



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
February 24, 2005**

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1. Call to Order and Roll Call

Chairman Brown called the Regular Board Meeting to order at 9:00 a.m. Thursday, February 24, 2005. Roll was noted as follows:

Directors present: Chairman Ronald D. Brown
 Director Daniel Lyon
 Director Tim Eichenberg
 Director Janet Saiers (arrived at 9:03 a.m.)
 Director Danny Hernandez

Others present: John Kelly, Executive Engineer
 Sam Bregman, Attorney
 Staff

A quorum was present.

2. Approval of Agenda

John Kelly, AMAFCA Executive Engineer, stated there were no changes to the agenda.

Director Hernandez made a motion to approve the agenda. Director Eichenberg seconded the motion, which passed (4-0).

Chairman Brown stated that he would defer items 3 and 4 until Director Saiers arrived.

5. Approval of Minutes

a. January 27, 2005

Director Eichenberg made a motion to approve the minutes of the January 27, 2005, Regular Board Meeting. Director Hernandez seconded the motion. Director Saiers arrived at this point in the meeting. The motion passed unanimously (5-0).

b. February 2, 2005

Director Hernandez made a motion to approve the minutes of the February 1, 2005, Special Board Meeting. Director Eichenberg seconded the motion, which passed unanimously (5-0).



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3. Meetings Scheduled

- a. March 24, 2005, 9:00 a.m. – Regular Meeting**
- b. April 28, 2005, 9:00 a.m. – Regular Meeting**

Director Lyon stated that he would be out of the country on April 28. After discussion, the April meeting was moved to April 21, 2005 at 9:00 a.m.

Director Eichenberg asked if the Board would be skipping a meeting in the summer. After discussion, Chairman Brown stated that perhaps the Board could skip the July meeting. Staff was directed to plan for combining two meetings in the summer, and come back to the Board with a recommendation.

4. Appointments to Boards and Committees

- a. MRCOG Board of Directors**
- b. MRCOG Water Resources Board**
- c. MRCOG Metropolitan Transportation Board**
- d. Personnel and Salary Committee**
- e. Real Estate Committee**

Chairman Brown appointed Director Lyon to the MRCOG Board of Directors, Director Hernandez to the MRCOG Water Resources Board, and himself to the MRCOG Metropolitan Transportation Board. He appointed himself and Director Eichenberg to the Personnel and Salary Committee, with Director Eichenberg to serve as chair.

He appointed Director Lyon (chair) and Directors Hernandez and Saiers as alternative members of the Real Estate Committee. He stated that Director Lyon would be free to determine whether Director Hernandez or Saiers should attend any particular meeting of the Real Estate Committee, based upon their background knowledge of a particular piece of property and their skills and interests.

Chairman Brown appointed Director Saiers as the first alternate for any of the MRCOG Board positions, and any other director as second alternate if she were unable to attend a meeting in place of the appointee.

All so named agreed to serve.



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6. Financial Matters

a. Approval of January 2005 Expenditures

Irene Jeffries, AMAFCA Business Manager, presented the January 2005 Expenditure Report. Director Saiers made a motion to approve the January 2005 Expenditure Report. Director Lyon seconded the motion, which passed unanimously (5-0).

b. Investment Report

For Information.

c. Financial Recap January 16, 2005 through February 15, 2005

For Information.

d. Financial Forecast February 16, 2005 through March 15, 2005

Ms. Jeffries presented the Board with the Financial Forecast for the period February 16, 2005 through March 15, 2005.

Director Eichenberg made a motion to approve the Financial Forecast. Director Saiers seconded the motion, which passed unanimously (5-0).

e. FY-05 Changes in City of Albuquerque Insurance Rates

Ms. Jeffries reported that the City of Albuquerque had increased the employer's portion of the insurance rates for Retiree Health Care and Insurance (Health, Dental & Life) last year after the budget had been approved. As such, staff will present the Board with a request for a budget adjustment for FY05 Salaries as the FY06 Budget process begins.

Brief discussion of the situation followed, with questions from Directors Saiers and Eichenberg. Director Eichenberg directed staff to calculate the proportional amount of increase in total compensation that occurred as a result of this change, for each employee, and report back to the Personnel and Salary Committee.

7. Legal

a. Status Report

Attorney Sam Bregman gave the Board a brief report on the status of various legal matters.



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8. West I-40 Phase III Diversion Channel Project – Appeal of Executive Engineer's Decision not to Extend Suspension Period

Jerry Lovato, AMAFCA Field Engineer, introduced Jerry Padilla and Ed Demarey of Albuquerque Excavators, Inc., (AEI) and Chris Perea of Wilson and Company. He reported that AEI has appealed the Executive Engineer's decision to not extend the contract suspension period for a second 30 day period.

Mr. Kelly explained the claim resolution and appeal procedure, stating the Board of Directors may consider the contractor's claim based on the written material provided; refer the claim to a hearing officer who will conduct a hearing and make a recommendation to the Board; or conduct a hearing with testimony. He stated that a decision on the appeal needs to be made within 90 days.

Chairman Brown elected to conduct a hearing and hear further testimony from the parties.

Mr. Demarey, AEI General Manager, addressed the Board, stating that AEI had requested a contract suspension in early December, due to weather delays and concrete strength issues. Conditions for the first phase of the suspension (Pre-Suspension Requirements) were met January 11. The suspension started on January 12. Two of the conditions for the second phase of the suspension (revised schedule and as-built survey) were met February 3 instead of February 1, due to technical difficulties.

Mr. Demarey stated that on February 4, AEI received notice from AMAFCA to resume work on February 11. He reported that AEI had been planning to resume work on February 28 and was not prepared to restart work before then. He stated there was confusion regarding the concrete strength required when they looked at the plans, but the contract stated the concrete should be 4000 psi.

Mr. Lovato stated that AEI had not maintained the Storm Water Pollution Prevention Plan during the suspension. He also stated that as AEI had not maintained the fencing, AMAFCA had hired a security firm to patrol the construction site. The revised construction schedule had been due on February 1 but was not received until February 23. As of February 23, none of the subcontractors had signed off on the final revised schedule, a requirement of the Phase II Suspension Requirements.

Mr. Lovato stated that as-built drawings had been received, indirectly, through Wilson and Company, well after the February 1 deadline. Four of the eight conditions enumerated in the Phase II Suspension Requirements have not been met.



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Mr. Perea addressed the Board, stating that he had no additional information to add to the above.

Mr. Demarey stated AEI had fixed the fence several times but the repairs were breached the next day. He also stated that some structures were incomplete and only storm water overflow was reaching the Rio Grande; the rest is ponding. He also stated that AEI had brought in experts throughout January to help them revise the construction schedule. The revised schedule hadn't changed since February 9, the deadline for the final revised construction schedule (as revised during the partnering session). He'd sent the schedule to the subcontractors for their signatures but hadn't received it back from them yet.

Director Eichenberg asked what assurances AMAFCA had that AEI would complete the project in a timely fashion. Mr. Demarey stated AEI faced bankruptcy if they didn't complete the job, and that AEI had hired subcontractors to perform any portion of the job where AEI crews were unavailable.

Chairman Brown stated that as-built surveys and the concrete not meeting the 28-day strength test seemed to be the reason for the delay.

Mr. Perea stated Wilson and Company is currently reviewing the as-built survey and should finish their review by February 25, 2005.

Mr. Lovato stated that of the 40% of the concrete placed so far on the job, 50% did not meet strength standards set in the contract, and that concrete mix designs need to be adjusted. In addition, 100 feet of the channel was not constructed according to the specifications and will need to be replaced.

Following further discussion, Chairman Brown closed the meeting at 10:02 a.m., pursuant to Section 10-15-1 H(3) NMSA 1978. The meeting was reopened at 10:24 a.m. Chairman Brown stated that the meeting was closed pursuant to an administrative adjudicatory proceeding. He stated that the Board took no action during the closed session.

Chairman Brown made a motion that the Board grant the appeal of Albuquerque Excavators, Inc., concerning the extension of their contract suspension; overturn the Executive Engineer's decision denying a 30 day extension of the contract suspension; allow an extension of the contract suspension through February 28, 2005; and reactivate the contractual obligations of Albuquerque Excavators, Inc., effective March 1, 2005.

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



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9. 2005 Legislative Session – Briefing by New Mexico Outsourcing

Mr. Kelly introduced Maurice and Mary Hobson, who briefed the Board on the 2005 Legislative Session. They discussed relevant bills introduced during the 2005 Legislative Session, and answered questions from the Board.

Mr. Hobson reported on the progress of several bills, including:

- HB 591, the SSCAFCA Boundary change, which passed the House with a vote of 64-0, and included the language prepared by Attorney Bregman regarding payment of outstanding indebtedness.
- SB 583 and HB 771, which are nearly identical bills prohibiting the Water Quality Commission from adopting water quality standards that are more stringent than those required by federal law. The bills also limit the commission by stating that it may not adopt standards for any body of water other than surface waters covered under federal law.
- SB 897, which reduces the threshold for using "design and build" on public facility construction projects to a minimum of \$5 million. A 1% stipend of the total project cost would be paid to the unsuccessful short-list architecture and engineering firms for proposal development expenses.

10. Request for Proposals for General Counsel Services

John Kelly, AMAFCA Executive Engineer, reported that the fourth and final extension of the Bregman Law Firm's agreement with AMAFCA for General Counsel Services expires May 22, 2005. He presented a suggested schedule for advertising for and evaluation of proposals and a proposed date to award the contract.

Director Eichenberg made a motion that the Board authorize the advertisement of the Request for Proposals for General Counsel Services. Director Hernandez seconded the motion, which passed unanimously (5-0).

Director Lyon noted that the date April 28 in the notice should be changed to April 21 to coincide with the revised date of the April Board meeting.

Chairman Brown stated that the Board as a whole will serve as the Selection Advisory Committee.



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11. La Cueva Arroyo East of Barstow – Consideration of Turnkey Agreement with Llave Construction for Design and Construction of Channel for AMAFCA Maintenance and Purchase of Surplus AMAFCA Right-of-Way

Mr. Kelly introduced Bob Keeran of Llave Construction and David Soule of Rio Grande Engineering.

Lynn Mazur, AMAFCA Development Review Engineer, introduced area neighbors Lynn Miller, Stu Rogers, and Lawrence Abeyta.

Ms. Mazur discussed the proposed turnkey agreement with Llave Construction for design and construction of a channel in the La Cueva Arroyo corridor, for AMAFCA maintenance of the channel, and for Llave's purchase of AMAFCA right-of-way made surplus by the channel improvements. The turnkey agreement was presented to the Board at the October 2004 meeting.

She stated that the proposed channel follows the Drainage Master Plan for the area, and ties into the existing drainage channel downstream. It follows the Facility Plan for Arroyos and will include a trail on both sides. Referring to a photo of the area, she pointed out the access points for those trails.

Mr. Kelly stated the main elements of the Agreement are that Llave will build the channel, AMAFCA will maintain the channel, and Llave will purchase some AMAFCA right-of-way made surplus by the channel at \$80,000 per acre or the appraised value, whichever is higher.

Director Hernandez made a motion that the Board authorize the Executive Engineer to execute the Agreement to Provide Maintenance for Channel Improvements on the La Cueva Arroyo from 1,300 feet west of Ventura to Barstow.

Director Eichenberg seconded the motion.

Chairman Brown noted that several area property owners were in attendance at the meeting, and asked if these neighbors had any comments on the proposal.

Lawrence Abeyta stated he and his next-door neighbor would like to purchase a small strip of AMAFCA land adjacent to their properties and accessible only from the subdivision's private road.

Mr. Kelly replied that the Open Space Link designation of the arroyo would need to be considered before any decision about this strip could be made. This would need to wait until



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after the channel improvements were finished. AMAFCA would need to ensure adequate maintenance access after the Barstow Bridge is built, but a landscape license with the owners might be possible.

Lynn Miller asked a question about the appearance of the channel and trail, and requested that the trail be landscaped. Mr. Kelly stated that trails are typically revegetated with native vegetation. The trail will be 2 inches of asphalt on top of the AMAFCA maintenance road. He also stated that the channel would be buff-colored concrete to improve its appearance.

The motion passed unanimously (5-0).

12. 4th Street Drainage and Transportation Improvement Project – Consideration of Cost Sharing Agreement with Village of Los Ranchos

Mr. Kelly introduced Village Administrator Juan Vigil of the Village of Los Ranchos. Mr. Kelly discussed the proposed cost sharing agreement with the Village of Los Ranchos for the 4th Street Drainage and Transportation Improvement Project.

Director Eichenberg made a motion that the Board approve the cost sharing agreement with the Village of Los Ranchos for AMAFCA's contribution of \$500,000 towards the 4th Street Storm Drainage System, and authorize the Chair to execute the same on behalf of AMAFCA.

Director Hernandez seconded the motion, which passed (4-0). Director Lyon was absent during the vote.

13. Isleta Boulevard Phase II Drainage and Transportation Improvements Project – Consideration of Cost Sharing Agreement with Bernalillo County

Mr. Kelly introduced Roger Paul of the Bernalillo County Public Works Department, then presented the Board with the proposed cost sharing agreement with Bernalillo County for the Isleta Boulevard Phase II Drainage and Transportation Improvements Project.

Director Hernandez made a motion that the Board approve the cost sharing agreement with Bernalillo County for AMAFCA's contribution of \$3,000,000 towards the Isleta Boulevard Phase II Drainage and Transportation Improvements Project, and authorize the Chair to execute the same on behalf of AMAFCA.

Director Saiers seconded the motion.



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Director Eichenberg made an amendment to the motion requesting that the agreement be re-written to specify that AMAFCA is funding only the drainage improvement portion of the project. Director Lyon seconded the motion to amend. The amendment passed unanimously (5-0).

The motion, as amended, passed unanimously (5-0).

Director Eichenberg requested that the similarly-titled agreement considered in item 12 also be re-written to make it clear that AMAFCA's contribution to the project would be for drainage improvements only.

Mr. Kelly stated he would do so, with Attorney Bregman's input.

**14. Boca Negra / Mariposa Arroyo Watershed Drainage Management Plan –
Briefing on Final DMP and Public Meeting held January 19, 2005**

Loren Mainz, AMAFCA Drainage Engineer, introduced Elvidio Diniz and Gordon Mossberg of RTI, then briefed the Board on the final Boca Negra / Mariposa Arroyo Watershed Drainage Management Plan (DMP) and the public meeting held January 19, 2005.

He stated that the public meeting had been advertised in the paper, and he had hand-carried the draft DMP to interested parties, primarily development representatives and government agencies. Approximately ten people attended the public meeting, and no adverse comments were made.

Mr. Mainz pointed out some of the major components of the DMP. Portions of the upstream Boca Negra Arroyo flows would be diverted around the North Geologic Window with some low flow to continue so the canyon doesn't dry out. He stated that the Board could formally adopt the DMP at a future public meeting.

In response to comments from Director Hernandez and Chairman Brown, Mr. Kelly stated that the draft DMP would be posted on the AMAFCA website and public comment encouraged, prior to the public meeting for formal public input and Board adoption of the DMP.

Discussion followed. Chairman Brown summarized the discussion by stating that AMAFCA will post the DMP document on its website and have hard copies available at the AMAFCA office. He stated that if someone wanted to address the Board but was unable to attend a day meeting, the public meeting would be rescheduled for a time in the evening. Otherwise, the Board had tentatively scheduled the public hearing to be held during the April Board meeting.



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15. Lyon Boulevard Storm Drain – Status Report

Ms. Mazur introduced Fred Arfman of Isaacson & Arfman, representing the property owner R. J. Schaefer, then gave the Board an update on the Lyon Boulevard Storm Drain Project. She stated that temporary construction easements and encroachment permits were being negotiated for temporary traffic detours.

She also stated that PNM had located and sent to AMAFCA a copy of a 1961 easement description for their 6-inch gas line. The street right-of-way was not platted and filed until 1962.

She stated that if the existing line is in an easement predating the road right-of-way, AMAFCA will need to cover the cost of relocation. AMAFCA's on-call contractors estimate that the construction cost savings from moving the gas line will exceed the approximate cost of moving the line.

Mr. Kelly stated that the gas line is a hazard to construction in its current location. Staff will confirm the exact location of the easement with regard to the road right-of-way and the gas line, and will draft an agreement for work not covered by revenue with PNM and present it to the Board at the March meeting. The PNM agreement is necessary because the pipeline easement predates the roadway.

Director Lyon pointed out that AMAFCA would be upgrading the size of a 40+ year old pipeline for PNM, and perhaps PNM could contribute to the cost of the upgrade. He stated that PNM frequently uses AMAFCA easements at no cost to PNM.

Ms. Mazur also indicated that the City has requested coordination of this project with other projects on the west side, so as to minimize traffic impact, suggesting that the project may be delayed until the County's Golf Course Road project is complete at the end of May, 2005.

She reported that the Cooperative Agreement had been signed by APS and has been mailed to all parties.

Discussion followed.



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16. Sale of Surplus Property

a. Approval of Resolution 2005-3 – Final Approval of Sale of Surplus Property, La Cueva Arroyo at Eagle Rock

Martin W. Eckert, Jr., AMAFCA Real Estate Manager, introduced Esmail Haidari and Adil Rizvi, then presented the Board with a resolution approving the sale of surplus property along La Cueva Arroyo at Eagle Rock.

He stated that a legal notice of the proposed sale had been published in the *Journal*, and two "Property for Sale" signs were posted on the property. No other proposals to purchase this surplus property were received. He also stated that the sale is subject to approval by the New Mexico Department of Finance and Administration, which requires that AMAFCA adopt a Board Resolution to provide final approval of the sale.

Director Hernandez made a motion that the Board adopt Resolution 2005-3, "Final Approval of Sale of Surplus Property, La Cueva Arroyo at Eagle Rock." The motion was seconded by Director Eichenberg, and, after brief discussion, passed unanimously (5-0).

b. Westgate Dam Access Parcel – Preliminary Approval of Sale of Surplus Property

Mr. Eckert introduced Fred Arfman and Bo Johnson, then presented a Vacant-Land Sale Agreement for preliminary sale approval by the Board.

He reminded the Board that this proposal was discussed at the October, 2004 Board meeting. Curb, Inc. proposed to provide alternate legal access to the Westgate Dam, enabling AMAFCA to declare this parcel surplus and sell it to Curb.

The Right of Way Committee had visited the site and recommended that the property be declared surplus and sold. Letters had been sent to all adjacent property owners, and none were able to purchase the parcel and provide alternate legal access to the Westgate Dam.

Director Hernandez made a motion that the Board authorize the Executive Engineer to execute the Vacant-Land Sale Agreement for Preliminary Sale Approval, with the understanding that the preliminary sale approval is subject to the requirements of AMAFCA Resolution 2003-4, *Disposal of Excess Lands*, including all necessary notice requirements that must be met prior to this item being presented to the Board at a subsequent meeting for final sale approval.

The motion was seconded by Director Lyon, and passed unanimously (5-0).



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17. Real Estate

a. Review of Proposed Vacation Request of Holly Avenue, adjacent to AMAFCA North Domingo Baca Dam Property

Mr. Eckert introduced Graeme Means of Jeff Mortensen & Associates, agent for Pete Daskalos. He then presented Mr. Means' proposal to vacate a portion of the Holly Avenue Roadway and Utility Easement. The northern half would be platted as a separate AMAFCA ROW parcel, and the southern half would be platted into Mr. Daskalos' property. AMAFCA's licensee, Bernalillo County, and its end-user, Altamont Little League, support the vacation action.

Mr. Kelly stated that staff is notifying the Board about this request because it is adjacent to the dam property, and based on Board discussions of a similar vacation of Anaheim Avenue north of the dam in 1994-1995.

Following discussion of the proposal, the Board's consensus was concurrence with AMAFCA's support of the vacation request.

18. Field Highlights

a. Construction Report

b. Field Report

Mr. Lovato presented a slide show depicting current projects. He also showed a graph depicting the contractor's progress on the West I-40 Diversion Channel Phase III Project under their original schedule and the revised schedule recently received, along with pictures of the job site.

Mr. Mainz discussed the Bear Canyon Arroyo 2004 Water Quality Retrofits Project, showing pictures of some of the manhole work. He stated that coyote willows were being saved to revegetate the area later. He also showed pictures of a large cottonwood that was relocated with an excavator so that it could be saved.

Mr. Lovato commented on the Removal and Disposal of Sediment, Debris and Rubble, South Diversion Channel Outlet Project. The contractor worked for about 12 days, then experienced rain delays and had to clear sediment out of the channel.



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Mr. Lovato also showed pictures of the AMAFCA maintenance crew extending a storm drain at the La Cueva Arroyo to avoid neighborhood erosion, and several pictures of the North Diversion Channel Outfall. Removing larger vegetation from an island last fall had resulted in a portion of it washing away, as had been desired. Maintenance work will need to be done on the access road, which was partially washed out in recent heavy rains.

19. Unfinished Business

None.

20. New Business

Director Saiers asked why the North Domingo Baca Park Master Plan was included in the mailout. Mr. Kelly replied that the Board had been interested in this project, and the master plan was included so that they could comment on the project.

Mr. Kelly stated that the history of the right-of-way acquisition was inaccurate, so staff had prepared a better history depicting that AMAFCA had purchased the land with the specific intent that it provide drainage and a regional park. AMAFCA suggested the regional park to the City and the City agreed. The City then acquired some additional land for the park.

Mr. Kelly stated that AMAFCA had purchased about 40 acres and had land-banked about 18 acres for future conveyance to the City.

Director Saiers commented that, where lands for park and recreation facilities had been provided by AMAFCA, better signage needs to indicate that fact to the public. She volunteered to put together some ideas for consideration at a later Board meeting.

Chairman Brown commented that the master plan needed to include some permanent restroom facilities.

21. Items from the Floor / Public Comment

None.



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22. Adjourn

With no further business to discuss, Chairman Brown adjourned the meeting at 11:50 a.m.

/s/
Tim Eichenberg, Secretary-Treasurer 3/24/05

Recorded by Pam Woodruff, Secretary to the Executive Engineer