



**Albuquerque Metropolitan  
Arroyo Flood Control Authority  
Regular Meeting Minutes  
May 25, 2006**

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**1. Call to Order and Roll Call**

Chairman Eichenberg called the Regular Board Meeting to order at 10:01 a.m. Thursday, May 25, 2006. Roll was noted as follows:

Directors present:	Chairman Tim Eichenberg Director Danny Hernandez Director Daniel Lyon Director Ronald D. Brown
Director excused:	Director Janet Saiers
Others present:	John Kelly, Executive Engineer Jackie Bregman, Attorney Staff

A quorum was present.

**2. Approval of Agenda**

Director Brown made a motion to approve the agenda. Director Hernandez seconded the motion, which passed (4-0).

Mr. Kelly stated that a status report on the stilt house situation in North Albuquerque Acres would be covered under Unfinished Business.

**3. Meetings Scheduled**

- a. June 29, 2006, 10:00 a.m. – Regular Meeting**
- b. August 17, 2006, 10:00 a.m. – Regular Meeting**

There were no changes to the meeting schedule. Chairman Eichenberg stated the September meeting may be moved to September 21, but the decision will be made at the June meeting.

**4. Approval of Minutes**

- a. April 27, 2006 Regular Board Meeting**

Director Lyon made a motion to approve the minutes of the April 27, 2006 Regular Board Meeting. Director Brown seconded the motion, which passed (4-0).



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**5. Financial Matters**

**a. Approval of April 2006 Expenditures**

Irene Jeffries, AMAFCA Business Manager, presented the April 2006 Expenditure Report.

Director Brown made a motion to approve the April 2006 Expenditure Report. Director Lyon seconded the motion, which passed (4-0).

**b. Investment Report**

For information only.

**c. Financial Recap April 16, 2006 through May 15, 2006**

For information only.

**d. Financial Forecast May 16, 2006 through June 15, 2006**

Ms. Jeffries presented the Financial Forecast for the period May 16, 2006 through June 15, 2006. The forecast includes receipt of bond sale proceeds and pay estimates on the Lyon and Paradise Storm Drains, the North Camino Arroyo, and West I-40 projects in the Construction Fund, and the premium on the bond sale in the Debt Service Fund.

Director Brown made a motion to approve the Financial Forecast. Director Hernandez seconded the motion, which passed (4-0).

**e. AMAFCA Infrastructure Reporting – Consideration of Switching to Depreciation Approach as Allowed by GASB 34**

Mr. Kelly introduced CPA Chester Mattocks, AMAFCA's Auditor. Mr. Kelly summarized Mr. Mattocks' recommendation to switch to the depreciation approach as allowed by GASB 34, and the Board's subsequent discussion at the April 27, 2006 Board meeting. Mr. Mattocks stated that the depreciation schedule will be determined by the expected lifespan of each facility.

Director Brown made a motion that the Board change AMAFCA's infrastructure reporting from the modified approach to the depreciation straight-line method, with staff to provide the Board with an annual infrastructure report during the February/March timeframe. Director Lyon seconded the motion, which passed (4-0).



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**6. Legal – Status Report**

Attorney Jackie Bregman reported on the status of various legal matters. She is continuing to work with Mr. Kelly on a personnel matter, and is reviewing several draft personnel policies on cell phone, computer, and vehicle use.

**7. AMAFCA General Counsel Services – Approval of Extension of Agreement with the Bregman Law Firm**

Mr. Kelly reported that the current agreement with the Bregman Law Firm for General Counsel Services expires May 26, 2006. The agreement provides that it may be extended for up to three one-year extensions, upon mutual agreement of the parties. Mr. Sam Bregman, of the Bregman Law Firm, has indicated that he would like to extend the contract for another year with no increase in hourly rate. This would be the first extension of the contract. Mr. Kelly recommended the extension.

Director Brown made a motion that the Board approve the extension of the contract with the Bregman Law Firm to provide general counsel services for an additional year at the same rate. Director Lyon seconded the motion, which passed (4-0).

The Board expressed appreciation to Ms. Bregman for her willingness to work with AMAFCA and the Board whenever Mr. Bregman's court schedule required it.

**8. Southwest Valley Drainage Improvements Project Right of Way Acquisition**  
**a. Consideration of Counteroffer on Corps of Engineers Pond 187 Property**

Mr. Kelly stated that a counteroffer had been received regarding the purchase of the Pond 187 property for the Corps of Engineers project.

Director Hernandez made a motion that the meeting be closed, pursuant to the Open Meetings Act, §10-15-1 NMSA 1978, Subsection H, to preserve the confidentiality of the information to be discussed, and as further described in Attorney General Madrid's document, "*Open Meeting Act, Compliance Guide for New Mexico Public and Citizens*," fourth edition, August 1999. Director Brown seconded the motion.

Chairman Eichenberg stated that the closed session would be for purposes of discussion only, regarding a right of way real estate purchase counteroffer. The motion passed (4-0).



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Chairman Eichenberg closed the meeting at 10:12 a.m. The meeting was reopened at 10:49 a.m.

Chairman Eichenberg stated that the Board had taken no action during the closed meeting, but had discussed a real estate purchase counteroffer.

Director Brown made a motion that the Board direct staff to proceed with communicating a counter-counteroffer to the property owner, with the terms and conditions discussed during the closed session. Director Hernandez seconded the motion, which passed (3-1). Director Lyon voted against the motion. Chairman Eichenberg stated he had reluctantly voted for the motion so that it would pass.

**9. AMAFCA Resolution Review**  
**a. Personnel Resolutions**  
**b. Real Estate Resolutions**

Chairman Eichenberg requested that the review of AMAFCA Personnel and Real Estate Resolutions be deferred to the June Board meeting, to allow more time for study and review.

Director Brown made a motion that the Board defer review of AMAFCA Personnel and Real Estate Resolutions to the June 29, 2006 Board meeting. Director Hernandez seconded the motion, which passed (4-0).

**10. Bidability/Constructability Reviews – Consideration of Agreements with:**  
**a. A.S. Horner, Inc.**  
**b. AUI, Inc.**  
**c. New Mexico Underground, Inc.**  
**d. RMCI, Inc.**  
**e. Salls Brothers Construction, Inc.**

Kurt Wagener, AMAFCA Field Engineer, stated that staff had negotiated agreements with A.S. Horner, Inc., AUI, Inc., New Mexico Underground, Inc., RMCI, Inc., and Salls Brothers Construction, Inc., for Design, Bidability, and Constructability Reviews.

Director Hernandez made a motion that the Board approve Agreements for Engineering Services – Design, Bidability and Constructability Reviews, with A.S. Horner, Inc., AUI, Inc., New Mexico Underground, Inc., RMCI, Inc., and Salls Brothers Construction, Inc., and authorize the Chair and Secretary to execute the Agreements. Director Brown seconded the motion, which passed (4-0).



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**11. Discussion on New Proposal for Temporary Private Access License Across  
AMAFCA Power Line Channel Right of Way**

Mr. Kelly introduced Fred Salls, of Salls Brothers Construction, and Ricardo Yzquierdo, Safety Officer for Salls Brothers Construction.

Mr. Kelly stated that staff had been approached by Salls Brothers Construction with a proposal to pave a portion of AMAFCA's Powerline Channel maintenance road, and deliver 2,000 cubic yards of large basalt riprap to the north bank of the Calabacillas Arroyo at Eagle Ranch Road, in consideration for access along the AMAFCA maintenance road to remove approximately 1,000,000 cubic yards of material in the "sand dune" on the adjacent Westland property. The value of the riprap and paving is in the \$80,000 - \$100,000 range.

Mr. Kelly stated that the proposal is similar to the one discussed at the December, 2005 Board meeting.

He added that staff proposes that AMAFCA and Salls Brothers enter into a short-term non-exclusive license agreement that will address AMAFCA's obligations under its programmatic permit for Fugitive Dust Control.

Using a map of the area, Mr. Salls pointed out where the maintenance road improvements would be located, stating that Salls Brothers will have an exclusive contract with Westland for the dirt.

Discussion followed.

In response to a question from the Chairman, Mr. Salls indicated that the maintenance road improvements and delivery of the rip rap would cost Salls Brothers approximately \$110,000. By locating the cattle guard further from Central Avenue than in the December 2005 proposal, truck tires will be cleaner by the time they reach Central, and will have little or no track-out onto Central. Mr. Salls added that any spills or track-out will be cleaned up immediately, and a traffic control flag person will be on duty whenever trucks are accessing the site.

Mr. Kelly stated that AMAFCA will retain the ability to sell material from the AMAFCA right-of-way to Salls Brothers at the current \$1/CY royalty.

Consensus of the Board was that staff should proceed with negotiating the proposed license agreement.



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**12. West I-40 Diversion Channel Extension – Proposed Cost Sharing Arrangements for Interim and Permanent Drainage Improvements within West I-40 Corridor**

**a. Consideration of Turnkey Agreement with Cordero Mesa**

Mr. Kelly stated staff had negotiated a turnkey agreement with Cordero Mesa for the portion of the West I-40 Diversion Channel Extension improvements that would be located on the Cordero Mesa property. The channel will be used as a temporary retention pond until the downstream facilities are built. Cordero Mesa will maintain the facility until it serves as a channel, at which time AMAFCA will take over maintenance. A fee interest to AMAFCA will be dedicated at the next plat action on Cordero Mesa. The facility will be built before the financial guarantee to Bernalillo County expires.

Director Hernandez made a motion that the Board authorize the Executive Engineer to execute the Agreement to Provide Maintenance for the West Amole Arroyo Diversion Channel, West of Paseo del Volcan. Director Lyon seconded the motion, which passed (4-0).

**b. Status of Agreement with AMAFCA and Westland for East Amole Surge Pond and Inlet and Outfall Pipes**

Jerry Lovato, AMAFCA Drainage Engineer, reported that discussions with the NMDOT, City of Albuquerque, Bernalillo County, and Westland Development have resulted in a funding proposal that will address the possibility of cost over-runs within the \$11 million funding limitations of the parties.

Mr. Lovato added that the parties propose to fund the project's "contingency fund," which covers potential cost over-runs, from the construction funds. The NMDOT is considering building an interchange at Paseo del Volcan with a smaller foot print than originally conceived, which means that less pipe would be needed on that portion of the project. The cost savings from the reduced amount of pipe would go into the project's contingency fund, which would be used to pay for any cost over-runs on the rest of the project. Westland agrees with this approach and has begun design of the pipe that will be installed in the NMDOT ROW under the climbing lane.

Mr. Lovato stated that two key developments that have occurred since the last Board Meeting were the use of construction funds for the project in a "contingency fund," and infrastructure maintenance. He stated that, normally, the City of Albuquerque would maintain the infrastructure within the City limits, and Bernalillo County would require that private landowners maintain interim infrastructure within the County. The NMDOT has a vested interest in ensuring that maintenance is done properly within NMDOT right-of way and



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upstream of the NMDOT right-of-way, so the proposal is that AMAFCA would handle maintenance of interim infrastructure that diverts storm flows (diversion) and permanent diversion infrastructure located in the County or the City of Albuquerque.

Mr. Kelly stated that the pipe to the west of the Double Eagle II Dam could be put out to bid as an additive alternate. Whatever funds were left after the balance of the entire project was built would be used on a variable amount of pipe to the west of the Double Eagle II Dam, equal to the amount of money left in the contingency fund.

Chairman Eichenberg asked Leroy Chavez, of Westland Development, if he had any comments. Mr. Chavez stated that he supported the use of a contingency fund within the project, but would prefer that any money left in the contingency fund be used to fund permanent pipe between the East Amole Surge Pond and the Double Eagle II Dam, rather than permanent pipe west of the Double Eagle II Dam.

In response to another question from the Chairman concerning the short amount of time allocated for design of the Project, Craig Hoover, of Bohannon-Huston, Inc., design engineer on the drainage project, stated that a team is already working on the design in the climbing lane area. Another team has just finished a job for SSCAFCA, and will be working on the rest of this project. Sufficient staff is available to complete this project in a timely manner.

Discussion followed. Board consensus was that staff should proceed with drafting an agreement using a project contingency fund, and with AMAFCA to maintain the drainage infrastructure after construction, for the Board's approval at a later meeting.

**c. Status of Agreement with AMAFCA and NMDOT for Climbing Lane Project**

Mr. Lovato stated that the main interest of the NMDOT was the maintenance of interim and permanent storm drains, which had been addressed by the Board in response to the previous item.

After discussion, the consensus of the Board was that staff should proceed with drafting an agreement for the Board's approval.

Mr. Kelly stated that the agreements would be presented to the Board for approval at the June meeting.



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**13. Real Estate**

**a. Approval of License Agreement with City of Albuquerque for 2006 Balloon Fiesta**

Mr. Kelly requested the Board's approval of the 2006 Balloon Fiesta License. He stated that the license agreement had been reviewed by counsel, and was essentially the same as prior years with minor updates.

Director Hernandez made a motion that the Board authorize the Chairman to execute the 2006 Balloon Fiesta License. Director Brown seconded the motion, which passed (4-0).

Mr. Kelly stated he had been approached about a possible second temporary license agreement to cover a temporary RailRunner platform to be located where the railway crosses the North Diversion Channel just west of Edith. This separate temporary license agreement would be drafted to cover construction and liability issues, and will be brought to the Board at a later date.

Chairman Eichenberg stated that he would move ahead to item 15, returning to item 14 at the end of the agenda.

**15. FY 2007 Budget**

**a. Operating Budget**

Mr. Kelly presented the FY 07 General Operating Budget for the Board's review and approval. He stated the ending balance had been adjusted based on current projections through June 30, 2006, and projected interest had been increased to reflect interest income received through May 1, 2006. Changes since the April Board meeting include:

- Board Errors & Omissions Insurance budget increased 5% due to an increase from the New Mexico Self Insurer's Fund
- Contract Mechanized Trash Removal decreased \$20,000
- A new line item for West I-40 Landscape maintenance contract, for \$20,000

He added that the summary page of the Operating Fund Budget would be submitted to the New Mexico Department of Finance and Administration (DFA) for their approval.

Director Hernandez made a motion that the Board approve the FY-07 Operating Fund Budget, with the summary page to be submitted to the DFA for their approval. Director Brown seconded the motion, which passed (4-0).





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**b. Construction Fund Budget**

Mr. Kelly presented the FY 07 Construction Fund Budget for the Board's review and approval. The budget includes one \$9,750,000 bond issue, assuming passage of the bond election, which will be the first issue from the November 2006 authorization. The Construction Fund Budget will also be submitted to the DFA. In response to a query from Director Hernandez, Mr. Kelly confirmed that the ending date on the budget summary sheet should read "June 30, 2007" rather than "June 30, 2006."

Director Hernandez made a motion that the Board approve the FY-07 Construction Fund Budget, for submittal to the DFA by June 1, 2006. Director Brown seconded the motion, pointing out that budgeting the money does not obligate AMAFCA to build any of the projects listed.

The motion passed (4-0).

**c. Contingency Fund Budget**

Mr. Kelly presented the FY 07 Contingency Fund Budget for the Board's review and approval. The balance at July 1, 2007 includes \$1,250,000 reserved for channel repairs and rehabilitation.

Director Hernandez made a motion that the Board approve the FY-07 Contingency Fund Budget. Director Brown seconded the motion, which passed (4-0).

**d. Debt Service Fund Budget**

Mr. Kelly presented the FY 07 Debt Service Fund Budget for the Board's review and approval.

Director Brown made a motion that the Board approve the FY-07 Debt Service Fund Budget. Director Hernandez seconded the motion, which passed (4-0).

**e. Resolution 2006-7, *Fiscal Year 2007 Budget***

Mr. Kelly reported that Resolution 2006-7, *Fiscal Year 2007 Budget*, had been reviewed by legal counsel. The summary page for each of the fund budgets will be attached to the resolution, and it will be submitted to the New Mexico Department of Finance and Administration for approval by the June 1, 2006 deadline.



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Director Hernandez made a motion that the Board pass and adopt Resolution 2006-7 Fiscal Year 2007 Budget, and authorize the Chair and Secretary to sign. Director Brown seconded the motion, which passed (4-0).

**16. Unfinished Business**

Lynn Mazur, AMAFCA Development Review Engineer, stated that the County Planning Commission had granted the setback variance appeal by the owners of the stilt house lot in North Albuquerque Acres. That decision has been appealed by a group of neighbors, on the basis that the lot is not unique to the area and there is sufficient area outside the floodplain to build a house. The appeal will be heard before the Board of County Commissioners on June 27, 2006. The County Technical Services Director, Roger Paul, has requested an AMAFCA representative attend.

She stated that AMAFCA and the County have not yet developed policies dealing with floodplain development, and have not adopted ordinances or resolutions concerning stilt house construction in the floodplain. She expects other stilt house submittals will be forthcoming.

She added that the Association of State Floodplain Managers national conference in Albuquerque in June will include a program on "Property Rights and Floodplain Management, Legally Speaking," which will include discussion on the U.S. Supreme Court's "Taking Issues" cases and the challenge regulators face to be bold in setting policy while remaining sensitive to property rights. She plans to attend the session. Director Hernandez also expressed an interest in attending that session. Ms. Mazur pointed out a legal review article regarding floodplain regulations which she had provided to the Board.

Mr. Kelly added that, depending on the decision of the Commission, AMAFCA may find itself needing a policy on development in the floodplain soon. He added that the nationwide trend is to prohibit development within the floodplain.

**17. New Business**

**a. MRCOG Regional Excellence Awards**

Mr. Kelly stated that the Mid-Region Council of Governments (MRCOG) is seeking nominees for their 2006 Regional Excellence Awards. He added that he would like to nominate either the Lyon Boulevard Storm Drain or the Amole Arroyo/98th Street Crossing Projects for the Public/Private Partnership Award, and asked for Board input.



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Discussion followed.

The final consensus of the Board was to submit the Amole Arroyo Project for consideration, as it was more impressive visually and would make a better submittal. The Lyon Boulevard Storm Drain was a significant regional drainage project, but the work is all underground and difficult to visualize.

**18. Items from the Floor/Public Comment**

None.

Chairman Eichenberg called a brief recess at 11:37 a.m. The meeting reconvened at 11:40 a.m.

**14. Field Highlights**

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

Mr. Wagener gave a slide show of current AMAFCA projects. Mr. Lovato discussed pictures of the West I-40 Diversion Channel Phase III project, which is proceeding satisfactorily. All repair work has been completed. He expects the project will reach substantial completion in mid-June. Director Hernandez suggested inviting the bicycling community to the completion ceremony.

Mr. Lovato added that the AMAFCA Board and staff were invited to a ceremony to be held that afternoon at 4:00 p.m. on the eastbound I-40 to northbound Coors off ramp, to celebrate the completion of the NMDOT GRIP Coors I-40 Interchange project. The site should be accessed from northbound Coors.

Mr. Wagener showed pictures of the final inspection of the box culverts at the North Domingo Baca Park, with some railing and grading work remaining to be done. He also showed pictures of the pipe work on the Paseo del Norte extension.

Mr. Lovato discussed photos of work on the La Cueva Arroyo at Barstow. The developer started rough grading of the new concrete channel over a year ago and has continued to make progress on the project, but does not appear to be on track to finish the channel work by late August, as specified in the contract. Issues that have affected all construction in Albuquerque, including steel reinforcement and concrete shortages, will extend the completion date of the project, and the developer may ask for a contract extension.



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Mr. Lovato reported that AMAFCA recently received complaints from neighbors that the developer had been burning weeds and trash on the site. AMAFCA contacted the Developer concerning trash and debris removal, project safety and the movement of storm flows through the project.

Mr. Wagner showed some pictures of the Amole Arroyo Phase III and North Camino Arroyo Projects.

Ms. Mazur discussed pictures of the Lyon Storm Drain project final walk-through inspection. She stated the Paradise Storm Drain project went quickly because the contractor found very little basalt.

Mr. Wagener finished the field report with some photos of the AMAFCA crew cleaning up sediment at the South Diversion Channel, replacing a tire on the loader, and clearing underbrush at the San Antonio Arroyo with the help of a rented skid steer, leaving larger trees behind. A small fire truck can now access the Bosque at this point, if necessary. The crew also installed a pipe fence access control structure at the Snow Vista Channel, to reduce dumping and ATV use.

**19. Adjourn**

With no further business to discuss, Chairman Eichenberg adjourned the meeting at 11:57 a.m.

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Daniel F. Lyon, Secretary-Treasurer 6/29/06

Recorded by Pam Woodruff, Secretary to the Executive Engineer