



Albuquerque Metropolitan Arroyo Flood Control Authority
Regular Meeting Minutes
March 23, 2023
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1. Call to Order and Roll Call

Chair Thomson called the Board Meeting to order at 9:03 a.m., Thursday, March 23, 2023, 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 Bruce M. Thomson – at the AMAFCA building
Director Ronald D. Brown – at the AMAFCA building
Director Tim Eichenberg – via Zoom
Director Elizabeth Newlin Taylor – at the AMAFCA building

Directors excused: Director Orlando G. Martinez, Jr.

Attorney present via Zoom and /or in person: 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 Brown made a motion to approve the Agenda. Director Taylor seconded the motion. The motion passed unanimously (4-0) on a roll call vote.

3. Meetings Scheduled

- a. April 27, 2023, 9:00 a.m. – Regular Meeting**
- b. May 25, 2023, 9:00 a.m. – Regular Meeting**
- c. June 22, 2023, 9:00 a.m. – Regular Meeting**

There were no changes to the dates.

4. Items from the Floor / Public Comments

No items from the floor or public comments were received.

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5. Approval of Minutes

a. February 23, 2023

Director Taylor made a motion to approve the Minutes of February 23, 2023. Director Brown seconded the motion. The motion passed unanimously (4-0) on a roll call vote.

6. Consent Agenda

Chair Thomson referred to **Agenda Items 6.a. through 6.d.** on the Consent Agenda. Chair Thomson recapped the Consent Items (which were shared on the SmartBoard for all participants to view). Director Taylor made a motion that the Board accept the items on the Consent Agenda.

The motion approved the following:

- Bond Counsel Services – Third / Final Extension of Agreement with Modrall, Sperling, Roehl, Harris & Sisk, P.A.;
- Financial Advisor Services – Third / Final Extension of Agreement with RBC Capital Markets, LLC;
- General Legal Counsel Services – Third / Final Extension of Agreement with Robles, Rael & Anaya, P.C. which includes an increase in fees; and
- Executive Engineer to approve Amendment Seven to the Agreement with Wilson and Company for Construction Management Services on the Valle de Oro Drainage Facility.

Director Brown seconded the motion. The motion passed unanimously (4-0) 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 and current month and answered questions from the Board.

- **General & Administrative**

Legislative Liaison: Vanessa and Skye have done a great job keeping AMAFCA infrastructure needs at the forefront of AMAFCA funding requests for the 60-day session. AMAFCA was fortunate to have \$558K allocated for the AMAFCA Office Rehabilitation project (currently a State Legislature Capital Outlay request). AMAFCA was not able to get funding for other projects. AMAFCA staff will work with the legislative liaisons to provide information for AMAFCA projects months prior to the next session. Staff has identified high priority equipment needs and maintenance projects that should be considered for future capital outlay requests. The Governor does have the ability to line item veto the \$558K.

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AMAFCA will pursue federal funding for two projects that qualify for USACOE (CoE) 593 funding in Fiscal Year 24 which could be available in Fiscal Year 2025. The deadline for Fiscal Year 23 was missed. The projects have been evaluated and will be sent to the delegation and our federal liaison shortly. One of the projects AMAFCA hopes to receive funding for is the Black Mesa Pump Station project. AMAFCA would not want to count on the CoE to do design and / or construction. The Albuquerque District had asked for, and AMAFCA has provided, information regarding projects that AMAFCA has done on our own dime. Now is the time to start the process so that AMAFCA's request would be in the President's Budget. Responding to a request from the Board, Mr. Lovato advised an invite to the Lt. Colonel and his civilian staff person would be sent to attend an AMAFCA Board meeting.

There is also a program through FEMA and New Mexico Homeland Security. Staff has concerns going after FEMA / Homeland Security funds due to the State issues moving forward on the program.

AMAFCA Staffing: AMAFCA extended an offer to fill the Director of Finance and Procurement position and it is hoped the position will be filled soon.

Two qualified applicants have accepted a position on the AMAFCA Maintenance Crew and it is hoped they will start soon.

AMAFCA Land Use: Staff evaluated possible land uses that would be permissible on AMAFCA rights-of-way. Staff will present possible agreements and associated costs that would allow alternative uses of AMAFCA property at the April Board Meeting.

Public Outreach: AMAFCA sponsored and participated in the Land and Water Summit and Next Generation Water Summit held at the Indian Pueblo Cultural Center on March 2, 2023.

b. Notification of On-Call Services Task Orders

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

8. Financial Matters

a. MIP – Abila – Status Report

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, recapped issues that were causing a delay in reporting for Fiscal Year 2023 with the change in Financial Managers. During the tenure of Mr. Eric De Flon, some items were erroneous because the same document number was used over again. While it was clear what happened, clearing up the month(s) of transactions proved difficult. Cordova CPAs (Cordova) suggested removing all old journal voucher entries. Mr. Lovato introduced Mr. Robert Gonzales, Principal at Cordova. Mr. Gonzales recapped some of the following: The procurement (payment) system with BILL.com had been suggested and implemented by Cordova; under that same agreement, nothing was done related to MIP; the system

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Cordova created allowed BILL.com and MIP to speak to each other; Cordova had walked Mr. De Flon through how to operate BILL.com. After Mr. De Flon's departure, Cordova was hired, with a limited scope, to help prepare a Board package; after reviewing information, and confirming with AMAFCA, many issues were discovered within the books and how transactions were posted, including a lack of formal bank reconciliations from July to December 2022 and journal entries (mathematical adjustments) made to get the general ledger to zero. Mr. Herman Chavez (former Finance Manager) had a system that was straightforward and clear; Mr. De Flon tried to understand the two systems, but many errors occurred. AMAFCA broadened Cordova's scope, and Cordova determined that it was best not to go through every journal entry because of the difficulty of correcting them. For example, when numerous journal entries are done in one journal entry there is no way to change one wrong item; the best path would be to review entries month by month and most likely delete the entry and redo each journal entry; the first several months were the "dirtiest," and it appeared Mr. De Flon was getting the hang of things toward January and some of the entries could be relied on; there are four months left to go; the first week of April, Cordova would wrap up at least to January; Cordova is here to catch AMAFCA up. Whether there will be material errors moving forward is unknown; it is important to get someone into the position because AMAFCA cannot rely on a CPA firm to patch the hole. Mr. Gonzales said there is a learning curve to get the new person up to speed. The Board noted they had been concerned about the finances for some time and acknowledged that Mr. Lovato was working nights and weekends to try to take care of items, which is not appropriate for his position but is for an accountant. Mr. Lovato stressed that it is important to understand the new person would need to know how the programs work, as well as the proper input and procedures. The new person would need to receive training, which would be online and through REDW. In response to a question about potential repercussions, Mr. Gonzales advised that the issues would be communicated to the Auditor and there will most likely be findings due to the reconciliation process. However, AMAFCA was monitoring and found there was an issue and took steps to mitigate the problem. If the new person comes in and properly reconciles the bank statements, the proper documentation to support all entries would need to be reviewed, and then an auditor could render a clean opinion on the financial statement with some findings due to internal control on the reconciliation process. The Board thanked Mr. Gonzales for his detailed explanation of the process. Mr. Gonzales advised he could attend the next meeting and Cordova would be able to on-board, with a limited scope, the new person in the financial position. There are two other entities in the same position (with no financial person), and it is very hard to find a seasoned CPA to fill a position. Mr. Lovato expressed his thanks for the help of Cordova CPAs.

9. Legal

a. Status Report

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

10. Legislative Liaison

a. Briefing on the 2023 New Mexico Legislative Session

Ms. Vanessa Alarid, along with Ms. Skye Devore, of Alarid Consulting answered questions from the Board and covered items such as: Session closed March 18, 2023; the Governor has through

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April 7, 2023 to sign bills; 1,088 Bills were presented; 247 bills passed; 81 had gone to the Governor with 25 signed so far; recapped a few bills that were followed at the request of AMAFCA; the Memorials marking March 26 as AMAFCA day passed; and the Office of the State Engineer did receive a budget increase along with the six percent wage increase for state employees.

11. AMAFCA Projects

a. Tijeras Arroyo Grade Control Structure (GCS 383) at West KAFB Boundary – Project Update

Ms. Nicole Friedt, AMAFCA Director of Planning & Engineering, summarized information provided in the memo. Part of the presentation covered the history of the Facility Management Plan; pictures of the failing structure; Hydraulic Analysis of the Grade Control Structures for the Tijeras Arroyo; Conceptual Design on Headwall and Cutoff Elevation; Floodplain; Perimeter Fence Out; and the Design Schedule.

12. Joint Projects

a. Post Office Pond – Presentation by Terry Brunner, City of Albuquerque

Mr. Terry Brunner, Metropolitan Redevelopment Agency Director, with the City of Albuquerque (CoA), advised CoA is very interested in the property for development and answered various questions from the Board. Part of the presentation covered the fact the area is a Gateway to downtown; would like to see a mixed use; retail on bottom and housing on top; going to the Request for Proposal stage is a long process; project would fit in with development on Lomas with the Garcia (Neon Park) property; talks are happening with the Post Office and Burger King to move; there would be a plan for the Martinez Town area; the Mayor of Albuquerque drives by and inquires about the property all the time; and CoA is looking at buying out the AMAFCA portion. The Board stressed that that when AMAFCA purchased the property with CoA, the Board's interest was getting drainage done, but then the property would be appropriate as a key corner for downtown. Mr. Lovato stated that CoA is in the process of a Letter of Map Revision (LOMR) and AMAFCA could relinquish waiting for a LOMR if there was a modification to the existing agreement. The Board agreed that a draft modification could be presented and AMAFCA does not have a problem selling their portion so that money can be put to better use.

b. Joint Projects with the City of Albuquerque - Discussion

Mr. Jerry M. Lovato, AMAFCA Executive Engineer, advised that additional money had been added to the CoA budget for a total of \$8.8M for drainage projects; the Department of Municipal Development would like to have a fully funded project moving forward and then go to construction; this process does not work with the AMAFCA structure; next month four to five (estimated) contracts will be brought to the Board to possibly cancel; one project is Zuni – Penn, which AMAFCA could close up and turn over to CoA; in four years, if CoA has funding, that project can be put into the AMAFCA Bond program; and the Board and Staff noted various concerns with waiting for funding for CoA projects and the probability of CoA funding being gone when the time comes.

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13. Bosque Clean Up – Project Update

Mr. Willie West, AMAFCA Real Estate Manager, summarized information provided in the memo and answered questions from the Board. Various before and after pictures were viewed, including AMAFCA being asked not to utilize their equipment in the area to clean up the camps. He covered issues that other entities were experiencing with unhoused individuals / groups.

14. 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.

15. Not Used

16. Real Estate

a. Primrose Point – Amendment to the Joint Maintenance Agreement

Mr. Willie West, AMAFCA Real Estate Manager, summarized information provided in the memo. Part of the presentation covered the background and location; review of previous agreements had found issues; the current amendment clarifies language and maintenance responsibilities; and AMAFCA will be sending out letters to owners who have put holes in walls as well as allowing vegetation on the grow on walls.

Director Brown made a motion that the Board approve Amendment One to the Joint Maintenance Agreement, substantially as attached. Director Taylor seconded the motion. The motion passed unanimously (4-0) on a roll call vote.

17. Executive Session (closed)

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

b. Personnel Matters (§ 10-15-1(H)(2))

Chair Thomson advised **Items 17.a.** and **17.b.** were Closed Session agenda items. The meeting was at the AMAFCA building with Directors who were present at the meeting and via telephone 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 (the New Mexico

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Attorney General's office has not updated to a 2023 edition), to discuss Acquisition of Real Property and Personnel Matters. Director Brown seconded the motion, which passed unanimously (4-0) on a roll call vote. Messrs. Lovato and West, Ms. Regensberg, and Legal Counsel remained for Item 17.a. and only Legal Counsel remained for Item 17.b.

Chair Thomson closed the meeting at 11:31 a.m. Chair Thomson asked for a motion to re-open the meeting at 11:45 a.m. Director Taylor made a motion that the meeting be re-opened. Director Brown seconded the motion, which passed unanimously (4-0) on a roll call vote. Chair Thomson stated that no action was taken during the Closed Session and only information was discussed that pertained to Acquisition of Real Property and Personnel Matters.

18. 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. There were no questions.

Director Brown made a motion to authorize the Executive Engineer to proceed with purchase of property at Tract 1, Plat of Tracts 1 and 2, Lands of Doyle and Carole Silliman, being a replat of Tract A, Lands of Peter T. Mocho and Tract 2-B-A, Lands of Buddy Wagoner, Sections 30 and 31, T9N, R3E, Bernalillo County, New Mexico. Director Taylor seconded the motion. The motion passed unanimously (4-0) on a roll call vote.

19. Unfinished Business

There was a brief discussion regarding having a Special meeting to interview interested internal candidates for the position of Executive Engineer. It is hoped that after the interview(s) and negotiation(s) a formal appointment could be done at the April Board meeting.

20. New Business

None.

21. Adjourn

There being no further business to come before the Board, Chair Thomson adjourned the meeting at 11:53 a.m.

Elizabeth Newlin Taylor, Secretary – Treasurer, 4/27/2023

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.