



Albuquerque Metropolitan Arroyo Flood Control Authority
Regular Meeting Minutes
May 28, 2020
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1. Call to Order and Roll Call

Chair Thomson called the Board Meeting to order at 10:00 a.m., Thursday, May 28, 2020. The call was hosted via Zoom in order to comply with AMAFCA Resolution No. 2020-05, a Resolution of The Governing Body of Albuquerque Metropolitan Flood Control Authority, Authorizing The Exercise By Board of Directors of Amended Procedures for The Conduct of Public Meetings During The Effective Period of Executive Order No. 2020-004, Issued By The Governor of New Mexico On March 11, 2020.

Directors present via Zoom: Chair Bruce M. Thomson
Director Tim Eichenberg
Director Deborah L. Stover
Director Ronald D. Brown – left Zoom at 12:47 p.m.
Director Cynthia D. Borrego – on Zoom at 10:55 a.m.

Directors excused: None

Attorney present via Zoom: William Zarr, Robles, Rael & Anaya

Others present via Zoom and / or in person: Jerry M. Lovato, P.E., Executive Engineer
Staff

A quorum was present.

2. Approval of Agenda

Director Brown made a motion to approve the agenda. Director Eichenberg seconded the motion, which passed (4-0), on a roll-call vote.

3. Meetings Scheduled

- a. June 25, 2020, 10:00 a.m. – Regular Meeting**
- b. July 23, 2020, 10:00 a.m. – Regular Meeting**
- c. August 27, 2020, 10:00 a.m. – Regular Meeting**

There were no changes to the above dates.

4. Items from the Floor / Public Comments

The following (unedited) public comment was received on May 18, 2020, read into the record, and sent to the Board of Directors. This same document was viewed on the Smartboard by the AMAFCA Board and members of the public participating via Zoom.

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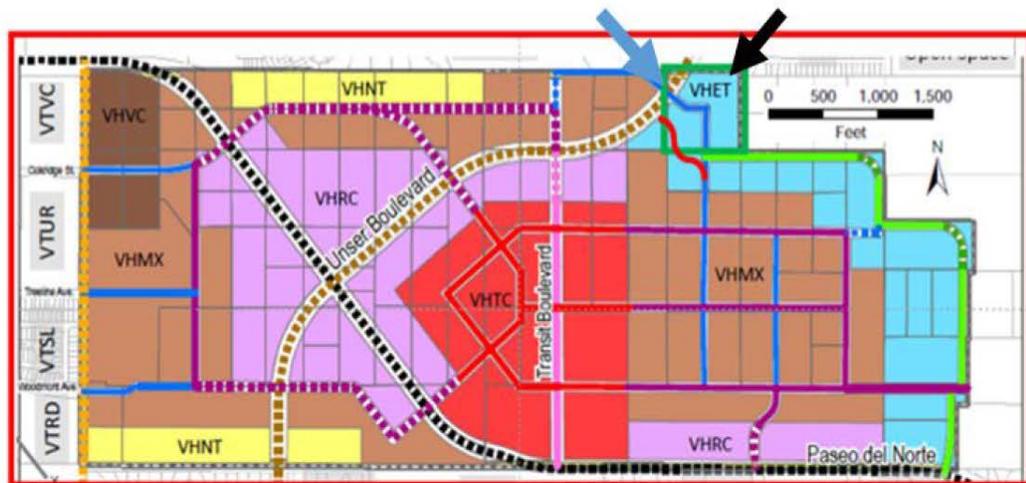
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From: [Hoffman, Jim](mailto:Hoffman_Jim)
To: amafca@amafca.org
Subject: Public Comment for May 28, 2020 AMAFCA Board Meeting ... Update Request - Upper Piedras Marcadas Drainage and Water Quality Management Plan - Land Acquisition and Pond Construction
Date: Monday, May 18, 2020 3:18:30 PM
Attachments: [image004.png](#)

AMAFCA Board,
I would like to request and update on the Upper Piedras Marcadas Drainage and Water Quality Management Plan - Land Acquisition and Pond Construction.

AMAFCA completed the Upper Piedras Marcadas Drainage and Water Quality Management Plan in April 2017. This plan took over 3 years to complete and identified general pond locations in the area. AMAFCA initiated the process to acquire land to construct one of the ponds (referred to here as the Unser Pond) located along Unser Boulevard just south of the Sundance Estates subdivision pond shown by the green square / black arrow in Figure 1 below.

Figure 1 –Roadways from Volcano Heights Sector Development Plan



This activity disappeared from the AMAFCA Board agenda on or about July 2018

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11:40 17. Executive Session (closed)

- a. Discuss the Acquisition of Real Property (§10-15-1(H)(8)) - Upper Piedras Marcadas Watershed

Since then there seems to have been zero progress on this activity ... why?

My understanding of what had occurred up to that point is that there were potential issues with

- The value AMAFCA was offering the landowner
- Potential elimination of the right in / right out roadway access point (blue arrow above) to Unser Boulevard

Neither of these issues should stop progress on this pond.

- AMAFCA can utilize the condemnation process to determine ultimate fair and equitable compensation to the landowner.
- The roadway access issue could be discussed / negotiated with the landowner with involvement from the City and / or MRCOG. However, nobody I have contacted at the City or MRCOG is even aware of any issue.

- 1) Please provide an update on the status of the Unser Pond and current actions to resolve any issues as this is key regional infrastructure that impacts many landowners and ultimate development in the Volcano Heights area.
- 2) Additionally, please provide an update on any activity with regards to the other ponds identified in the Upper Piedras Marcadas Drainage and Water Quality Management Plan, especially the one that was shown to be located on City owned property along Paseo del Norte near the southeast corner of Figure 1 above.

Respectfully,

James A. Hoffman

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Mr. Jerry M. Lovato, AMAFCA Executive Engineer, agreed that AMAFCA had been working (diligently) on purchasing a piece of property from a private landowner; the purchase of that land would also require AMAFCA to have access to a piece of property owned by the City of Albuquerque (CoA), just west of the property; AMAFCA is still in communication with CoA for that piece of property as well as a piece of property on the northside of Paseo del Norte; and it is anticipated the topic would be brought to the Board in approximately 60 days as AMAFCA moves forward to identify drainage possibilities for the Paseo road project that this currently being designed by CoA. He further recapped that the piece of private property had an appraisal; an offer had been made that was rejected; the AMAFCA Board were given the option to condemn the land; and condemnation was not required because development and flooding was not imminent at that point of time. Regarding right in / right out, AMAFCA did start the process on changing the sector plan; and when the property owner decided to not take the offer all changes were stopped on the sector plan. As far as the drainage, there is still a plan; there is still a possibility of working with the landowner if he wants to work with AMAFCA; at this point there is not a land seller; and as previously noted, AMAFCA decided not to condemn the land. As for the pond on Paseo del Norte, AMAFCA will still work diligently with CoA to get access to the five acres and if access is received in the next 60 days it will be put in the 2021 Project Schedule for a future project.

Chair Thomson asked if Mr. Hoffman was on the Zoom conference. Since there was no response, Chair Thomson asked Mr. Lovato to write a short letter explaining the status and recap the information provided during the Board presentation. The Board recalled, in addition to the price AMAFCA offered to the land seller, there were other conditions which changed the offer because then the value would have been greater than the appraisal. Mr. Lovato agreed that there were more issues than just the appraised value.

5. Approval of Minutes

a. April 23, 2020

Director Brown made a motion to approve the minutes of April 23, 2020. Director Stover seconded the motion, which passed (4-0), on a roll-call vote.

b. May 4, 2020

Director Eichenberg made a motion to approve the minutes of May 4, 2020. Director Stover seconded the motion, which passed (4-0), on a roll-call vote.

Chair Thomson stated **Agenda Items 6 a through 6 d** were on the Consent Agenda. Director Stover made a motion that the Board accept the items on the Consent Agenda.

The motion approved the following:

- Design, Bidability, and Constructability Review Service Agreements with AUI, Inc., CBKN Dirtworks, Inc., New Mexico Underground Contractors, Inc., and RMCI, Inc. – Second Extension; and

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- Authorize the Executive Engineer, pending State Auditor approval, to enter into the first extension for audit services for the fiscal year ending June 30, 2020, with Carr, Riggs & Ingram, LLC.; and
- Professional Engineering Services Agreement with Bohannon Huston, Inc., for the Calabacillas Arroyo West Branch Grade Control Structure Project; and
- Authorize the Executive Engineer to purchase a trailer.

Director Brown seconded the motion, which passed (4-0), on a roll-call vote.

Responding to a question on construction costs on the Calabacillas Arroyo West Branch Grade Control Structure Project, Mr. Lovato stated the estimated cost is between \$4.1M to \$4.6M.

7. Executive Engineer's Report

a. Notification of Past Month's Activities

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, referenced the late mailout which highlighted significant activities from the last month.

- **General & Administrative**

Safety and Security – AMAFCA Staff: Security improvements at the AMAFCA Office are on-going. The AMAFCA office will remain in a lock down condition. Cameras and locking doors should be working in the next 10-15 days.

COVID-19: AMAFCA has instituted COVID-19 practices as outlined by the State of New Mexico to include cleaning, sanitizing, and washing of hands. In addition, AMAFCA staff is maximizing the use of teleconferencing to interact with constituents and consultants.

GandyDancer Defaults: AMAFCA staff and attorneys have worked diligently over the last two weeks to get the tender agreements finished and signed. AUI has signed the contract with AMAFCA to become the completion contractor for both projects. The AMAFCA Board would need to sign the contract and approve the change order for each construction contract to allow AUI to start work on the Lower Bear Tributary Arroyo Regional Flood Control and Water Quality Improvements Project and the Agency and Area-Wide Flood Control Rehabilitation VIIIb Project. It had been a long six months negotiating with the Surety. AMAFCA continues to provide security and permit compliance maintenance on both projects. There should be progress on both projects in the next 60 days.

- **Planning and Engineering**

UNM North Golf Course: Work on the gabion structure design had been halted due to COVID-19 delays. It is unknown at this time when the design will be submitted to UNM for review. AMAFCA is working with a couple of consultants to see how the project can move forward.

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CoA Bond Program: AMAFCA staff is working with CoA staff to coordinate CoA's capital improvement program associated with flood control facilities. Both programs will address possible joint projects.

There were no questions.

b. Notification of On-Call Services Task Orders

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, referred to the memo for task orders issued over the last month. There were no questions.

8. Financial Matters

a. Financial Matters – Approval of Expenditures and Forecast

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo and answered questions from the Board.

Director Stover made a motion to approve the April Expenditure Report. Director Brown seconded the motion, which passed (4-0), on a roll-call vote.

b. Financial Position: Recap April 16, 2020 to May 15, 2020 & Forecast May 16, 2020 to June 15, 2020

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo. There were no questions.

Director Brown made a motion to approve the Financial / Forecast Report. Director Stover seconded the motion, which passed (4-0), on a roll-call vote.

c. Fiduciary Funds – Proof of Cash and Savings

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo. There were no questions.

9. AMAFCA FY-2021 Budget Draft Operating Fund Budget

a. Draft FY-2021 General Fund Budget

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo and answered questions from the Board.

Director Brown made a motion to approve the Draft FY-2021 General Fund Budget. Director Stover seconded the motion, which passed (4-0), on a roll-call vote.

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b. Draft FY-2021 Acquisitions & Savings Fund Budget

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo. There were no questions.

Director Stover made a motion to approve the Draft FY-2021 Acquisitions and Savings Fund Budget. Director Brown seconded the motion, which passed (4-0), on a roll-call vote.

c. Draft FY-2021 Construction Fund Budget

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo and answered questions from the Board.

Director Stover made a motion to approve the Draft FY-2021 Construction Fund Budget. Director Brown seconded the motion, which passed (4-0), on a roll-call vote.

d. Draft FY-2021 Agency & Area-Wide Fund Budget

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo. There were no questions.

Director Stover made a motion to approve the Draft FY-2021 Agency & Area-Wide Fund Budget. Director Brown seconded the motion, which passed (4-0), on a roll-call vote.

e. Draft FY-2021 Debt Service Fund Budget

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo. There were no questions.

Director Stover made a motion to approve the Draft FY-2021 Debt Service Fund Budget. Director Brown seconded the motion, which passed (4-0), on a roll-call vote.

f. Draft FY-2021 Fiduciary Fund Budget

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo. There were no questions.

Director Brown made a motion to approve the Draft FY-2021 Fiduciary Fund Budget. Director Stover seconded the motion, which passed (4-0), on a roll-call vote.

10. Resolution 2020-08, Ad Valorem Tax Levy for Tax Year 2020, Applicable to General Operating Fund – Adoption

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo and answered questions from the Board.

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Director Eichenberg made a motion that the Board adopt Resolution 2020-08, Ad Valorem Tax Levy for Tax Year 2020, Applicable to General Operating Fund. Director Stover seconded the motion, which passed unanimously (4-0), on a roll-call vote.

11. Resolution 2020-09 – Ad Valorem Tax Levy for Tax Year 2020, Applicable to Debt Service Fund – Adoption

Mr. Herman Chavez AMAFCA Finance and Administration Manager, summarized information provided in the memo. There were no questions.

Director Brown made a motion that the Board adopt Resolution 2020-09, Ad Valorem Tax Levy for Tax Year 2020, Applicable to Debt Service Fund. Director Stover seconded the motion, which passed unanimously (4-0), on a roll-call vote.

Audio interference was noted at this point by the Board. The interference cleared up in less than a minute's time and the meeting resumed.

12. AMAFCA Bond Program

a. Bond Sale Presentation by RBC

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, introduced Mr. Erik Harrigan, Managing Director with RBC Capital Markets, LLC and Mr. Daniel Alsup with Modrall, Sperling, Roehl, Harris & Sisk. Part of the presentation included information from the April 23, 2020 Board Meeting. There was brief discussion regarding items such as authorizing the AMAFCA Chair and Vice Chair flexibility for a bigger window, other than just one day, to watch the market; those rated AAA are not having issues accessing the market; investors want high quality paper; the language in the Resolution could be changed to allow AMAFCA to delegate to a member of the Board approval of date and interest rate; in the last 6-8 weeks there was a 15% hit on the market; April had a spike in rates; what items would need to be changed on the Resolution; and the Board agreed to table action until later in the meeting.

b. Resolution 2020-10, Notice of Bond Sale (Series 2020 Bonds)

This item was deferred to later in the meeting so that Bond Counsel and Mr. Herman Chavez could make the changes the Board had requested.

13. Legal

a. Legal Status

Attorney William Zarr summarized information provided in the memo. There were no questions.

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14. UNM Hydraulic Modeling and Technical Assistance Funding Agreement for FY-2021 – Approval of FY-2021 Funding Agreement

Chair Thomson recused himself due to a potential conflict and turned the meeting over to Vice Chair Brown. There was a brief discussion regarding having Legal Counsel check to see if the agreement to UNM is in violation of procurement code since it does not go out to Request for Proposal; there are other local education facilities that may be able to do the same work; and the new agreement will be the 32nd year with UNM. Mr. Jerry M. Lovato, AMAFCA Executive Engineer, stated there are a couple things tied into cost such as the Intern and Hydraulic Modeling. The intern is a service and not procurement; the hydraulic modeling has a requirement for the contractor to be in Albuquerque for work on Albuquerque facilities; and AMAFCA would investigate the procurement issue. The Board suggested the agreement could be approved subject to legal review and that it does not violate procurement code; and AMAFCA works on getting an answer prior to the next year.

Director Eichenberg made a motion that the Board approve the Funding Agreement for FY 2021 with UNM for Hydraulic Modeling and Technical Assistance. Director Borrego seconded the motion, which passed (4-0), on a roll-call vote. Chair Thomson had recused himself earlier.

Vice Chair Brown turned the meeting back over to Chair Thomson.

15. Tennyson Apartments – Development Near Pino Dam – Project Introduction

Director Brown stated he owns property adjacent to Pino Dam and while not aware of what is happening, he would recuse himself. Mr. Bradley L. Bingham, AMAFCA Drainage Engineer, covered the location. He introduced Mr. Kurt Browning with Titan Development. Part of Mr. Browning's presentation referred to the cover letter that was included in the Board mailout; Titan offices in New Mexico and outside of New Mexico; projects currently in the works; and introduced Mr. Brian Patterson and Mr. Josh Rogers with Titan. Mr. Bradley L. Bingham covered both the old turnkey (with Mr. John Mechenbier) and a possible new turnkey; and referenced the footprint of Titan's preliminary plans. Responding to a question on zoning, Mr. Josh Rogers covered the zoning issue and stressed that it would still go to both the Environmental Planning Commission and Development Review Board; highlighted the cost(s); number of units being constructed; estimated time of completion, etc. The Board agreed it was an interesting project.

16. AMAFCA Drainage Policy 2020 Update – Review of Draft Policy

Mr. Kevin Troutman, AMAFCA GIS Manager, summarized information provided in the memo and answered questions from the Board. Part of the presentation included a "Thank You" to both Ms. Nicole Friedt and Mr. Jared Romero for their help consolidating the information to note items that are important and those that were not; items that have not changed from previous Policies and Resolutions; items that would be modified; items that are current engineering practices; relationships and responsibilities of partner agencies (CoA, BernCo, MRGCD, etc.); and those items new to the AMAFCA policy. Mr. Troutman stressed that the policy is for AMAFCA staff; it sets a baseline; and the Board has the authority to go above and beyond or waive items.

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17. Joint Projects – City of Albuquerque

a. Dallas Storm Drain Regional Flood Control System – Project Update

Mr. Bradley L. Bingham, AMAFCA Drainage Engineer, summarized information provided in the memo and answered questions from the Board. Part of the presentation covered the recommended stormwater storage; recently completed Louisiana Gibson Regional Drainage Facility; the need for a detention facility at Eastern and Alvarado in order to remove floodplain for 600 +/- residents; and to reduce flooding at San Mateo / Constitution (Pueblo Alto floodplain); covered the Zuni Penn and Library Ponds; and advised that Mr. John Mackenzie with CoA was on the conference as well.

18. Joint Projects – Bernalillo County / Middle Rio Grande Conservancy District

a. Three Dam Outlet Project – Project Update

Ms. Nicole M. Friedt, AMAFCA Drainage Review Engineer, summarized information provided in the memo and answered questions from the Board. Part of the presentation recapped the work to date; work done through AMAFCA's partnership with MRGCD; improvements done for MRGCD's benefit; various before / after photos; and stressed AMAFCA need to exercise additional management and oversight due to the use of MRGCD rights-of-way and the various material supply issues. Mr. Jerry M. Lovato, AMAFCA Executive Engineer, covered the alignment of the Gun Club McCoy realignment. The Board commended Ms. Friedt, AMAFCA staff, contractors, and partner agencies on the completion of these complicated projects.

19. AMAFCA Field Highlights

a. Field Report

Mr. Nolan Bennett, AMAFCA Field Engineer, gave a report of various projects and events over the last few months and answered questions from the Board.

b. Construction Report

Mr. Nolan Bennett, AMAFCA Field Engineer, referred the Board to the various charts. There were no questions.

c. Lower Bear Tributary Arroyo Regional Flood Control and Water Quality Improvements Project – Approval of Change Order to install AUI as Completion Contractor

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, summarized information provided in the memo and answered questions from the Board. The change order is substantially as attached, pending legal review.

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Director Eichenberg made a motion that the Board authorize approval of the Change Order to the construction contract to install AUI as the Completion Contractor, substantially as attached to complete the Lower Bear Tributary Arroyo Regional Flood Control and Water Quality Improvements Project. Director Brown seconded the motion, which passed (5-0), on a roll-call vote.

Director Brown stated he needed to leave for another meeting and advised that he was in support of **Agenda Items 19 d. Agency & Area-Wide Flood Control Rehabilitation VIIIb Project – Approval of Change Order to install AUI as Completion Contractor** and **12 b. Resolution 2020-10, Notice of Bond Sale (Series 2020 Bonds)**. Director Brown left the Zoom meeting at 12:47 p.m.

Agenda Item 12 b. Resolution 2020-10, Notice of Bond Sale (Series 2020 Bonds) was tabled earlier in the meeting in order to allow the required modifications to be made for Board action.

12. AMAFCA Bond Program

b. Resolution 2020-10, Notice of Bond Sale (Series 2020 Bonds)

The revised Resolution 2020-10, Notice of Bond Sale was sent to all Directors. Responding to a request from the Board to have the record reflect the changes, Mr. Daniel Alsup summarized the following: added two recitals that the Board desires to delegate authority pursuant to Section 6-14-10-14-2, NMSA 1978, to the Chair and / or Vice Chair to determine the sale date, final interest rate, and final terms and additional details of the Bonds; language was changed regarding Board action on June 25 to award bids that the Chair and / or Vice Chair will determine; added in Section 4 to delegate authority to the Chair and / or Vice Chair; Form of Bond added as a new Section (5); and Notice to Bernalillo County Commission on amount of tax leveed as a new Section (6).

Director Borrego made a motion that the Board approve and adopt revised Resolution 2020-10, 2020, Notice of Bond Sale and authorize the Chair and Secretary-Treasurer to execute the same on behalf of AMAFCA. Director Stover seconded the motion. The motion passed unanimously (4-0), on a roll-call vote. Director Brown had left the Zoom meeting and had acknowledged before leaving that he supported this item.

The remainder of **Agenda Item 19. AMAFCA Field Highlights** was picked up at this point.

d. Agency & Area-Wide Flood Control Rehabilitation VIIIb Project – Approval of Change Order to install AUI as Completion Contractor

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, summarized information provided in the memo and answered questions from the Board. The change order is substantially as attached pending legal review.

Director Stover made a motion that the Board authorize approval of the Change Order to the construction contract to install AUI as the Completion Contractor, substantially as attached, to complete the Agency & Area-Wide Flood Control Rehabilitation VIIIb Project. Director Borrego

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seconded the motion, which passed (4-0), on a roll-call vote. Director Brown had left the Zoom meeting and had acknowledged before leaving that he supported this item.

20. AMAFCA MS4 Program Update

Chair Thomson mentioned Ms. Kathy Verhage with CoA had voiced concerns regarding new requirements that EPA is thinking about placing on the NPDS Storm Water Quality Program. He further stated that since Storm Water Quality had not been presented to the Board for some time, he had asked Mr. Lovato to have a presentation at the meeting.

Mr. Patrick J. Chavez, AMAFCA Storm Water Quality Engineer, summarized information provided in the memo and answered questions from the Board. Part of the presentation covered AMAFCA FY-2020 Storm Water Management Program; Wet / Dry Season Wet Weather Water Quality Sampling; Pictures of Vandalism; AMAFCA Tracking Table; Exceedances on Temperature, E. Coli, and Mercury; March 13, 2020 SDC Sample Results: Tijeras Arroyo Result; Water Quantity Data Collection; Watershed Based Permit; MS4 Permit; Conditions still in effect; CMC Sampling to continue; Proposed 2020 MSGP Reporting Requirements to MS4s in Middle Rio Grande (may have been the item Ms. Verhage was concerned with); Benchmark not well suited to arid SW; and Post Construction Storm Water Quality (SWQ) Volume. Mr. Jerry M. Lovato, AMAFCA Executive Engineer, stated the requirements of the MSGP for are the permittee – not the MS4; ABCWUA program works well and includes a 30-day formal written document along with an instantaneous call to AMAFCA (or applicable MS4 permittee) for anything draining into AMAFCA (or applicable permittee) facilities; AMAFCA staff (Bennett / Hernandez) are working with ABCWUA crews to streamline the communication even more and are identifying areas to put in pump stations so that water can be blocked and pumped; it is hoped all of the remaining MS4 permittees will be on the same page regarding how the communication should be done; there is a lack of clarity; a lot of unknowns; the SWQ table is a great example of how people see a discrepancy but are being silent and no one is stepping up to say there is an issue; AMAFCA does not authorize new development, that is up to the CoA / BernCo / Village of Los Ranchos; however, their water drains into AMAFCA facilities, watersheds, and drains out to the Rio Grande so AMAFCA is involved. In the future, AMAFCA may come to the Board and ask if AMAFCA should take a leadership role or should CoA, who put in \$14K, take control. It was clarified that AMAFCA does not have direct involvement in the MSGP. There was another discussion regarding when EPA will issue a new permit; multiple permittees have asked with no indications in writing; and AMAFCA and other permittees may be under Administrative Continuance for the foreseeable future.

21. Unfinished Business

None.

22. New Business

Director Borrego stated the AMAZON Fulfillment Center would be opening soon in Albuquerque.

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23. Adjourn

There being no further business to come before the Board, Chair Thomson adjourned the meeting at 1:17 p.m.

Deborah L. Stover, Secretary-Treasurer, 6/25/2020

If Draft is noted as a watermark, the minutes are in draft form, are not the official minutes of record, and are subject to approval by the AMAFCA Board of Directors.