



**Albuquerque Metropolitan  
Arroyo Flood Control Authority  
Regular Meeting Minutes  
March 17, 2004**

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**1. Call to Order and Roll Call**

Chairman Eichenberg called the Regular Board Meeting to order at 9:00 a.m. Wednesday, March 17, 2004. Roll was noted as follows:

Directors present: Chairman Tim Eichenberg  
Director Daniel Hernandez  
Director Daniel Lyon

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

Chairman Eichenberg stated that Director Linda Stover and Director Ronald D. Brown were excused from the initial portion of the Board meeting, and would be arriving later. A quorum was present.

**2. Approval of Agenda**

John Kelly, AMAFCA Executive Engineer, stated that staff had prepared two informational items for the board. One of these was identified as New Business, but it was strictly for information as no action would be required.

Director Hernandez made a motion to accept the agenda as presented. Director Lyon seconded the motion. Chairman Eichenberg deleted two items from the agenda, items 15 and 17. Director Lyon stated he concurred with those items being deleted. Director Hernandez amended his motion to accept the agenda, minus items 15 and 17. The amended motion passed unanimously (3-0).

**3. Meetings Scheduled**

- a. **April 8, 9:00 a.m. – Third Workshop on Drainage Facility Planning Review**
- b. **April 22, 2004, 9:00 a.m. – Regular Meeting**
- c. **May 6, 2004, 9:00 a.m. – Fourth Workshop on Drainage Facility Planning Review**
- d. **May 27, 2004, 9:00 a.m. – Regular Meeting**



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**4. Approval of Minutes**

**a. February 26, 2004**

Director Lyon made a motion to approve the minutes of the February 26, 2004 Regular Board Meeting. Director Hernandez seconded the motion, and it passed unanimously (3-0).

**b. March 4, 2004**

Chairman Eichenberg stated that since he had not attended the March 4, 2004 meeting, he would be unable to vote to approve the minutes of that meeting. He postponed approval of the March 4, 2004 Special Board Meeting minutes until later in the meeting, when a quorum of those who had been at the meeting would be present.

**5. Financial Matters**

**a. Approval of February 2004 Expenditures**

Irene Jeffries, AMAFCA Business Manager, presented the February 2004 Expenditure Report.

Following a few questions, Director Lyon made a motion to approve the February 2004 Expenditure Report. Director Hernandez seconded the motion, and it passed unanimously (3-0).

**b. Investment Report**

For Information.

**c. Financial Recap February 16, 2004 through March 15, 2004**

For Information.

**d. Financial Forecast March 16, 2004 through April 15, 2004**

Ms. Jeffries presented the Board with the Financial Forecast for March 16, 2004 through April 15, 2004.

Director Hernandez made a motion to approve the Financial Forecast. Director Lyon seconded the motion, and it passed unanimously (3-0).



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**e. County Treasurer Tax Distribution Status Report**

John Kelly, AMAFCA Executive Engineer, gave the Board an update on the County Treasurer tax distribution issue. Mr. Kelly stated that he had a discussion with the County Treasurer's staff after a March 11, 2004 meeting with the County Treasurer and County Assessor for representatives of various taxing entities within the County.

Mr. Kelly stated that he had learned that the Treasurer's Office's IT Department may be able to provide the information AMAFCA needs about delinquent tax payments made by year, which AMAFCA can use to reconcile with their most recent information. Mr. Kelly will report back to the Board as further information is received from the Treasurer's Office.

**6. Legal**

**a. Status Report**

Attorney Sam Bregman gave the Board an update on the status of various legal matters.

Director Lyon asked Mr. Bregman for a clarification of the Department of Finance Administration policy regarding per diem and mileage reimbursement claims, particularly when it is allowed and when it is not.

After further discussion, Director Hernandez suggested a subcommittee meet with Mr. Bregman to come up with a recommended AMAFCA Board policy regarding per diem and mileage reimbursements that would be within the legal constraints.

Chairman Eichenberg concurred with this idea and appointed Director Hernandez and Director Lyon to the Per Diem and Mileage Committee. Director Hernandez and Director Lyon stated their willingness to serve on the Committee.

**7. Extension of Legal Services Contracts**

**a. Bregman Law Firm – General Counsel Services**

John Kelly stated that Sam Bregman of the Bregman Law Firm had expressed his willingness to serve as AMAFCA's General Counsel for an additional year with no increase in his hourly rate. This would be the final extension to his April 26, 2001 contract. Mr. Bregman stated that he would be honored to serve AMAFCA and the Board for another year.



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Director Lyon made a motion that the Board approve extending the contract with the Bregman Law Firm to provide general counsel services for a fourth year with no increase in fees. The contract would expire May 23, 2005. Director Hernandez seconded the motion, which passed unanimously (3-0).

**b. Modrall Law Firm – Specific Counsel Services**

Mr. Kelly stated that the Specific Counsel Services contract with the Modrall Law Firm, which centers around environmental law and water law, which can be extended for a fourth and final year. He stated that Modrall had agreed to extend the contract for another year with no increase in fee. Staff recommends that the Board extend the contract for another year.

Mr. Kelly also stated that he foresees work on this contract slowing down as the silvery minnow and TMDL work comes to a conclusion, but there may be additional issues in the coming year.

Discussion followed concerning the scope of the work done by the Modrall Law Firm and the high level of expertise of lead attorney on the contract. Duane Brown of the Modrall Law Firm stated that Modrall works with other agencies also on these issues, and their fee to AMAFCA is lower than the fee they charge other agencies. Further discussion centered on the Board's need for status reports and updates from the firm.

Director Hernandez made a motion that the Board extend the agreement with the Modrall Law Firm for Specific Counsel Services for a fourth and final year at \$165.00 per hour, ending May 23, 2005. The motion died for lack of a second.

Director Lyon made a motion to defer the decision to the next meeting where the full Board is present. Following further discussion, Director Hernandez seconded the motion, which then passed unanimously (3 - 0).

**8. Financial Advisor Services – Approval of Contract with RBC Dain Rauscher**

Mr. Kelly presented the Board with the Financial Advisor Agreement with RBC Dain Rauscher for approval and execution. He stated that it was substantially the same as the agreement four years ago, provides for one-year renewal options, and the fees are the same as provided in their proposal approved by the Board last month.

Mr. Kelly stated that Mr. Bregman had reviewed the agreement. Staff recommendation is that the Board approve the agreement with RBC Dain Rauscher.



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Director Hernandez made a motion that the Board authorize the Chair and Secretary to execute the agreement, with an effective date of March 29, 2004. Director Lyon seconded the motion, which then passed unanimously (3 - 0).

**9. Bond Counsel Services – Approval of Contract with Modrall Law Firm**

Mr. Kelly stated that at the last Special Meeting, the Selection Advisory Committee recommended the Modrall Law Firm for Bond Counsel Services, and this selection was accepted by the Board at that meeting. He stated that Duane Brown is the primary attorney for Bond Counsel Services for Modrall, and the fees in the contract are the same as those in their proposal. Staff recommends that the Board approve the contract with Modrall.

Director Hernandez made a motion that the Board authorize the Chair and Secretary to execute the agreement, with an effective date of March 29, 2004. Chairman Eichenberg seconded the motion, which passed 2 - 0. Director Lyon abstained from the vote.

**10. NPDES Floatables Collection System Program Evaluation – Approval of Agreement with ASCG, Inc.**

Loren Meinz, AMAFCA Drainage Engineer, addressed the Board, stating that the Selection Advisory Committee had previously selected ASCG, Inc. for the NPDES floatable debris trash evaluation study. He stated that staff has negotiated an agreement with ASCG, Inc., and the negotiated fees are well within the range of estimates received with the proposals.

Mr. Meinz added that the City of Albuquerque is participating in the cost of this study, and the City's share will probably go over their previously approved 50% up to \$50,000. He stated that AMAFCA is seeking to have their share go up to 50% of the total cost, but the City has not had a chance to review this change yet.

Following brief discussion, Director Lyon made a motion that the Board approve the Agreement with ASCG, Inc., in the amount of \$126,136.00 to provide Professional Engineering Services for the NPDES Floatable Collection System Program Evaluation Study. Director Hernandez seconded the motion, and the motion passed unanimously (3 - 0).

**11. Manual Trash and Debris Removal – Award of Contract to R. P. Construction Co.**

Mr. Meinz presented the bids received on the Manual Trash and Debris Removal contract. He stated that four bids were received, one of which was non-responsive because it didn't include bid security, and all bids were substantially lower than the previous contract, which had been



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expected. He stated that the low bidder was R. P. Construction Co., and staff recommended the contract be awarded to them.

After brief discussion, Director Hernandez moved that the Board accept R. P. Construction Co. as the lowest responsible bidder and authorize the Board Chairman to execute a contract with R. P. Construction Co. in the amount of \$53,640.00 for the Manual Debris and Trash Removal Contract. Director Lyon seconded the motion. After further brief discussion, the motion passed unanimously (3 - 0).

**12. Mechanical Trash and Debris Removal – Award of Contract to Southwest Sewer Service**

Jerry Lovato, AMAFCA Field Engineer, presented the bids received on the Mechanical Trash and Debris Removal contract. He stated that seven contractors picked up the RFP, three contractors submitted bids, and the lowest responsible bidder was Southwest Sewer Service, who is currently under contract with AMAFCA. He stated their bid was for \$84,500.00. Staff recommendation is that the Board award the contract to Southwest Sewer Service.

Director Lyon moved that the Board accept Southwest Sewer Service as the lowest responsible bidder and authorize the Chairman to execute a contract with Southwest Sewer Service in the amount of \$84,500.00 for the Mechanical Trash and Debris Removal Contract. Director Hernandez seconded the motion, which passed unanimously (3 - 0).

**13. AMAFCA Maintenance Yard Fence Project – Consideration of Bids Received**

Mr. Mainz presented the bids received for the AMAFCA Maintenance Yard Fence Project. He stated that both were above the amount anticipated, and the staff recommendation was to reject the bids and consider an alternate fence design.

Director Lyon made a motion that the Board reject the bids received for the AMAFCA Maintenance Yard Fence Project, and direct staff to consider alternate designs for security fencing. The motion was seconded by Director Hernandez, and passed unanimously (3 - 0).

**14. County-Wide Re-Mapping Project – Consideration of Agreement with MRCOG for Additional LIDAR Mapping**

Christy Burton, AMAFCA GIS Manager, presented a proposed agreement with MRCOG for additional LIDAR mapping, as was discussed at the February 26th Board meeting. She stated that in the agreement, AMAFCA will cooperate in the 2004 Digital Orthoimagery Project by paying MRCOG \$6,380 towards the cost of obtaining the new topography, and MRCOG will supply AMAFCA with a complete set of all new mapping products produced by the project.



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Director Hernandez made a motion that the Board approve the proposed agreement with the MRCOG for Additional LIDAR Mapping. Director Lyon seconded the motion, which passed unanimously (3 - 0).

**15. Modifications to Sediment and Erosion Design Guide – Approval of On-Call Engineering Task Order Number One with Ayres Associates**

(This item was deleted from the agenda.)

**16. El Camino Arroyo at Quivera Estates Subdivision – Consideration of Turnkey Agreement with Alpha Equities, LLC for Construction and Maintenance of Sediment Pond at Barstow & Glendale**

Lynn Mazur, AMAFCA Development Review Engineer, asked the Board to consider a Turnkey Agreement with Alpha Equities, LLC for Construction of a Sediment Pond. She stated that this project involved the developer relocating an existing interim sediment pond, and building the master-planned storm drain, at the developer's own cost.

Ms. Mazur also stated that once the storm drain and new sediment pond were built, the existing sediment pond would no longer be necessary and the drainage easement on those lots could be quitclaimed.

Mr. Kelly stated that this agreement simply transfer AMAFCA's maintenance responsibilities to the new pond, since AMAFCA would maintain the new sediment pond in place of maintaining the old one. He stated that the quitclaim and release of easement would be subject to receipt of a LOMR from FEMA.

Greg Krenik of Mark Goodwin & Associates was present to answer any questions about the project. Chairman Eichenberg asked how much the project would cost. Mr. Krenik stated that the approximate cost of the storm drain and pond would be \$1.25 Million. Mr. Kelly stated that the storm drain would be a half mile of buried pipe. Mr. Krenik added that the storm drain would be a combination of 78" and 84" pipe.

Ms. Mazur stated that the City would maintain the storm drain, and AMAFCA has a drainage easement from the owner for the two lots on which the new pond would be located.

After further discussion, Director Hernandez made a motion that the Board authorize the Executive Engineer to execute the Agreement to Provide Maintenance for a Sedimentation Facility on the El Camino Arroyo at Barstow and Glendale, and that the Board authorize the Chairman to execute a Quitclaim Deed/Release of Easement for Lots 31 and 32, Block 11,



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Tract 1, Unit 3, North Albuquerque Acres subject to construction and acceptance by AMAFCA of the proposed improvements and receipt of a LOMR from FEMA.

Director Lyon seconded the motion. After further brief discussion, the motion passed unanimously (3 - 0).

**17. Real Estate**

**a. Consideration of Quitclaim Deed/Partial Release of Easement, Rinconada Trails Subdivision Western Trail and Atrisco**

(This item was deleted from today's agenda and rescheduled for the April 8 Board Meeting.)

**18. Approval of Resolution 2004-2, Acceptance of MRCOG Water Plan**

Mr. Kelly stated that two guests were in attendance in regards to item 18, Michael Trujillo of MRCOG and Bob Wessely of the Water Assembly. Director Hernandez stated that he had been working on the MRCOG Water Plan for 5½ years.

Director Hernandez made a motion that the Board approve Resolution 2004-2, Acceptance of the Middle Rio Grande Regional Water Plan. Director Lyon seconded the motion, which passed unanimously (3 - 0).

Chairman Eichenberg called a brief break, during which Director Stover arrived to join the meeting.

**19. FY 2005 Budget**

**a. AMAFCA Equipment and Fleet Evaluation**

John Kelly stated that this was the first of several presentations of the FY 2005 budget. He stated that this was the first draft of the Operating Fund and Construction Fund budgets; a second draft would be presented at the April Board meeting, and a final budget would be presented to the Board at the May Board meeting. He stated the process also included a review of the Equipment and Fleet Evaluation and Surplus Property Report.

Jerry Lovato, AMAFCA Field Engineer, presented the AMAFCA Equipment and Fleet Evaluation. He stated the fleet is in good shape, with Unit 101 scheduled to be replaced in the next year or so.



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Mr. Lovato stated that due to changes in the EPA's Storm Water Pollution Plan and the Air Board's newly adopted dust ordinance, AMAFCA should purchase a tractor with various attachments to reduce dust, do native revegetative seeding, and control vegetation. He stated that AMAFCA has been renting tractors when needed, but cannot do so during growing season due to high demand (no tractors are available locally at that time of year).

Mr. Lovato also stated that the average amount now paid every year for tractor and chipper rentals would pay for the tractor and attachment in seven years, with the expected life of the equipment being ten years, resulting in a net cost savings.

Mr. Lovato stated that AMAFCA's cost for the programmatic permit from the Air Board will be \$10,000 per year, but within five years of being able to further stabilize the ground surface, he expects to be able to reduce that amount to \$3,500. He also stated that the tractor and attachments would allow AMAFCA to act proactively to avoid penalties from EPA and Environmental Health.

Staff recommendation is that the Board include the purchase of a tractor and attachments in the FY 2005 Operating Fund Budget.

Brief discussion followed concerning various methods of vegetation control. Chairman Eichenberg asked if there would be money available in the FY 2004 Budget to make this purchase now. Mr. Kelly said that there may be money available, and that he will check and report back to the Board about this at the next meeting.

**b. Surplus Property Report**

Martin Eckert, AMAFCA Real Estate Manager, presented the Surplus Property Report, which included a list of potential surplus property for the Board's information. The Board asked several questions, which were answered by Mr. Eckert and Mr. Kelly.

Director Lyon expressed interest in viewing the surplus property in person to determine which parcels the AMAFCA Board may wish to retain and which they may wish to declare as surplus so that they could be sold, generating revenue for AMAFCA.

Chairman Eichenberg appointed Director Hernandez and Director Lyon to serve on the Right-Of-Way Committee to review surplus property and report back to the Board. Both Directors agreed to serve on the committee.

Mr. Kelly stated that the draft Construction Fund Budget for FY 2005 shows \$60,000 in revenue from the sale of Parcel 9, which AMAFCA has received an offer on, but had deferred until SB 184 was passed and signed by the Governor. He anticipated that staff would bring



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this parcel before the Board at a later meeting. Chairman Eichenberg asked that staff wait until after the Right-Of-Way Committee had reviewed the property and reported back to the Board.

**c. Draft Operating Fund Budget**

Ms. Jeffries presented the Board with an overview of the first draft of the Operating Budget for FY 2005, reviewing the changes between last year's budget and this draft budget. She stated that the FY 2005 budget should also include monies for the replacement of AMAFCA's aging photocopier, which has been heavily used and is now breaking down more and more frequently and requiring replacement of many parts.

Mr. Kelly spoke regarding the Project Operation and Maintenance category in the draft Budget. He presented the need for the construction of a trash collection station at the North Diversion Channel Outfall, as AMAFCA and Contractor trucks are not allowed to use City convenience centers, which are restricted to residential use only.

Mr. Kelly stated that having an AMAFCA trash collection station would save a lot of time as well as wear and tear on the crew and equipment, by not having to drive to landfills to empty the trucks.

The Board discussed this idea, suggesting that staff consider if City permission could be gained to use the existing convenience centers.

Mr. Kelly also mentioned that staff feels the Board should consider replacing the four HVAC units on the AMAFCA building, which have been unreliable since installation and perhaps were underspecced.

Mr. Kelly mentioned other highlights of this portion of the budget as well, including anticipated revenue.

Director Brown arrived during the presentation of anticipated revenue.

Mr. Kelly stated that growth in the assessed valuation has averaged 4% a year over the last few years, and a growth rate of 3% in the residential and non-residential properties and 1% in the centrally assessed properties was assumed for budget purposes.

Discussion followed. The Board presented input on individual line items and the assumed growth rate. Lisa Fenner and Kevin Powers of RBC Dain Rauscher answered questions regarding the assumed growth rate, stating their opinion that a 3% residential and non-residential growth rate is probably conservative.



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**d. Draft Construction Fund Budget**

Mr. Kelly presented the draft Construction Budget for FY 2005, reviewing the amount budgeted for projects already committed for and those planned for the coming year. He presented two versions of the budget, one assuming the bond authorization fails, and one assuming the bond authorization passes with one \$10 Million bond sale. He stated that the first budget continues on-going projects only, putting other projects on hold, and the second includes budgeting for additional planned projects.

Mr. Kelly stated that these drafts do not include projects yet to be prioritized as a part of the Drainage Facility Planning Review, which is still ongoing. He stated that he hoped to have a list of the tech team's top priority projects available for the Board by the Regular Board Meeting in April. Mr. Kelly also stated that the Board may wish to either increase the frequency of bond elections, or increase the amount of each.

The Board asked several questions, which were answered by Mr. Kelly and Lisa Fenner, and provided input on the draft Construction Fund Budget.

Mr. Kelly stated that the draft budget required no action by the Board today.

**20. Field Highlights**

- a. Construction Report**
- b. Field Report**

Mr. Lovato presented the Construction Report and a slide show depicting progress on several current projects. He answered Board questions during the presentation, and gave a brief summary of the public meetings with the Corps of Engineers regarding the proposed South Valley drainage improvements. Mr. Mainz and Mr. Kelly also had some comments regarding the projects.

**21. Unfinished Business**

A quorum of the March 4, 2004 Special Board Meeting attendees now being in attendance, approval of the minutes from that meeting was now considered.

Director Lyon made a motion to consider item 4.b., the minutes of the March 4, 2004 Special Board meeting. Director Stover seconded the motion, which passed unanimously (5-0).



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Director Stover made a motion to approve the minutes of the March 4, 2004 Special Board Meeting. Director Lyon seconded the motion, and it passed (3-0). Chairman Eichenberg and Director Brown abstained from the vote, as they were not at the meeting.

**22. New Business**

Chairman Eichenberg brought up the matter of a letter from Don Hoech to each Board member, regarding a claim for payment of interest. Chairman Eichenberg had conferred with Mr. Bregman about the letter, and suggested it be turned over to Mr. Bregman for reply.

Mr. Bregman stated that the original agreement did not mention interest, and so payment of interest was not a part of the original contract. He stated that this meant there was no consideration for payment of interest, and any such payment would be a gift outside of the contract. The Board and Mr. Kelly provided input on the issue for Mr. Bregman's consideration.

**23. Items from the Floor / Public Comment**

Mr. Kelly spoke briefly about an informational item labeled "item 21 hand-out", regarding construction on private property adjacent to the northwest quadrant of the John Robert Dam. He stated that the construction there is in compliance with AMAFCA's easement agreement and the construction plans, but the neighborhood is concerned because the private property that they have been using for access to the open space is being built on and they can't park there anymore.

Mr. Kelly stated that AMAFCA is working with City Open Space about the parking issue and wanted the Board to be aware of this matter in the event someone should happen to ask them about it.

There were no other comments.

**24. Adjourn**

With no further business to discuss, Chairman Eichenberg adjourned the meeting at 11:20 a.m.

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Ronald D. Brown, Secretary-Treasurer 04/22/04

Recorded by Pam Woodruff, Secretary to the Executive Engineer