

**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Board Meeting Minutes
February 5, 2004**

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1. Call to Order and Roll Call

Chairman Eichenberg called the Special Board Meeting to order at 12:05 p.m. Thursday, February 5, 2004. 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

New Executive Secretary Pam Woodruff was introduced to the Board.

2. Approval of Agenda

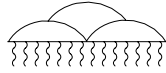
Director Stover made a motion to accept the agenda as presented. Director Hernandez seconded the motion. The motion passed unanimously (5-0).

Director Lyon asked that the Board consider a time change for the meeting scheduled for March 17th. Chairman Eichenberg stated that this could be discussed under Item #5, Unfinished Business.

3. West I-40 Phase III Diversion Channel -- Award of Construction Contract

Chairman Eichenberg introduced the next item on the agenda, the status of the West I-40 Phase II Diversion Channel contract. Executive Engineer John Kelly briefed the Board on the results of the informal hearing on the bid protest filed by Salls Brothers Construction. He introduced guests from Albuquerque Excavators: Ed Demarey, General Manager and head estimator on the project; Robert Padilla, General Superintendent; and Darrell Nichols, the Superintendent who will be supervising the job.

Mr. Kelly reported that the hearing had taken place on Friday, January 30, 2004. Salls Brothers was represented by counsel Lillian Apodaca, and Albuquerque Excavators was represented by counsel David Gorman, along with Andrew Leo Lopez, their CPA, and Dick Minnick, their bond attorney. AMAFCA Attorney Sam Bregman attended the hearing as well. Director Hernandez was at the hearing but did not participate.



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Mr. Kelly stated that, based on information presented in the hearing, he had denied the Salls Brothers protest for the reasons listed in the determination letter that was hand-delivered to both contractors on February 4, 2004, and was included in the Board mailout. Mr. Kelly stated that he had consulted with counsel Sam Bregman regarding the determination and the validity of the bid bond prior to making his determination.

Mr. Kelly stated that staff's recommendation is to award the contract to Albuquerque Excavators as the lowest responsible bidder in the amount of \$5,209,068.40. This award is subject to the condition that no appeal is filed in District Court by Salls Brothers within thirty days of this date as provided in the project specifications. Mr. Kelly stated that Mr. Salls did not intend to file an appeal.

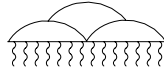
Director Hernandez made a motion that the Board accept Albuquerque Excavators, Inc., as the lowest responsible bidder, and authorize the Chairman to execute a contract with Albuquerque Excavators, Inc., in the amount of \$5,209,068.40 for construction of the West I-40 Diversion Channel, Phase III, subject to the condition that no appeal is filed in District Court by Salls Brothers Construction, Inc., within thirty days of this date as provided in the contract specification. Director Brown seconded the motion, and Chairman Eichenberg called for discussion.

Director Lyon asked if either party disagreed with the facts as presented to the Board. Chairman Eichenberg questioned the guests in attendance and noted that Salls Brothers was not present to raise an objection, therefore it is assumed that they do not have any objection to the facts as stated, nor to the recommendation by the AMAFCA staff to award the contract to Albuquerque Excavators.

In the absence of Jerry Padilla, President of Albuquerque Excavators, Chairman Eichenberg asked Ed Demarey of Albuquerque Excavators if they were prepared to do this project for the amount of money bid within the 270 days allowed for substantial completion, plus an additional 30 days for all items of work to complete the project. Mr. Demarey stated they were, and added that the reason AEI President Jerry Padilla was not present at today's meeting was due to recent surgery. Andrew Leo Lopez, CPA for Albuquerque Excavators, stated that the various questions asked by the Board were testified to during the hearing, and that they are prepared to execute the contract.

There being no further discussion, Chairman Eichenberg called for a vote on the motion, which passed unanimously (5-0).

Chairman Eichenberg called a brief recess before the Board considered the next item on the agenda.



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4. Drainage Facility Planning Review -- Review of Projects on East Side of Rio Grande

John Kelly addressed the Board, introducing his review of projects on the east side of the Rio Grande as the first step in the drainage facility planning review process. He described the technical team that was created that included AMAFCA, the City of Albuquerque, Bernalillo County, the Village of Los Ranchos, and MRGCD, to evaluate the priority of all the projects in the area covered by AMAFCA. All projects completed over the last three years with monies from the 2000 Bond Issue were reviewed. In addition to projects that were master planned, the team also looked at additional needs not addressed in the original master plans. They looked at storm drains that were of interest to AMAFCA and storm drains that would remove flood plains in certain areas of town.

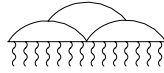
Mr. Kelly stated that over the next four special meeting workshops, the Board will look at all of these projects. However, no decisions will be made on this today. After all the areas are reviewed, the Board will need to narrow the list down to what is critical for the next Bond Election. The Board will also consider the bond process itself, to consider increasing the bond amount or frequency to meet the need.

Projects were described by five classes: A – Active Funded Project; B – Active partially funded project (in design or right of way acquisition); C – Current Problem, not funded; D – Active Growth Area, development driven; E – Intermediate and Long Term projects. Priorities on these projects were ranked as follows: 1 – High; 2 – Intermediate; 3 – Low, (i.e., Funded by Others, Needs to be combined with street rehab, and so forth).

Mr. Kelly discussed projects in the watersheds in the east mesa area upstream of the North and South Diversion Channels, with a breakdown into individual projects in each area and the priority of each, beginning with North Camino watershed. Other watersheds discussed included LaCueva, Domingo Baca, Pino and North Pino, Bear Canyon, Vinyard, Hahn, Embudo (including the Fairgrounds area), and Campus Wash.

North Camino and El Camino Arroyo Watersheds:

In the El Camino and North Camino Watershed, Mr. Kelly stated the tech team's priority is the Avulsion One Training Dike. Other projects on the lower North Camino will be driven by development on the Northern end of the Balloon Fiesta Park or at the Sandia Pueblo Property at the old Coronado Airport. Mr. Kelly said that the NMDOT was working on the I-25 / Tramway Interchange, which would include a new concrete box culvert crossing for the North Camino. They have not approached AMAFCA for assistance in funding the culvert, but could do so in the future.



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La Cueva Arroyo Watershed:

In the La Cueva Watershed, the tech team's priorities are:

- La Cueva Inlet Storm Water Quality Facility
- Avulsion 4, currently in design
- Possible participation with the City in crossing structures at Eagle Rock, Wyoming, and Barstow.

Domingo Baca Arroyo Watershed:

In the Domingo Baca Watershed, the tech team's priorities are:

- Domingo Baca Inlet Storm Water Quality Facility
- Domingo Baca Channel from North Diversion Channel to Washington

Mr. Kelly stated that the remaining uncompleted reach of the North Domingo Baca was that portion through the park site above the Kinney Dam. He said that the City was working on conceptual design of it, but funding was not identified, but the City would likely request participation from AMAFCA.

Mr. Kelly also discussed the need to analyze capacity and freeboard issues on the South Domingo Baca Channel from Wyoming up to Ventura Boulevard.

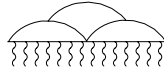
He also briefly discussed some tributary storm drains in the vicinity of San Pedro Drive that are development driven, with the City currently obtaining financial guarantees from adjacent development for the ultimate construction of the storm drains.

Pino and North Pino Arroyo Watershed:

Mr. Kelly said that there were no projects the tech team considered high priority within these watersheds.

Bear Canyon Arroyo Watershed:

Mr. Kelly stated that the Bear Canyon Storm Water Quality Facility is the tech team's priority project in this watershed. He stated that the reach between I-25 and San Mateo was being improved by the developer of that site, and that the City was working on the reach between Arroyo del Oso Golf Course and Wyoming Boulevard.



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Hahn Arroyo Watershed:

Mr. Kelly stated that City had great interest in three reliever storm drains to take water off of Comanche and Candelaria Boulevards and divert it to the Hahn Arroyo. This will remove floodplain from areas downstream on both streets.

North Diversion Channel:

Mr. Kelly discussed the proposed Osuna Storm Drain. He said that Osuna had nearly 300 cfs running down it, and has been the site of flooding in the last few years. He said the flooding was confined to the roadway and landscaped areas in the businesses along Osuna. He said the City had funding identified in their 2009 bond issue. He said there is opportunity now to work within the large median areas to get the pipe in the roadway, without the significant traffic impacts that might happen in the future.

Campus Wash Watershed:

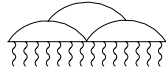
Mr. Kelly described the SE Heights Trumbell Reliever Storm Drain, a project being pushed as part of the City redevelopment in the Trumbell neighborhood, which is substantially impacted by floodplain. The storm drain would divert flows over to the existing Kirtland Detention Basin. The detention basin also needs to be expanded to accommodate the additional flows. Mr. Kelly said this project is moving quickly, with the City Municipal Development staff attempting to find adequate funding for the project. AMAFCA has not been asked to participate as of yet.

South Diversion Channel:

Mr. Kelly stated the tech team priority was Storm Water Quality Facilities, similar to the baffle chute bypass currently in design at the Bear Canyon Arroyo. Two of these would be constructed, one at the two drop structures on the channel. He said the estimate for these was \$600,000, which reflected the magnitude of the proposed structures.

Mr. Kelly stated that projects the tech team gave designations of C-1 and D-1 are the highest priorities in this area and should be considered for the next bond. He stated again that the Board should consider accelerating the bonding process, either increasing the amount of the bond authorization from \$20 to 30 Million, or increasing the frequency, from every four years to every two.

Chairman Eichenberg asked if there were any questions about the process, reminding Board members that they will need to formulate a plan for what to do in April, and that they should



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be looking at the information in their packets to prioritize the projects. A brief discussion followed.

5. Unfinished Business

Director Lyon brought up the March 17, 2004 meeting currently scheduled for 9:00 a.m., asking if it could be moved to 11:00 a.m. due to an unavoidable conflict. After discussion, Chairman Eichenberg stated that the March meeting would be held March 17, 2004 at 11:00 a.m., and that Director Stover would be excused from that meeting.

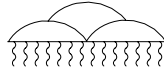
6. New Business

Chairman Eichenberg yielded to John Kelly, who brought up some new business regarding the current legislative session. Mr. Kelly started by referring the Board to an article in the February 5, 2004 Albuquerque Journal (page D-1) about the Water Utility Authority (created by the legislature last session) and AMAFCA, and proposed Senate Bills 422 and 438.

Both bills were introduced by Senator Aragon and seek to clarify details that were left out in the creation of the Water Utility Authority last year: bonding capacity, protecting the bond rating that the city has, and employee benefits. SB 438 also seeks to dissolve the AMAFCA Board and put AMAFCA under control of the Water Utility Authority.

SB 422 was introduced first, to fix the Water Authority, and then SB 438, which is identical except it also eliminates sections of the AMAFCA legislation dealing with the appointment of the Board, election of the Board, and nominations of Directors, and has AMAFCA reporting to the Board of the Water Utility Authority. That board would be made up of three County Commissioners appointed by the Chair of the Commission, three City Councilors appointed by the President of the City Council, and the Mayor. There had been some talk about where AMAFCA would fit with City/County unification, but SB 438 was not expected. Mr. Kelly requested direction from the Board as to what position AMAFCA should take with the legislature to counter this.

Chairman Eichenberg had a few comments about the bill. It was discomfoting to him to know that this bill would change the way AMAFCA has operated over the last 40 years. He speculated it could be an effort to grab AMAFCA's bond rating and ability to quickly accomplish its tasks. He attributed AMAFCA's success to Directors who have served on the Board in the past and have always put AMAFCA first. He asked the other Directors for their input as to the direction AMAFCA should go in responding to this proposed bill, and reiterated AMAFCA's mission to protect life and property, stating that he hoped this would continue.



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Director Brown stated he didn't think this sort of thing could be considered germane to the session, but apparently the governor has reviewed it, and it is now before the legislature.

Director Lyon asked if Senator Aragon had introduced both bills—the one that keeps AMAFCA's Board first, then the one that does away with AMAFCA's Board—then what is Senator Aragon's position in this? Mr. Kelly answered that AMAFCA's lobbyist, Maurice Hobson, had spoken with Senator Aragon earlier that day, and that Mr. Hobson didn't see SB 438 moving, and he didn't see anything coming out of this session. Director Lyon expressed concern as to why Senator Aragon introduced SB 438, when he'd already introduced SB 422.

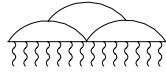
Attorney Sam Bregman speculated that SB 422 was requested by individuals involved with the water board to clean up their legislation, and that others involved or not involved with that board, to include Senator Aragon, think AMAFCA would be better under the authority of the water board rather than its own board. He speculated that Senator Aragon prefers the second bill, SB 438, but that SB 422 is his fallback position. He stated that the bills are the same except for the provisions involving AMAFCA in SB 438.

After some discussion, Chairman Eichenberg summarized by saying that the Board's position appeared to be to allow the lobbyists to find out why AMAFCA was included in the legislation, and to proceed from there. He asked if the Board should set up a committee to monitor this legislation. The Board suggested that the committee be comprised of John Kelly, Maurice and Mary Hobson, and Sam Bregman, along with Chairman Eichenberg.

7. Items from the Floor / Public Comment

Chairman Eichenberg asked for public comments. Geneva Meeker, former AMAFCA Board Member, asked how familiar the lobbyists were with AMAFCA. Chairman Eichenberg stated that they are very familiar with AMAFCA, and have worked with AMAFCA for 6 or 8 years. John Kelly stated that they are currently in Santa Fe trying to find out more about SB 438.

Larry Blair, former AMAFCA Executive Engineer, commented that it seemed like a strange marriage, since the water and sewer operation is entirely enterprise-funded as its total revenue comes from ratepayers, where AMAFCA is funded by an *ad valorem* tax. He stated the water and sewer operation should be kept independent from AMAFCA and totally dependent on revenue from ratepayers. He doesn't understand why they say they are unable to obtain bonding, as they do it all the time; they are funded by revenue bonds that come from ratepayers. He opined that mixing the two funding sources would be a difficult proposition to sort out, because the two missions are too diverse. One is providing a commodity and a service, and the other is providing protection and a service.



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Director Hernandez reiterated that the AMAFCA Board should be kept in the loop on this issue and if necessary they should hold an emergency meeting.

8. Adjourn

With no further business to discuss, Director Hernandez made a motion to adjourn the meeting. Director Stover seconded the motion, which passed unanimously (5-0). Chairman Eichenberg adjourned the meeting at 1:20 p.m.

Ronald D. Brown, Secretary-Treasurer 02/26/04

Recorded by Pam Woodruff, Secretary to the Executive Engineer