



Albuquerque Metropolitan Arroyo Flood Control Authority
Regular Meeting Minutes
September 28, 2022
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1. Call to Order and Roll Call

Chair Brown called the Board Meeting to order at 9:03 a.m., Wednesday, September 28, 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.

Directors present: Chair Ronald D. Brown – at the AMAFCA building
Director Tim Eichenberg – at the AMAFCA building
Director Orlando G. Martinez, Jr. – at the AMAFCA building
Director Elizabeth Newlin Taylor – at the AMAFCA building
Director Bruce M. Thomson – at the AMAFCA building

Directors excused: None

Attorney present: William Zarr, Robles, Rael & Anaya – at the AMAFCA building

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

Director Eichenberg asked that **Item 6.a. Ladera Dam 5 Diversion – Amendment Two to the Professional Services Contract with Bohannon Huston, Inc.** be removed from the Consent Agenda for discussion under the Regular Agenda.

Director Eichenberg made a motion to approve the Agenda, as amended. Director Martinez seconded the motion, which passed (5-0).

3. Meetings Scheduled

- a. October 27, 2022, 9:00 a.m. – Regular Meeting**
- b. November 17, 2022, 9:00 a.m. – Regular Meeting**
- c. December 15, 2022, 9:00 a.m. – Regular Meeting and Board Holiday Luncheon**

There were no changes to the dates.

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4. Items from the Floor / Public Comments

Mr. Kevin Troutman, AMAFCA Director of Administration, introduced Ms. Jessica Regensberg, AMAFCA GIS Manager. Ms. Regensberg summarized her background, experience, and expressed her appreciation for the opportunity to come on board with AMAFCA. The Board welcomed Ms. Regensberg. Chair Brown noted that Ms. Jennifer Morrow, CoA Deputy Director of Department of Municipal Development, was in the audience. Ms. Morrow thanked the Board and summarized her background. The Board welcomed Ms. Morrow to her new position within CoA, welcomed her to the Board meeting, and expressed their hope for a positive relationship with CoA.

5. Approval of Minutes

a. August 25, 2022

Director Taylor made a motion to approve the Minutes of August 25, 2022. Director Thomson seconded the motion, which passed (5-0).

6. Consent Agenda

Chair Brown referred to **Agenda Items 6.b. and 6.c.** on the Consent Agenda. Director Eichenberg made a motion that the Board accept the remaining items on the Consent Agenda.

The motion approved the following:

- Agency and Area-Wide Flood Control Rehabilitation Design and Construction Management Services Contract – Advertise for Advertise Request for Proposals; and
- Amole Dam Gravity Outlet Phase III – Advertise for Construction Bids.

Director Thomson seconded the motion, which passed (5-0).

6.a. Ladera Dam 5 Diversion – Amendment Two to the Professional Services Contract with Bohannon Huston, Inc.

Responding to questions from the Board, Mr. Kevin Troutman, AMAFCA Director of Administration, summarized information provided in the memo and noted that the New Mexico Department of Transportation had agreed with the use of their right-of-way, preventing the need for a real estate purchase.

Director Eichenberg made a motion to approve the Second Amendment to the Contract with Bohannon Huston, Inc. for Design and Construction Management Engineering Services. Director Thomson seconded the motion, which passed (5-0).

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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 previous / current month and answered questions from the Board.

- **General & Administrative**

Standard & Poor's Bond Rating: Standard and Poor's (S&P) and AMAFCA participated in a rating update call. Back in 2018, 2019, and 2020, S&P rated AMAFCA Bonds and this year AMAFCA decided not to have S&P evaluate AMAFCA due to S&P's criteria that would be used to evaluate AMAFCA as a Utility / enterprise funding agency. AMAFCA does not have rate payers, therefore using the S&P criteria, would mean that AMAFCA's triple A rating would be downgraded. AMAFCA received a preliminary rating, based on information from the rate update call; however, it contained errors which were identified, and corrected information was sent back to S&P. The Board will be updated when new information becomes available.

AMAFCA Staffing: The AMAFCA GIS Manager had been filled and interviews are being scheduled for the AMAFCA Project Manager position.

- **Project Management**

Joint Projects City of Albuquerque - Marble Arno Pump Station: Staff contacted the City of Albuquerque (CoA) regarding the possibility of selling the property along Lomas Ave. CoA engaged an engineer to complete the work needed to submit a Letter of Map Revision to remove floodplain on the property. In addition, CoA staff started the work to surplus the property. During the surplus property process CoA identified a possible internal client that would purchase the property. A brief discussion ensued with the Board noting that from the start, AMAFCA was on board to purchase the property (for the project), with the objective being when the property was sold, there would be a strong representation to the entrance of the downtown area; the property had been taken off the property tax role; there had been a huge hole in the ground for years; there had been talk of a property developer wanting to develop the area for years; the work done on grading the property is perfect for an office building; CoA has been a terrible partner (in joint CoA / AMAFCA projects) for 4 to 10 years with projects renege on or not done; if CoA enters into negotiations on the property they should not issue an Industrial Revenue Bond to take off the tax role; and Mr. Lovato stated he would bring up the Board's concerns with Mr. Patrick Montoya with CoA.

- **AMAFCA Operations**

Pino Dam Spillway: The private landowner agreed, in principle, to allow AMAFCA to reconstruct the spillway berm needed to bring the spillway into compliance with the AMAFCA easement. A temporary access / construction easement has been through legal

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review. Staff is currently getting proposals to complete the work. It is hoped that the work will be completed before the end of the year.

b. Notification of On-Call Services Task Orders

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, referenced the late mailout for task orders issued over the last few months. There were no questions.

c. Approval of Resolution 2022-15, Designating Acting Executive Engineer in the Absence of the Executive Engineer

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, summarized information provided in the memo and answered questions from the Board. The Board raised concern that the Director of Finance reports to the Executive Engineer (EE) and he may not feel comfortable telling the Executive Engineer he may not do something. Mr. Lovato assured the Board that the Chief Procurement Officer (CPO), has full authority to say no. Currently, the CPO is Ms. Nicole Friedt, and once Mr. De Flon passes the CPO testing, he will be the CPO and Ms. Friedt will be the backup CPO. Responding to a question regarding if three people are designated as Acting EE, would one person be assigned constantly, Mr. Lovato stated that everyone needs to gain experience and the person may be assigned based on who is available and timing would be considered. He provided an example; The Director of Operations may not be the Acting EE during monsoon season since that position takes on a heavy load during that time to help with constituent concerns.

Director Thomson made a motion that the Board approve and adopt Resolution 2022-15, Designating Acting Executive Engineer in the Absence of the Executive Engineer, and authorize the Chair and Secretary-Treasurer to execute the same on behalf of AMAFCA. Director Martinez seconded the motion. The motion passed unanimously (5-0) on a roll call vote.

d. Approval of Resolution 2022-16, Executive Engineer's Contracting Authority

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, summarized information provided in the memo and answered questions from the Board. There was a discussion regarding the EE's authority for purchases at \$20K; On-Call Tasks Orders at \$75K; AMAFCA staff would like to be in line with current State Procurement guidelines; Bernalillo County Manager has a high purchasing authority; in order to effectively manage design and construction management services, contracts negotiations happen with assumptions on the project; currently new items are broken down into smaller amendments to keep under the EE's authority; no changes over the EE's authority mean coming to the Board more often for approval and delaying the project(s); as it is now, the Board will have this happening a lot in the future; and the Board concurred that this item would be deferred until AMAFCA staff and the Finance Committee look further into the matter and provide an update to the Board at the October meeting.

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8. Financial Matters

a. Financial Matters – Approval of Expenditures

a. July

Mr. Eric De Flon, AMAFCA Finance and Administration Manager, summarized information provided in the late mailout and answered questions from the Board. There was a discussion regarding the new format of the report; how soon the Director of Finance can get a copy of the Wells Fargo bank statement; how soon information can be pulled from Bill.com; the monthly cost of Bill.com; the convenience of Bill.com to pull an invoice; concern was raised that the report does not show all information for the bank reconciliation; there are seven accounts on the report that the Board did not see in the past; Local Government Investment Program has two accounts - committed and uncommitted; Mr. De Flon would like discuss the accounts with the Finance Committee to bring them up to date; and since expenditures have already been made, the Board motion should be to accept the expenditures as opposed to approve them.

Director Thomson made a motion to accept the July 2022 Expenditure Report. Director Eichenberg seconded the motion, which passed (5-0).

b. August

Mr. Eric De Flon, AMAFCA Director of Finance and Procurement, summarized information provided in the late mailout and answered questions from the Board.

Director Eichenberg made a motion to accept the August 2022 Expenditure Report. Director Thomson seconded the motion, which passed (5-0).

Director Thomson asked that Attorney Zarr get with the AMAFCA Auditor to see how the Auditor would prefer the Board action be listed. Should it be as approval, acceptance, or ratify?

b. Other Matters

Mr. Eric De Flon, AMAFCA Director of Finance and Procurement, summarized information provided in the late mailout and answered questions from the Board.

9. Not Used

10. Legal

a. Status Report

Chair Brown referenced the late mailout. There were no questions.

11. Joint Projects – U. S. Air Force

a. Approval of Amendment 1 to the Memorandum of Agreement for Repair of Flood Control Structures on the Tijeras Arroyo at Kirtland Air Force Base

Ms. Nicole M. Friedt, Director of Planning and Engineering, summarized information provided in the memo and answered questions from the Board. Mr. Lovato advised that the Amendment would help get money into the Federal budget for FY 23 with funds available FY 24 so Kirtland and AMAFCA are pushing for design in September 2023 for the President's Budget in February 2024; AMAFCA utilized an On-Call to get a solid conceptual design; AMAFCA staff estimates going to Request for Proposal in November for Final Design; and the highlighted areas in the amendment would change when KAFB provides the correct information.

Director Thomson made a motion that the Board approve Supplemental Agreement No. 1 to the Memorandum of Agreement for Repair of Flood Control Structures on the Tijeras Arroyo for the Kirtland Air Force Base Project, substantially as attached. Director Taylor seconded the motion, which passed (5-0).

12. AMAFCA Projects

a. Building Renovation Update

Mr. Willie West, AMAFCA Real Estate Manager, summarized information provided in the memo and answered questions from the Board. The presentation included a recap of the building plans, noting the fire suppression system is out of code compliance and the design team and Fire Marshall will discuss. The Board asked for more detailed visual plans in the future.

b. North Pino Arroyo Update

Ms. Nicole M. Friedt, AMAFCA Director of Planning and Engineering, summarized information provided in the memo and answered questions from the Board. Discussion took place regarding the location at the Journal Center; existing conditions; examples of how the arroyo should perform versus how it does; the project will need to build a flood wall to get flows through the small choke down; the Journal Center wants to keep the grass, which may require building a concrete box culvert in order to keep grass; AMAFCA does not maintain grass; there would be a possible turnkey so that a pipe can be put in underground; AMAFCA should have Hydraulic results of conceptual analysis so that Board can see how to proceed; Bohannon Huston was the developer engineer; and the Board requested, while not AMAFCA's problem to solve and CoA should help address the issue, a meeting with the AMAFCA Chair, Staff, and Craig Hoover with Bohannon Huston to discuss in detail.

c. Approval of Resolution 2022-18, FY 2023-2027 AMAFCA Infrastructure Capital Improvement Plan (ICIP)

Mr. Nolan Bennett, AMAFCA Director of Operations, summarized information provided in the memo and answered questions from the Board. The Board concurred with the Capital

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Improvement Plan and asked that AMAFCA consider adding to the list to take into consideration community deficiencies.

Director Eichenberg made a motion that the Board approve and adopt Resolution 2022-18, FY 2023-2027 AMAFCA Infrastructure Capital Improvement Plan (ICIP) with Supplemental Additions added to the list and authorize the Chair and Secretary-Treasurer to execute the same on behalf of AMAFCA. Director Thomson seconded the motion. The motion passed unanimously (5-0) on a roll call vote.

13. AMAFCA Field Highlights

a. Field Report

Mr. Nolan Bennett, AMAFCA Director of Operations, provided a report on various projects / events and answered questions from the Board.

b. Construction Report

Mr. Nolan Bennett, AMAFCA Director of Operations, referred the Board to the Construction Report. There were no questions.

14. Executive Session (closed)

a. Discussion of Acquisition of Real Property (§ 10-15-1(H)(8))

b. Discussion of Threatened or Pending Litigation (§ 10-15-1(H)(7))

Chair Brown advised **Agenda Items 15.a.** and **15.b** were Closed Session agenda items. The meeting was at the AMAFCA building with all Directors in attendance. Director Taylor 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 *“The Open Meetings Act, A Compliance Guide for New Mexico Public Officials and Citizens,”* eighth edition, 2015, to discuss Acquisition of Real Property. Director Eichenberg seconded the motion, which passed unanimously (5-0), on a roll call vote. Messrs. Lovato, West, and Troutman, along with Ms. Regensberg and Legal Counsel, remained.

Chair Brown closed the meeting at 11:40 a.m. Chair Brown asked for a motion to re-open the meeting at 12:11 p.m. Director Taylor made a motion that the meeting be re-opened. Director Eichenberg seconded the motion, which passed unanimously (5-0), on a roll call vote. Chair Brown stated that no action was taken during the Closed Session and only information that pertained to Acquisition of Real Property was discussed.

15. Real Estate

a. Southeast Valley Drainage and Water Quality Management Plan – Authorization to Acquire Real Property

This item was not discussed.

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16. Unfinished Business

None.

17. New Business

None.

18. Adjourn

There being no further business to come before the Board, Chair Brown adjourned the meeting at 12:14 p.m.

Elizabeth Newlin Taylor, Secretary-Treasurer, 10/27/2022

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.