



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
July 6 & 12, 2010**

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1. Call to Order and Roll Call

Chair Saiers called the Special Board Meeting to order at 8:33 a.m. Tuesday, July 6, 2010. Roll was noted as follows:

| | |
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| Directors present: | Chair Janet Saiers Director Danny Hernandez Director Ronald D. Brown Director Tim Eichenberg Director Daniel Lyon |
| Directors excused: | None |
| Others present: | John Kelly, Executive Engineer Pamela Woodruff, Executive Secretary |

A quorum was present.

2. Approval of Agenda

There were no changes to the agenda. Director Lyon made a motion to approve the agenda. Director Brown seconded the motion, which passed unanimously (5-0).

3. Meetings Scheduled

- a. **Thursday, July 15, 2010, 10:00 a.m. – Special Meeting**
- b. **Thursday, July 22, 2010, 10:00 a.m. – Regular Meeting**
- c. **Thursday, August 26, 2010, 10:00 a.m. – Regular Meeting**
- d. **Thursday, September 23, 2010, 10:00 a.m. – Regular Meeting**

The Board briefly discussed changing the date of the September meeting, but decided to wait until closer to that meeting. There were no changes to the proposed meeting schedule.

4. Items from the Floor / Public Comment

None.

5. Interview of Executive Engineer Candidates

Director Hernandez 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



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discussed, and as further described in “*The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*,” sixth edition, 2008, to discuss a personnel matter. Director Brown seconded the motion.

Chair Saiers stated that the closed session would be for purposes of discussion only, regarding a personnel matter. The motion passed unanimously (5-0), on a roll call vote.

Chair Saiers closed the meeting at 8:37 a.m.

Director Hernandez made a motion that the meeting be re-opened. Director Brown seconded the motion, which passed (4-0), on a roll call vote. Director Lyon had briefly stepped out of the meeting, so did not vote.

Chair Saiers reopened the meeting at 11:44 a.m. She stated that the Board had taken no action during the closed meeting, but had discussed a personnel matter.

6. Southwest Valley Flood Reduction Project – Review and Comment on Draft Cooperative Agreement for Construction, Operations and Maintenance Activities Related to Storm Water Conveyance within the Isleta, Armijo and Los Padillas Drains

Mr. Kelly stated that the engineers for each of the agencies had agreed on the terms of the four-way cooperative agreement, and the attorneys were working on the final language. The agreement states that AMAFCA will maintain the portions of the project that are offline from the Middle Rio Grande Conservancy District (MRGCD) rights of way and Bernalillo County will maintain the widened drains within the MRGCD/Bureau of Reclamation (BOR) right of way. The BOR required that AMAFCA be included in the agreement due to AMAFCA's requirement to monitor and sample water quality as a Phase I permittee.

He noted that the parties had received a letter from the Environmental Protection Agency (EPA) stating that the MRGCD's agricultural exemption remains intact after the storm water is discharged into the drain(s).

Director Lyon returned to the meeting at 11:48 a.m.

Mr. Kelly stated that the full details of maintenance and operation responsibilities will be listed in a separate Operations and Maintenance Manual. It will contain detailed requirements that will address the various permitting requirements of the US Fish and Wildlife Service and BOR as well as operational requirements with the MRGCD. The manual will be a work in progress, with ongoing revisions, and will not be fully complete until Phase I of the project construction is complete, so that as-builts may be included. He noted that the BOR, Corps of Engineers, and MRGCD will approve the Operations and Maintenance Manual and revisions thereto.



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Mr. Kelly added that five levels of maintenance are detailed in the Manual. The first three levels include routine trash cleanup, repair of minor erosions, and repair of major erosions, which will be handled by Bernalillo County. The fourth and fifth levels are repair of major events which may have caused serious damage, and maintenance where something needs to be re-designed and/or re-built, for which AMAFCA will provide assistance to the County as determined at the time of the event.

Mr. Kelly noted that the BOR requires some sort of "consideration" in the agreement to allow use of the drains without user fees. The consideration in this case will be a tree canopy planting screen, forming willow flycatcher habitat, around the edges of the lower section of Pond 187, which will be maintained as a secondary environmental pond. The higher terraced sections of Pond 187 will still be used for farming.

Mr. Kelly stated that there is a federal requirement that there be either fee interest or an easement for the whole project. The MRGCD already has good title to all of Phase I of the project, except a few minor slivers which Bernalillo County will acquire to accommodate maintenance access roads. The agreement provides that property acquired for this reason will be dedicated to the MRGCD and BOR. The parties' attorneys are currently working to resolve differences in the indemnity/liability paragraphs of the agreement.

Mr. Kelly stated that the indemnity and revocation sections have been reworked by Attorney Rael (including a longer time to cure a breach), and the appeals process has been changed to appeal to a court of competent jurisdiction rather than to the MRGCD Board.

He stated that the agreement provides that AMAFCA will pay for any reasonable work that is necessary if MRGCD has to repair the facility in an emergency situation. In the Operations and Maintenance Manual, the parties have agreed to re-design any elements of the project that are not operating properly. The parties will provide EPA reports and storm water quality data to the MRGCD and BOR for their review. AMAFCA and the County will also program funds into their capital budgets if the Best Management Practices (BMPs) need to be changed.

Mr. Kelly stated that the parties had not heard from the BOR in the past week. The BOR is the only agency not feeling any urgency to complete the agreement. He noted that a new war bill was recently introduced in congress, which will revoke \$40 million of Corps of Engineers funding if the funds are not committed to a project, so the Corps of Engineers is motivated to get this agreement approved. The agreement will be brought to the MRGCD Board for their approval on July 12, 2010.

In response to a question from Chair Saiers about what the project will do and what the project will cost, Mr. Kelly stated that the project will remove 1700 acres from floodplain in the South



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Valley, which currently have ponding or sheet flooding when it rains. The storm water currently is untreated and contains a number of gross pollutants. After the project is built, storm water will have storm water quality BMPs installed at designated entry points to the drains. The total cost of the Corps of Engineers project is estimated at \$120 million, with a federal interest of \$25 million. There is a 35% local match, split 50-50 with the County. The AMAFCA share of Phase I is approximately \$5 million. This is the only phase that has funding authorization from the Corps at this point. We are not obligated for any further phases at this point. The \$5 million includes approximately \$3 million that has been spent already, to obtain right of way for the project.

Mr. Kelly also noted that prior projects have protected the valley from upstream flow, and have helped Bernalillo County build various drainage facilities in the valley floor over the last ten to twelve years. This project will remove frequent localized flooding like similar projects recently built in the North Valley.

Director Eichenberg and Director Hernandez pointed out that valley residents had been paying flood control mill levies since 1963, but did not have any AMAFCA funded projects built in the valley until 1999.

Director Eichenberg suggested that the discussion of this item continue after the next interview.

5. Interview of Executive Engineer Candidates, continued

Director Hernandez 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 Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*," sixth edition, 2008, to discuss a personnel matter. Director Brown seconded the motion.

Chair Saiers stated that the closed session would be for purposes of discussion only, regarding a personnel matter. The motion passed unanimously (5-0), on a roll call vote.

Chair Saiers closed the meeting at 12:16 p.m.

Director Brown made a motion that the meeting be re-opened. He stated that the Board had taken no action during the closed meeting, but had discussed a personnel matter. Director Hernandez seconded the motion, which passed (4-0), on a roll call vote. Director Eichenberg had left the meeting at 1:25 p.m., due to a prior commitment.

Chair Saiers reopened the meeting at 1:26 p.m.



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6. Southwest Valley Flood Reduction Project – Review and Comment on Draft Cooperative Agreement for Construction, Operations and Maintenance Activities Related to Storm Water Conveyance within the Isleta, Armijo and Los Padillas Drains, continued

Director Brown introduced Brad Catanach, of Bernalillo County, who was now in the audience.

Director Brown stated that the Board was comfortable with the agreement as negotiated by staff. The AMAFCA Board does not know what the MRGCD Board will do with the agreement, or the reaction of the BOR. Until that feedback is received, the consensus of the Board is positive.

In response to a question from Director Brown, Mr. Kelly stated that the future Black Mesa Pump Station, if the Corps of Engineers builds it, is on the Operations and Maintenance Manual list as AMAFCA maintenance. He stated that the County maintains all other pump stations and a spiderweb of storm drains, and needed relief with AMAFCA maintaining something on the south end of the system. The County maintains the existing Black Mesa Pump Station, which is almost never used. AMAFCA may contract with the Albuquerque Bernalillo County Water Utility Authority to maintain the new pump station.

Mr. Kelly noted that the MRGCD might not take action on the agreement at their July 12, 2010 meeting. He was also unsure of the reaction of the BOR. The Corps of Engineers is ready to put the project out to bid as soon as the agreement is approved by all the parties. He thanked the Board for their input and direction, and stated he will keep the Board apprised of the agreement's progress.

Director Hernandez made a motion that the Board recess the meeting and reconvene at 8:30 a.m. on Monday, July 12, 2010. Director Lyon seconded the motion, which passed (4-0). Director Eichenberg was not present.

Chair Saiers called a recess of the meeting at 1:36 p.m., stating the meeting would reconvene at 8:30 a.m. on Monday, July 12, 2010.

7. Reconvene

Chair Saiers reconvened the meeting at 8:34 a.m. on Monday, July 12, 2010. She noted that all Directors were present.

8. Interview of Executive Engineer Candidates, continued

Director Hernandez 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



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discussed, and as further described in “*The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*,” sixth edition, 2008, to discuss a personnel matter. Director Brown seconded the motion.

Chair Saiers stated that the closed session would be for purposes of discussion only, regarding a personnel matter. The motion passed unanimously (5-0), on a roll call vote.

Chair Saiers closed the meeting at 8:36 a.m.

Director Hernandez made a motion that the meeting be re-opened. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chair Saiers reopened the meeting at 11:10 a.m. She stated that the Board had taken no action during the closed meeting, but had discussed a personnel matter.

The Board directed staff to schedule two of the candidates for second interviews at the beginning or end of the Special Meeting on July 15, 2010, depending on their availability. Chair Saiers also directed staff to prepare thank you letters to be sent to the other two candidates, to be signed by the Chairman of the Personnel and Salary Committee.

Director Eichenberg made a motion that AMAFCA reimburse the out-of-state candidate for his travel expenses. Director Hernandez seconded the motion, which passed unanimously (5-0).

9. Unfinished Business

None.

10. New Business

None.

11. Adjourn

There being no further business to come before the Board, Chair Saiers adjourned the meeting at 11:12 a.m.

Ronald D. Brown, Secretary-Treasurer 7/22/10

Recorded by Pam Woodruff, Secretary to the Executive Engineer