



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

Chair Brown called the Board Meeting to order at 9:01 a.m., Thursday, October 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.

Directors present via Zoom and / or in person: Chair Ronald D. Brown – at the AMAFCA building
Director Tim Eichenberg – at the AMAFCA building
Director Elizabeth Newlin Taylor – at the AMAFCA building
Director Bruce M. Thomson – at the AMAFCA building
Director Orlando G. Martinez, Jr. – Zoom until 9:04 a.m. - then present 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

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, asked that **Item 7.c. Executive Engineer's Contracting Authority – Discussion** be deferred until November.

Director Taylor made a motion to approve the Agenda, as amended. Director Thomson seconded the motion, which passed (4-0) on a roll call vote.

3. Meetings Scheduled

- a. November 17, 2022, 9:00 a.m. – Regular Meeting**
- b. December 15, 2022, 9:00 a.m. – Regular Meeting and Board Holiday Luncheon**
- c. January 26, 2023, 9:00 a.m. – Regular Meeting**

There were no changes to the dates. Chair Brown stated that the Board's Holiday Luncheon will

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be back to the traditional AMAFCA Board luncheon. Mr. Lovato stated that the luncheon will be taking place outside, under a big tent, due to the current and future setup of the AMAFCA building, due to the remodel.

4. Items from the Floor / Public Comments

Chair Brown referenced the Board requirements for Public Comments. No items from the floor or public comments were received.

Director Orlando G. Martinez, Jr., had signed onto Zoom.

5. Approval of Minutes

a. September 28, 2022

Director Taylor made a motion to approve the Minutes of September 28, 2022. Director Thomson seconded the motion, which passed (5-0) on a roll call vote.

6. Consent Agenda

Chair Brown referred to **Agenda Items 6.a. through 6.h.** on the Consent Agenda. Director Thomson made a motion that the Board accept the items (shared on the Smart Board for all participants to view) on the Consent Agenda.

The motion approved the following:

- On-Call Geotechnical and Materials Testing Services Contracts – First Extension with YeDoma Consultants, LLC and Wood Environmental and Infrastructure, Inc; and
- On-Call Land Survey Services Contracts – First Extension with Bohannon Huston, Inc., Cobb Fendley and Associates, Souder Miller and Associates, and Wilson and Company; and
- On-Call Oblique Aerial Photography Services Contracts – First Extension with Eagle’s Eye Photo and MaDeuce Visions; and
- Agricultural Lease for Herring Property – Approval of Third and Final Extension with Mr. and Mrs. Maestas; and
- Agricultural Lease for Rutherford Property – Approval of Third and Final Extension with Messrs. Baca and Jojola; and
- Commercial Lease for Embudo Channel at Jefferson – Approval of Lease with Liberty Gym; and
- Tracts A-1-A, A-1-B-1, A-1-B2, and A-1-B-3-A of Acme Acres – Executive Engineer or designee to approve vacation of AMAFCA drainage easements; and
- Legislative Liaison Services – Approve Executive Engineer’s Recommendation to the Board and negotiate a contract with Alarid Consulting.

Director Eichenberg asked that the record reflect that under 6.h., Ms. Vanessa Alarid with Alarid Consulting had indicated on the Campaign Contribution Disclosure Form that she had not donated

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to any AMAFCA Director, however, a donation was made to a Political Action Committee that had his name affiliated with it.

Director Taylor seconded the motion, which passed (5-0) on a roll call vote.

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 (S&P) Bond Rating: Standard and Poor's and AMAFCA participated in a new rating call; originally AMAFCA would have been rated under criteria as a Utility / enterprising funding agency, which AMAFCA is not; comments from AMAFCA were accepted; and the AAA rating was upheld.

AMAFCA Staffing: Interviews were conducted for the AMAFCA Project Manager position who will start in November. There is still a key position open for the crew.

Legislative Work: AMAFCA staff has been working with both local and federal legislative liaisons to better position AMAFCA for federal grants and capital outlay monies. AMAFCA does have a good chance to get two or three projects accepted into a federal program. Majority of the work would be done by federal agencies; thereby, it is hoped, these projects would not severely impact AMAFCA staffing resources or AMAFCA projects already in the pipeline. Federal grants would pose a much bigger problem for AMAFCA. Accepting federal funds could severely impact AMAFCA staffing or projects already in the pipeline. The staffing problem is not unique to AMAFCA, it is a problem for big and small communities and government agencies in the State of New Mexico. If the Corps of Engineers does a project, they will manage the project that would not affect AMAFCA resources. A couple other options would be to use a Contractor at Risk or Public / Private Partnership or Design Build contract mechanisms. Ms. Vanessa Alarid is looking into the programs under the State Legislature, which appear to be an uphill battle. Bernalillo County (BernCo) is a home-ruled county and had developed a procurement system that had been accepted by the Department of Finance. It is hoped that AMAFCA could use BernCo's procurement method for contractor at risk or design build and adopt; however, the State Legislature would have to authorize this method since AMAFCA, as an agency, is not able to become home-ruled. AMAFCA may be able to contract with BernCo to run the contract on a project. The Albuquerque / Bernalillo County Water Utility Authority was authorized to adopt their own procurement system when they were created, they adopted the County procurement language so they may be able to get Federal Funds.

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Approval of Financial Report: Since the last Board meeting, staff had been researching when should the Board approve or vote on an action. Mr. Lovato covered the various Resolutions pertaining to financials and what they covered, advised the Board has to approve the quarterly and annual report, and should the Board have questions or concerns regarding the monthly financial report, the Executive Engineer will address them as quickly as possible and bring the issue back to the board; and it was agreed the Board can accept the report for filing.

City of Albuquerque 2023 General Obligation (GO) Bond Program: AMAFCA received information on the proposed 2023 GO Bond program and the 2023-2032 Decade Plan on October 24, 2022. AMAFCA is concerned with reduction and apparent elimination of \$47M in the next 6 years for the Department of Municipal Development's Storm Drainage Capital Program. CoA is only funding two projects identified with the other money for pump rehabilitation and the Municipal Separate Storm Sewer System program. Part of the discussion included the following: AMAFCA identified joint projects with CoA totaling over \$12.5M; none of those projects have been identified in the GOB Program; while creating the 2022 Project Schedule CoA identified 396 CoA drainage projects for a cost of over \$230M; constituents living in city limits drain into AMAFCA facilities, but the drainage is dependent on the CoA infrastructure to get the water into AMAFCA infrastructure; AMAFCA is not aware of why the GO Bond or Capital Program budgets have been cut but can see that monies are being moved around in the division; AMAFCA met with CoA during the last GO Bond funding cut and AMAFCA was promised \$25M for joint funding; AMAFCA is not aware of what BernCo or the Middle Rio Grande Conservancy District's (MRGCD) positions are; CoA may have the opinion that if they do not fund for their facilities AMAFCA will; the change in CoA joint-funded projects would have a definite impact on AMAFCA projects since AMAFCA cannot carry the burden of funding; in 2019 AMAFCA had to request that CoA put funding back into their GOB program for the Marble Arno Pond Pump Station, which took 12 years to complete; the City Council has been asking that AMAFCA help with CoA projects; by CoA eliminating its funding it jeopardizes many projects since there would be no Local Sponsorship for Federal Funds; and AMAFCA needs to submit comments to the Environment Planning Commission (EPC) regarding CoA's 2023 GOB Program no later than October 31, 2022.

Examples of projects that would be impacted are as follows:

- Alameda Drain is used by CoA, BernCo, and AMAFCA to drain portions of the urban area, drains into the Riverside Drain controlled by the MRGCD; two years ago improvements were identified for stormwater for the Alcalde Pump Station, which needs to be done soon since water is being dumped into the Alameda Drain; \$4M of work needs to be done; this is not included in the current bond request; CoA pays the MRGCD, under a partnership agreement on the Alameda Drain, for the privilege of using the drain; and
- Zuni / Pennsylvania Project part of the Dallas Storm Drain System, includes the Caravan Site for the International Library, identified by CoA; Project cost is \$6 million; not listed on the GO Bond Program; the project is in design with no CoA funding for floodplain removal; and

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- Gibson-San Mateo Regional Drainage Facility, which has been identified by AMAFCA as a possible Federal project, but without the Local Sponsor (CoA), the project would not be considered.

The Board recommended that AMAFCA staff send a response to the EPC that includes: a list of projects with initiation dates; stress how many homes would be taken out of the floodplain; list existing CoA deficiencies in CoA infrastructure that are not AMAFCA's responsibility; and stress the importance of CoA not losing any Federal Funding. It was understood that the EPC Public Meeting will be on November 10, 2022, at 8:40 a.m. via Zoom, it appears that the first item on the agenda is the GO Bond Program, the Board would like to have an opportunity to speak during the meeting, and there would be at least one more reiteration with City Council for addition to the GO Bond Program after the EPC meeting.

b. Notification of On-Call Services Task Orders

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, referenced the late mailout for the task order issued and answered a question from the Board.

c. Executive Engineer's Contracting Authority - Discussion

This item was deferred earlier in the meeting.

8. Financial Matters

a. Financial Matters – Approval of Expenditures

Mr. Eric De Flon, AMAFCA Finance and Administration Manager, summarized information provided in the late mailout, advised that the new report shows all funds including the applicable expenditure detail, items reported are tied out to the board expenditure report, and answered numerous questions from the Board. Part of the discussion included the following: question on the financial report which shows big increases in FY 23 expenses compared to actual FY 22 with almost every line item, not to include IT, is up 30-40 percent; salaries are up as well (three pay periods were paid in September); the Board concurred that the new report seems to be more complex than it needs to be so it is hard to determine relevance; it was suggested to prorate the FY 23 budget (budget divided by 12 months) so that one can see the actual expenditures for the month with actual budget so a relevant comparison can be done; should information on Property Tax revenue coming in along with expenditures be on the report; should information regarding the Bond Debt Service payments and is AMAFCA processing on time be listed somewhere; concern was voiced by Directors regarding credit card report provided with the current Board mailout; it is good to see the credit card charges along the individual's name, item(s) purchased, and where the purchase was made; it was noted the credit card report is now broken out by fund; the credit card breakdown will be incorporated back into the monthly reporting; and the budget will be prorated starting next month.

Director Thomson made a motion that the Board accept the Financial Information. Director Eichenberg seconded the motion, which passed (5-0).

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b. Other Matters

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, advised the Audit is moving forward, Mr. De Flon has finished the financials, a draft document will be put together for Board approval next month, and then submitted to the State Auditor by December 1, 2022.

9. Legal

a. Status Report

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

10. AMAFCA Redistricting - Update

Mr. Kevin Troutman, AMAFCA Director of Administration, summarized information provided in the memo and answered questions from the Board. When satisfactory district boundaries are established, they will be presented to the Board for review and published for public comment. Once comments have been compiled, they will be presented to the Board with final consideration for Board adoption.

11. Ditch and Water Safety Coordinator – Approve Recommendation from the Selection Advisory Committee

Mr. Willie West, AMAFCA Real Estate Manager, summarized information provided in the memo and answered questions from the Board.

Director Eichenberg made a motion that the Board approve the Selection Advisory Recommendation and authorize the Executive Engineer to sign the Contract with Sunny 505 for Ditch Safety Coordination Services. Director Taylor seconded the motion, which passed (5-0).

12. AMAFCA Projects

a. North Pino Arroyo Public Notification – Requesting Board Input and Guidance

Ms. Nicole M. Friedt, AMAFCA Director of Planning and Engineering, summarized information provided in the memo and answered questions, along with Mr. Lovato, from the Board. Ms. Friedt reminded the Board that in September, the Board was presented with the draft findings of the Hydraulic Analysis showing the issue of the road crossing at Jefferson Steet causing a significant constriction with flow overtopping the south bank of the arroyo; the memorandum associated with the existing condition analysis had been finalized and a meeting with the Journal Center management took place to report the findings and the Journal Center indicated in the meeting they did not want to notify property owners of the concern. Ms. Friedt noted that while the Journal Center does not want to notify the impacted property owners, it is in AMAFCA's fundamental creed to do so. Neither AMAFCA nor the Journal Center can locate a maintenance agreement; since the issue is in AMAFCA's Right-of-Way (RoW); if there is no agreement, it remains AMAFCA's property; there is approximately 80 feet of RoW, including grass, top bank to top bank,

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with room for improvement(s); however, the grass would need to go; and there is a big hydraulic impact associated with the project regardless of the grass. Ms. Friedt stressed, if the impacted property owner(s) get flood insurance, since they are not in mapped floodplain, their identified risk associated with the insurance company would be lower than had they been in a mapped floodplain. The Board asked that the letter and a list of impacted property owners be sent to the Journal Center for their comments, with a deadline for comment, since they were the developer of the area. The Board authorized staff to notify property owners of the increased property flood risk so they may take the proper action.

13. Joint Projects – Bernalillo County

a. North Albuquerque Acres Drainage – La Cueva Survey & Hydraulic Analysis Project Update

Ms. Nicole M. Friedt, AMAFCA Director of Planning and Engineering, summarized information provided in the memo and answered questions from the Board. The project intent is to conduct survey and hydraulic analyses for the La Cueva Arroyo; as development has increased, there is increased development pressure on the arroyo; part of the project is to acquire new topographic information and new aerial photography associated with it; encroachment surveys were done in AMAFCA easements; the data had been finalized, meets FEMA standards, and is available to the public, upon request; the Banner survey is ongoing; there has been some property owner resistance, which is causing a delay; the surveyors are still working on the surveys; and the project is moving forward.

14. Joint Projects – City of Albuquerque

a. Zuni/Pennsylvania Pond – Project Update

Mr. Patrick J. Chavez, AMAFCA Stormwater Quality Engineer, summarized information provided in the memo and answered questions from the Board. The design of the Zuni Pennsylvania Regional Drainage Facility was split between two engineering consultants; Parametrix is designing the Civil Site portion and Huitt-Zollars is designing the Pump Station portion of the project; there are currently two sets of design plans for the project; and the Pump Station plans will be incorporated into the Civil Site plans before bidding so that there is only one set of plans for construction.

15. 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 and answered a question from the Board.

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16. Borrega Channel Update

Mr. Willie West, AMAFCA Real Estate Manager, summarized information provided in the memo and answered questions from the Board. He noted the property owner, who had been authorized by BernCo for a special use permit, had been notified to shut down due to 14 of the 15 requirements not being complied with, suspending the gravel and sand excavation operations the permit had allowed; the excavation is 41.5 feet deep with the water table at 43 feet deep; AMAFCA authorized Bohannon Huston, Inc. to conduct topographic surveying of the Borrega channel and adjacent properties to document the current conditions of the Borrega Channel and the extent of the adjacent excavations; Geolines, LLC was tasked to perform cone penetration testing at multiple locations on both sides of the channel to provide information on the subsurface conditions and potential impacts the excavations may have had on the stability of the channel; and the Board will be updated when further information is provided.

17. 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))**

Attorney William Zarr advised the only Agenda Item to be discussed under Closed Session would be **Item 17.a. Discussion of Acquisition of Real Property (§ 10-15-1(H)(8)). Item 17.b. Discussion of Threatened or Pending Litigation (§ 10-15-1(H)(7))** would not be discussed. Chair Brown reiterated **Agenda Item 17.a.** was a Closed Session agenda item. 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 Thomson 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 11:25 a.m. Chair Brown asked for a motion to re-open the meeting at 11:54 a.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**

Mr. Willie West, AMAFCA Real Estate Manager, summarized information provided in the memo and answered questions from the Board. An offer was presented to purchase the property at Lot 25, Valle del Sol Industrial Park, in Bernalillo County. The location is also known as 6800 2nd Street SW.

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Director Taylor made a motion that the Board authorize the Executive Engineer to proceed with purchase of the property at Lot 25, Valle del Sol Industrial Park, Bernalillo County, New Mexico. Director Martinez seconded the motion, which passed (5-0).

b. Land Use Exemptions/Exceptions – Discussion

Mr. Willie West, AMAFCA Real Estate Manager, summarized information provided in the memo and answered questions from the Board. AMAFCA has not had formal written guideline on restriction(s) in place on what is allowed and not allowed; covered activities that are currently occurring and referenced some items that AMAFCA might not be able to allow; noted there is a company who had recently inquired about a cell tower on AMAFCA facilities, which has its own challenges. Mr. Lovato asked that AMAFCA put together a list and covered some items that CoA currently licenses. Mr. Bennett advised there are some joint use facilities that should have some defined requirements as well. The Board asked that AMAFCA put together a list for parameters to be discussed at a future meeting.

19. Unfinished Business

Mr. Lovato advised he had sent a link to the Board for the EPC Zoom meeting on CoA's 2023 GO Bond Program for November 10, 2022, at 8:40 a.m. The Board asked for a copy of the letter that will be sent to the EPC.

20. New Business

None.

21. Adjourn

There being no further business to come before the Board, Chair Brown adjourned the meeting at 12:04 p.m.

Elizabeth Newlin Taylor, Secretary-Treasurer, 11/17/2022

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.