



Albuquerque Metropolitan Arroyo Flood Control Authority
Regular Meeting Minutes
January 27, 2022
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1. Call to Order and Roll Call

Chair Thomson called the Board Meeting to order at 10:02 a.m., Thursday, January 27, 2022, at the AMAFCA office in Albuquerque, NM. The meeting was accessible via Zoom to comply with AMAFCA Resolution No. 2020-05, a Resolution of the Governing Body of the 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.

Audio interference was noted during various Agenda items.

Directors present via Zoom and / or in person:	Chair Bruce M. Thomson – at the AMAFCA building / Left the meeting at 1:09 p.m. Director Ronald D. Brown – at the AMAFCA building Director Elizabeth Newlin Taylor – at the AMAFCA building Director Tim Eichenberg – via Zoom Director Orlando G. Martinez, Jr. – via Zoom at 10:03 a.m. / Left Zoom at 11:30 a.m.
Directors excused:	None
Attorneys present via Zoom and / or in person:	William Zarr, Robles, Rael & Anaya at the AMAFCA building Luis Robles, Robles, Rael & Anaya – via Zoom at 11:45 a.m.
Others present via Zoom and / or in person:	Jerry M. Lovato, P.E., Executive Engineer Staff Other attendees on file at AMAFCA

A quorum was present.

2. Approval of Agenda

Chair Thomson requested that **Agenda Item 21. Review of AMAFCA's Stormwater Quality Program**, be deferred until February due to Mr. Patrick Chavez being ill and not able to present to the Board.

Vice Chair Brown made a motion to approve the Agenda, as amended. Director Taylor seconded the motion, which passed (5-0), on a roll call vote.

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3. Meetings Scheduled

- a. **February 24, 2022, 10:00 a.m. – Regular Meeting**
- b. **March 24, 2022, 10:00 a.m. – Regular Meeting**
- c. **April 28, 2022, 10:00 a.m. – Regular Meeting**

There were no changes to the dates.

4. Election of Officers

- a. **Chair**
- b. **Vice Chair**
- c. **Secretary-Treasurer**
- d. **Assistant Secretary-Treasurer**

Chair Thomson nominated the following slate of officers: Director Brown for Chair, Director Thomson for Vice Chair, Director Taylor for Secretary-Treasurer, and Director Eichenberg for Assistant Secretary-Treasurer. Director Brown made a motion to accept the nominations as presented. Director Eichenberg seconded motion, which passed unanimously (5-0), on a roll call vote.

The 2022 Board Officers are:

Ronald D. Brown, Chair
Bruce M. Thomson, Vice Chair
Elizabeth Newlin Taylor, Secretary-Treasurer
Tim Eichenberg, Assistant Secretary-Treasurer

The meeting was turned over to Chair Brown.

5. Appointment to Boards and Committees

- a. **MRCOG Executive Board**
- b. **MRCOG Board of Directors**
- c. **Middle Rio Grande Water Resources Board**
- d. **Metropolitan Transportation Board**
- e. **Personnel and Salary Committee**
- f. **Strategic Planning Committee**
- g. **Financial Committee**

Chair Brown will get with each Director to discuss positions and deferred acting on this item to the February Board meeting.

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6. Items from the Floor / Public Comments

No items from the floor or public comments were received.

7. Approval of Resolution 2022-01, Open Meetings Standards

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, summarized information provided in the memo. The Resolution was updated to include language from AMAFCA Resolution 2020-04 complying with Executive Order No. 2020-004, issued by the Governor of New Mexico on March 11, 2020. Attorney Zarr referred the Board to the change pertaining to remote participation of Directors and the New Mexico Attorney General's guidance for all votes of the public body be by roll call vote. There was a brief discussion and the Board concurred that the Board and members of the public could continue to participate in person and by Zoom. The Board concurred that if any Director was remote there would be a roll call vote required to comply with the Attorney General's guidance on roll call. The Resolution would be amended to reflect a roll call vote is required for all votes if one Director is attending the meeting remotely.

Director Taylor made a motion that the Board approve and adopt Resolution 2022-01, Open Meetings Standards, as amended, and authorize the Chair and Secretary-Treasurer to execute the same on behalf of AMAFCA. Director Thomson seconded the motion. The motion passed unanimously (4-0), on a roll call vote. Director Eichenberg was not present to voice his vote during roll call.

8. Approval of Minutes

a. December 16, 2021

Chair Brown deferred the **Minutes of December 16, 2021, to Unfinished Business** so that Director Eichenberg, who was not available at the time, could cast his vote.

b. January 03, 2022

Director Thomson made a motion to approve the Minutes of January 03, 2022. Chair Brown seconded the motion, which passed (4-0), on a roll call vote. Director Eichenberg was not present to voice his vote during roll call.

9. Executive Engineer's Report

a. Introduction of New Staff

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, introduced Mr. Griffin Nuzzo, UNM Engineering Intern, Ms. Adrienne Martinez, AMAFCA Engineer I, and Mr. Willie West, AMAFCA Real Estate Manager. Everyone, in turn, summarized their background, experience, and expressed their appreciation to AMAFCA to allow them the opportunity to come on board to AMAFCA. The Board welcomed Ms. Martinez and Messrs. Nuzzo and West.

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b. Notification of Past Month's Activities

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, referenced the late mailout which highlighted significant activities from the previous / current month and answered a question from the Board.

- **Governmental Affairs**

Legislative Liaison: Staff has been working with both federal and state legislative liaisons concerning possible federal infrastructure funding. AMAFCA was notified projects in the 2022 project schedule could be eligible for federal funding and that maintenance of the North Diversion Channel would be eligible for direct funding. AMAFCA is coordinating with Bernalillo County (BernCo) and the City of Albuquerque (CoA) on the following projects for joint federal funding: Hamilton Dam Outfall pipe; Hubbell Dam Expansion; Barelás and Alcalde Pump Stations outfall improvements; Gibson Corridor Drainage improvements; and the Tijeras Arroyo Corridor Drainage improvements.

City of Albuquerque - Hubble Open Space: Staff has been working with CoA concerning the use of the Hubble Open Space to address capacity deficiencies in the Amole-Hubble system. The Open Space Advisory Board, agreed in principle, to allow AMAFCA to use 85 +/- acres of the Hubble Open Space in order to expand the Hubble Dam. A draft agreement would be provided to the Board in February.

Bernalillo County - North Albuquerque Acres (NAA): AMAFCA Staff provided BernCo with the final report on the NAA channel modifications. The report will be a Board item next month. A meeting would be setup with the County Manager and Board representatives after the January Board Meeting. The Board was referred to the attachments pertaining to NAA. It was noted that River Restoration is a consulting company out of Colorado.

- **General & Administrative**

AMAFCA Personnel Manual – 2022: Staff completed the revision on the 2015 AMAFCA Personnel Manual. Once the Personnel and Salary Committee (PSC) has been established a copy would be sent to them. Responding to a question from the Board, Mr. Lovato stated that a Compensation Salary Survey was currently being done and should be received in the next two months or so. Chair Brown advised that in the interim, both Director Thomson and he, would sit on the PSC, and if needed before the next Board meeting, they would be available.

c. 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 few months. There were no questions.

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10. Financial Matters

a. Financial Matters – Approval of Expenditures

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

Director Thomson made a motion to approve the December 2021 Expenditure Report. Director Taylor seconded the motion, which passed (3-0), on a roll call vote. Directors Eichenberg and Martinez were not present to voice their vote during roll call.

b. Other Matters

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

11. AMAFCA FY21 CAFR – Public Presentation and Acknowledgement of Satisfactory Completion of the FY21 Audit – Presentation by CRI, Inc.

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, introduced Mr. A.J. Bowers with Carr, Riggs, and Ingram. Mr. Bowers answered questions from the Board and covered items such as: Audit Timeline; Auditor's Reports; Statement of Net Position; Statement of Activities, Auditor Responsibility; Management Responsibility; Other Matters to include Bill.com and the need for Governmental Conduct every four years; Value Added Suggestions; and Concluding Comments. The Board noted that the Audit is a tool the Bonding agencies review and is now open for the public and AMAFCA employees to view.

Director Taylor made a motion to approve the Fiscal Year 2021 Audit as presented. Chair Thomson seconded the motion, which passed (4-0), on a roll call vote. Director Eichenberg was not present to voice his vote during roll call.

12. Economic Conditions in 2022 – Presentation by RBC

Mr. Herman Chavez, AMAFCA Finance and Administration Manager, introduced Mr. Erik Harrigan from RBC Capital Markets, LLC. Part of the presentation included Economic Overview; Performance on Major Asset Classes; Overview of Key US Market Themes; Interest Rate Movements; Current Municipal Conditions; Overview of Municipal Supply; and Municipal Bond Fund Flows. There was a brief discussion regarding past concern of approaching bonding capacity and with changes that the Board implemented, AMAFCA and Bond Counsel staff had determined this would not be an issue; AMAFCA is in a strong cash position; AMAFCA pays a sizeable amount on the first initial payment(s) when Bond Sales are done; and responding to a request from the Board, Mr. Harrigan advised assessment ratios of individual counties had not been reviewed.

Director Martinez left Zoom at 11:38 a.m.

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13. Legal

a. Status Report

Attorney William Zarr, summarized information provided in the memo and answered a question from the Board.

b. The New Mexico Civil Rights Act – Review of New Legislation and New Mexico Tort Claims Act

Audio interference was noted throughout the presentation.

Attorney William Zarr introduced Mr. Luis Robles, Attorney with Robles, Rael, and Anaya. Attorney Robles answered questions from the Board and reviewed the New Mexico Tort Claims Act and covered items from Article 4a. New Mexico Civil Rights, N.M.S.A 1978, § 41-4A-1, effective July 1, 2021, which included topics such as: Definition, NM ST § 41-4A-2; Claim for violation of rights established pursuant to NM ST § 41-4A-3; Prohibiting the use of the defense of qualified immunity, NM ST § 41-4A-4; Attorney fees, NM ST § 41-4A-5; Limitation on recovery, NM ST § 41-4A-6; Statute of limitations and abatement, NM ST § 41-4A-7; Indemnification of public body, NM ST § 41-4A-8; Waiver of sovereign immunity, NM ST § 41-4A-9; Common law judicial, legislative or other established immunity, NM ST § 41-4A-10; Records of claims, NM ST § 41-4A-11; Prospective application, NM ST § 41-4A-12; and Notice of claims, NM ST § 41-4A-13. There was a brief discussion regarding homeowners making changes (in certain areas of town) that would accelerate or alter flows and how that might impact everyone in BernCo and AMAFCA. Mr. Lovato advised he would work with Attorneys Zarr and Robles to bring more information to the Board.

14. Legislative Liaison

a. Briefing on the 2022 New Mexico Legislative Session

Mr. Mark Fleisher working in conjunction with Alarid Consulting answered questions from the Board and covered items such as: Session opened January 18, 2022 and will end February 17, 2022; no change to leadership in either chamber; Capital is open to the public with proof of vaccination, showing id, and wearing a mask; halls are empty other than a few Legislators, staff, and Lobbyists; some Legislators participating exclusively by Zoom; House committee hearings by Zoom only; no one other than Legislators and staff allowed on first floor or floor of chambers without appointment; \$1.6B in surplus due to price of oil and gas; Federal money coordinated by former Albuquerque Mayor Martin Chavez and Water Projects being handled by former MRGCD COE/Chief Engineer Mr. Mike Hamman; New Mexico received \$1.4B from American Recovery Act; \$3.7B from Bipartisan Infrastructure Bill; and AMAFCA could see some funding for the North Diversion Channel; Governor's interests for the session; 402 Bills introduced, 199 in the House, 202 in the Senate; Legislation can be introduced until February 2, 2022; monitoring Bills including House Bill (HB) 83 State Engineer Requirements; Senate Bill) (SB 6 Local Election Bill; Bills related to PERA, and will watch funding for Build Back Better Plan that will be sent in pieces to the State in upcoming months. There was a brief discussion regarding changing the State

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Engineer Requirements; concern was voiced that there needs to be long term stability, consistent policies, and direction; Engineers are notably apolitical; a large fraction of the responsibility for the State Engineer are technical and the State Engineer has to approve (for AMAFCA Dams) Emergency Action Plans, Designs, and Stormwater Management Plans; programs need to be administered with continuity; proposed legislation opens the position to a qualified geologist, hydrogeologist, engineer, or attorney; the first cannon from the National Society of Professional Engineers candidate ethics shall hold paramount the safety, health, and welfare of the public; underwriting ethical cannon to public service might not be found in a geologist, hydrogeologist, or attorney; engineering decision or policy relating to dam safety is not going to change from one administration / state engineer to the next if based on engineering standard that should create the continuity, which might not necessarily be there with other venues. The Board asked that the message be delivered to the sponsor of the Bill and concurred that if something paramount comes up a Special Board meeting can be called. If individual Board members can be of assistance to reach out to specific legislators to help, please contact them. Mr. Fleisher may send some information to help with the State Engineer bill.

15. Albuquerque/Bernalillo County Hazard Mitigation Plan – Approval of Resolution 2022-02

Mr. Nolan Bennett, AMAFCA Field Engineer, summarized information provided in the memo and answered questions from the Board.

Director Thomson made a motion that the Board approve and adopt Resolution 2022-02, Albuquerque/Bernalillo County Hazard Mitigation Plan, and authorize the Chair and Secretary-Treasurer to execute the same on behalf of AMAFCA. Director Taylor seconded the motion. The motion passed unanimously (4-0), on a roll call vote.

16. Joint Projects

a. Upper Piedras Marcadas Watershed Regional Ponds – Unser Boulevard Roadway Project Update

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, summarized information provided in the memo for follow-up from the December Board meeting. The agreement with CoA would incorporate the CoA widening of Unser Boulevard. He covered the location; Piedras Marcadas Dam was constructed in 1983; in 1993 it was discovered the Piedras Marcadas Dam was undersized for developed flows; previous Board of Directors decided best way to address the dam deficiency was to divert flows out of the basin to the north and south; over the last 30 years AMAFCA has been successful in diverting approximately 3 square miles of the 5 square miles of Piedras Marcadas basin into the Calabacillas Arroyo and into the Boca Negra Basin; is the only area left to divert out of the basin so that Piedra Marcadas would be considered safe and be able to take all flows to it; AMAFCA Board had inquired if CoA was going to add any of their own money into the Regional Drainage solution; the draft agreement identifies some of the funding; CoA will pay for the upgrade of the storm drains in Unser Boulevard, AMAFCA would still provide a lump sum to purchase the property and design to make sure it would work with the National Monument that will be drained into; AMAFCA has made certain promises to the National Park Service when the AMAFCA Board approved the Resolution for the Upper Piedras Marcadas Management Plan.

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The discussion continued noting previous work done on Paradise Boulevard in preparation of the ultimate buildout to support the proper infrastructure and the land purchase would be to expand Chamisa Pond. The Board acknowledged Mr. Chris Baca with Parametrix was on Zoom. Mr. Baca provided the Board with various components on what CoA had tasked Parametrix to do and what the roadway expansion would consist of; CoA/Department of Municipal Development does not build water / sanitary infrastructure and neither does Albuquerque Bernalillo County Water Authority; CoA is working with different regulations and funding available to maximize the corridor; the cost of the project would be very high if each project was done independently; there have been meetings with major property owners; responded to questions regarding whom Mr. Baca was employed with. The Board voiced concern regarding property owners being told by CoA that AMAFCA was not providing the needed infrastructure on the west side (on CoA property); there is a need to work collectively as government entities on how a comprehensive plan can be done; all partners need to get a solution and timeline; however, if just a transportation network the project is not okay; major improvements can exacerbate future infrastructure; if landowners do not come to the table the project cannot be done; and the landowner is responsible for putting in utilities. The Board was not in support of the project without the landowners coming to the table.

Director Thomson left the meeting at 1:09 p.m.

b. Upper Piedras Marcadas Watershed Regional Ponds – Paseo del Norte Pond Project – Draft Temporary Construction and Access Agreement

Mr. Bradley L. Bingham, AMAFCA Drainage Engineer, summarized information provided in the memo. Mr. Lovato responded to questions from the Board. The Board asked that AMAFCA continue pursuing and provide more accurate costs.

17. AMAFCA Field Highlights

a. Field Report

Mr. Nolan Bennett, AMAFCA Field Engineer, gave a brief report on various projects / events. There were no questions.

b. Construction Report

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

18. La Cueva Arroyo Survey and Hydraulic Analysis Project – Approval of Selection Advisory Committee Recommendation

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Ms. Nicole M. Friedt, AMAFCA Engineer II, summarized information provided in the memo. Responding to a request from the Board, Mr. Jerry M. Lovato, AMAFCA Executive Engineer, covered the difference between Quality Basis versus Price Basis requirements on Requests for Proposals. He also noted AMAFCA follows procurement code and the specific requirements are called out in the AMAFCA boiler plate.

Director Taylor made a motion that the Board approve the Selection Advisory Recommendation for RESPEC Company, LLC. Director Eichenberg seconded the motion, which passed (3-0), on a roll call vote.

19. Floodplain Awareness Public Outreach Informational Videos – Partnership with the New Mexico Floodplain Managers Association – Approval of Funding Agreement

Ms. Nicole M. Friedt, AMAFCA Engineer II, summarized information provided in the memo and answered questions from the Board.

Director Eichenberg made a motion that the Board approve the Joint Funding Agreement for Production of New Mexico Floodplain Awareness Public Outreach Videos with the New Mexico Floodplain Managers Association. Director Taylor seconded the motion, which passed (3-0), on a roll call vote.

20. On-Call Real Estate Appraisal Services

a. Approval of Professional Service Agreement

Mr. Bradley L. Bingham, AMAFCA Drainage Engineer, summarized information provided in the memo. There were no questions.

Director Eichenberg made a motion that the Board approve the Agreement for On-Call Appraisal Services with PinnacleWest Investments. Director Taylor seconded the motion, which passed (3-0), on a roll call vote.

21. Review of AMAFCA's Stormwater Quality Program

This item was deferred to February 2022 earlier in the meeting.

22. Unfinished Business

Item 8.a. Approval of Minutes for December 16, 2021

Director Taylor requested a couple minor changes. Director Eichenberg made a motion to approve the Minutes of December 16, 2021, as amended. Director Brown seconded the motion, which passed (2-0), on a roll call vote. Director Taylor abstained (her term as an AMAFCA Director did not start until January 2022.)

23. New Business

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Mr. Jerry M. Lovato, AMAFCA Executive Engineer, advised that AMAFCA needs to revisit the COVID 19 policy; New Mexico's Governor had adopted the Center for Disease Control's return to work guidance; AMAFCA follows the OSHA Technical Emergency Standards; referenced the impact on AMAFCA personnel who have caught COVID 19; employees who have antibodies in their system with medical approval to return to work; COVID 19 has been changing (different variants); Attorney Zarr would revise the COVID policy; and the PCS would need to approve. The Board agreed that the interim PSC could meet with Mr. Lovato and AMAFCA Legal once the revised policy had been sorted out.

24. Adjourn

There being no further business to come before the Board, Chair Brown adjourned the meeting at 2:06 p.m.

Elizabeth Newlin Taylor, Secretary-Treasurer, 2/24/2022

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.