney Bregman to conduct legal research regarding increasing the contract amount, Director Stover made a motion to defer discussion of this item until later in the agenda. Director Lyon seconded the motion and it passed unanimously (5-0).

(later in the agenda)

Attorney Bregman stated that he reviewed the bidding documents as well as Resolution 1997-12 and determined that the total contract amount can be increased.

Director Brown made a motion to approve and authorize the Executive Engineer to sign the attached Change Order No. 2 to add Bid Item 5, three-man crew at the Unit Price of \$96.00 per hour, and increase the total contract amount from the original contract amount of \$49,100 to a new total contract amount of \$74,100. Director Stover seconded the motion and it passed (4-0) with Director Hernandez not present for the vote.



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14. AMAFCA Parking Lot Improvements - Approval of On-Call Engineering Services Task Order #1 with HDR, Inc.

John Engel and Ed DuBois, representing HDR, Inc., were present.

Ms. Jones stated that HDR will obtain City DRC approval and NMDOT DRC approval of the construction plans. She also stated that relocation methods for the prairie dogs are being evaluated.

Director Brown made a motion to authorize the Executive Engineer to approve the proposal from HDR Engineering, Inc. for On-Call Engineering Services, Task 1 for AMAFCA Office Parking Lot Expansion, for a total proposed Lump Sum fee of \$5,639.94, not including NMGRT. Director Hernandez seconded the motion and it passed unanimously (5-0).

15. Real Estate
a. Short Term Recreation Licenses

For information.

16. Ditch Safety Coordination
a. Briefing by Griffin & Associates
b. Approval of Extension of Ditch Safety Coordination Services Contract with Griffin & Associates

Director Hernandez made a motion to authorize the Executive Engineer to extend the agreement with Griffin & Associates with the proposed fee increase. This will be the first extension of the agreement approved by the Board, at the November 2002 meeting. Director Brown seconded the motion and it passed unanimously (5-0).

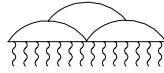
Chairman Eichenberg recessed the meeting at 12:10 p.m. and reconvened at 12:15 p.m.

Joan Griffin, representing Griffin & Associates, arrived at 12:15 p.m.

Chairman Eichenberg brought up for reconsideration the Task Force vote in order for Ms. Griffin to give a presentation to the Board. Director Stover seconded the motion.

Ms. Griffin gave a short presentation on the past year's accomplishments of the Ditch Safety Task Force.

The reconsideration vote failed (0-5). Therefore, the contract stays in existence as originally voted on.



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- 17. Field Highlights**
- a. Construction Report**
 - b. Field Report**

Mr. Lovato presented a slide show depicting current projects.

- 18. West I-40 Phase III Diversion Channel – Proposal from Westland Development for Participation Relating to Sundoro South Subdivision**

Fred Ambrogi, representing Westland Development, was present.

Mr. Kelly stated that during AMAFCA's discussions with Westland, staff applied a consideration to the project costs to account for downstream protection benefits and arrived at a figure of \$2,590 per acre as a reasonable cost-share for the Phase III Diversion Channel. He stated that Westland is in agreement with that figure.

Director Stover made a motion to direct staff to prepare an agreement with Westland Development for participation in the West I-40 Phase III Channel Project related to the Sundoro South Subdivision, in the amount of \$2,590/gross acre, for a total of \$88,395. Director Lyon seconded the motion.

Director Hernandez stated his concerns that applying 35% to downstream protection benefits would set precedence for future projects.

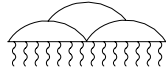
Chairman Eichenberg stated that this would not set precedence and referenced Westland's November 13, 2003 letter stating the fact that this settlement would not be used as a precedent in any future projects.

The motion passed (4-1) with Director Hernandez voting no.

- 19. Mirehaven Arroyo, Crossing, Unit 3 - Review of Draft Turnkey Agreement with Westland Development Co. for Construction and Maintenance of Arroyo Improvements**

Bridgette Fuller and Kristine Susco, representing Wilson & Co., and Fred Ambrogi, representing Westland Development, were present.

Ms. Mazur stated that Westland is proposing channel improvements on the arroyo to reclaim a portion of the FEMA floodplain and is requesting release and revision of certain AMAFCA easements encumbering the property. She stated that the proposed Crossing, Unit 3 Subdivision is located directly north of the Cielo Oeste Subdivision and that the proposed improvements will connect to the improvements Westland constructed on the Mirehaven Arroyo.



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Ms. Mazur stated that the proposed improvements on the east side will tie into the existing Las Lomitas Subdivision.

The Board had no comments on the proposed turnkey agreement.

20. Black Mesa Storm Drainage Project – Approval of Project Cost Sharing Agreement with Bernalillo County and U.S. Army Corps of Engineers

Pete Doles, representing the U.S. Army Corps of Engineers, and Roger Paul, representing Bernalillo County Public Works, were present.

Mr. Kelly stated that the only change to the agreement since the draft reviewed at the October meeting was the inclusion of the land value of AMAFCA's property at Isleta and Malpais that comes in as a credit back to AMAFCA. He stated that in order to maximize the federal contribution, the total project was increased by that amount. He stated that Bernalillo County will provide the design match of \$333,000 and AMAFCA will fund the balance of the non-federal share for construction, approximately \$1.5 M, which will be funded from the 2004 bond authorization.

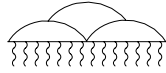
Mr. Kelly stated that this agreement has been reviewed by both AMAFCA legal counsel and Bernalillo County legal counsel.

Director Hernandez made a motion to approve the PCA between the U.S. Army Corps of engineers, AMAFCA and Bernalillo County for the Black Mesa Project, and authorize the Chairman to sign the attached memo informing the Corps of Engineers of the Board's action, and further authorize the Chairman to execute the final agreement upon final approval from the Corps. Director Brown seconded the motion and it passed unanimously (5-0).

21. Southwest Valley Flood Control Project - Review of Draft Cost Sharing Agreement with Bernalillo County and U.S. Army Corps of Engineers for Planning, Engineering and Design of Project

Phil Boawn, representing the U.S. Army Corps of Engineers, was present.

Mr. Lovato stated that the draft feasibility study has been sent to U.S. Army Division and will be sent to Army Headquarters for review, and then a final report will be prepared for submission to Office of Management and Budget in January 2004. He stated that the approximate project costs for the local sponsors FY04 contribution would be \$100,000, with \$53,000 in cash and \$21,000 in kind by AMAFCA, with Bernalillo County providing the remaining \$26,000 as in kind services.



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Mr. Lovato stated that once the PED is signed and approved, work can begin on the final design of the Project. It is estimated that the design process will be completed in early 2005, with construction to begin in late 2005. He stated that the project should be completed in 2009.

Chairman Eichenberg then asked the Board if they had any comments or input that should be placed in the agreement. The Board had no additional comments for the agreement.

22. UNM Hospital / AMAFCA Box Culvert – Briefing by Roger B. Lujan, AIA, UNM Architect

Roger Lujan and Mary Kenney, representing University of New Mexico Hospital, were present.

James Topmiller and Gordon Walhood, representing Bohannon Huston, were present.

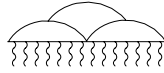
Mr. Lujan discussed the UNM project and UNM's request for AMAFCA's consideration of a proposal to replace a portion of the existing North Diversion Channel with a buried concrete box culvert. He stated that UNM is requesting that AMAFCA waive the 1971 judgment that requires 100' long open access points every 300' along the channel, and instead, install a vehicle access ramp in the channel downstream of the concrete box culvert extension, as well as an access shaft on the existing box culvert.

Mr. Lujan stated that the proposed schedule is to start construction in spring 2004 and that he anticipates approximately 2-1/2 years for construction of the project. He stated that funding of the project will be underwritten by the Federal Housing Administration.

Mr. Kelly stated that this channel does not generate any sediment nor does the watershed. He stated that with today's cleaning equipment and vacuum trucks, an opening in the box culvert every 300 feet is no longer needed. He stated that in order to waive the openings portion of the 1971 judgment, AMAFCA has requested the construction of a maintenance ramp downstream to access the box culvert.

Mr. Kelly stated that a vertical shaft in the channel is needed for future construction access when AMAFCA installs shotcrete inside the box culvert. He stated that since the vertical shaft would be for AMAFCA's rehab needs, he recommends that it be funded by AMAFCA and it could be funded out of the Contingency Fund.

In response to a question asked by Director Brown, Mr. Kelly stated that the estimated construction costs would be \$2.3 M for the box culvert extension, \$200,000 for the parallel storm drain, \$100,000 for the ramp, and \$150,000 for the access shaft.



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With concurrence of the Board, Mr. Kelly stated that staff will prepare a draft agreement for the Board's consideration at a future board meeting.

After discussion, it was the consensus of the majority of the Board that UNM include the access shaft in its construction at UNM's expense.

23. Unfinished Business

Mr. Kelly stated that AMAFCA has recently received the EPA Storm Water Permit, which was originally submitted 11 years ago. He stated that he will present a briefing on the permit to the Board at the January 22, 2004 meeting.

24. New Business

a. AMAFCA Holiday Schedule

For information.

25. Items from the Floor / Public Comment

None.

26. Adjourn

With no further business to discuss, Chairman Eichenberg adjourned the meeting at 1:45 p.m.

Ronald D. Brown, Secretary-Treasurer 12/18/03

Recorded by Lori Webb
Secretary to the Executive Engineer