



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 1

1. Call to Order and Roll Call

Chairman Brown called the Regular Board Meeting to order at 10:04 a.m. Thursday, October 27, 2005. Roll was noted as follows:

Directors present: Chairman Ronald D. Brown
Director Daniel Lyon
Director Tim Eichenberg
Director Janet Saiers
Director Danny Hernandez

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

A quorum was present.

2. Approval of Agenda

Director Saiers stated that she had an appointment at 11:00, but would return to the meeting afterwards. She asked if the West-I-40 items could be moved earlier. Chairman Brown stated that items 8a and 8b would be heard after item 2.

Director Eichenberg asked about having someone participate in a meeting via phone. He expressed that it didn't bother him to have someone listen in, but it was difficult to have them participating without knowing what was going on at the other end of the phone line. Mr. Bregman replied that the Board can determine whether or not they wish to allow someone to participate by phone, but there didn't appear to be anything prohibiting it.

Director Lyon made a motion to approve the agenda as revised. Director Saiers seconded the motion, which passed unanimously (5-0).

Chairman Brown stated that Mr. Finley had asked to participate in today's meeting by telephone, as he was unable to attend in person.

3. Meetings Scheduled

- a. **November 17, 2005, 10:00 a.m. – Regular Meeting**
- b. **December 15, 2005, 10:00 a.m. – Regular Meeting**
- c. **January 26, 2006, 10:00 a.m. – Regular Meeting**



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 2

While Mr. Finley was being contacted via phone, Chairman Brown reviewed the meeting schedule. No changes were made.

8. West I-40 Diversion Channel Phase III – Status Report

a. Discussion of Proposal from Surety Regarding Take-Over Agreement

Tom Finley, Claims Counsel for Fidelity and Deposit Company of Maryland, the surety on the West I-40 project, joined the meeting via conference phone. Director Lyon asked why he was unable to be present in person. Mr. Finley replied that he had several contracts in a similar status to the West I-40 project, and had an unavoidable scheduling conflict preventing him from attending in person.

Jerry Lovato, AMAFCA Drainage Engineer, provided the Board with copies of correspondence, and lists regarding incomplete work and deficient work which would need to be re-done, on the West I-40 Diversion Channel Phase III project. He also provided a draft takeover agreement change order #14 that was the result of several discussions between staff and Mr. Finley, along with a copy of a letter from Mr. Finley about the agreement.

Mr. Lovato stated that the takeover agreement change order addresses important issues such as who is in charge, the completion contractor, liquidated damages, and the amount of time remaining to complete the contract.

Extensive discussion regarding the draft takeover agreement change order followed. In response to a question from Director Saiers, Mr. Finley confirmed that the surety would cover the gap between Salls Brothers' approximately \$2.4 million completion contract, and the amount remaining to be paid in the original construction contract.

Mr. Kelly summarized that \$1.5 million remained in the original construction contract. The draft change order #14 would hold out \$400,000 of this as a lump sum as fixed liquidated damages on the contract. The surety will pay the amount needed beyond this \$1.1 million for the balance of Salls Brothers' completion contract, as well as Perini's construction management contract, and the surety's other costs, from the Performance Bond in the amount of approximately \$5.2 million.

Mr. Finley confirmed this was correct. He added that the amended contract price on the original contract was \$5.5 million, with approximately 37% of the work remaining to be done. He expected the \$5.2 million bond amount to be sufficient to cover the rest of the project.

Director Hernandez concluded that the \$5.2 million bond amount that the surety was responsible for, was over and above AMAFCA's \$5.2 million in the original contract, and that



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 3

the project probably wouldn't double in cost. Mr. Finley agreed with this assessment. He added, in response to a question from Director Saiers, that there was an approximately \$2.9 million buffer between the amount of expected expenditures and the amount of the bond.

Mr. Finley also affirmed Mr. Bregman's statement that there was approximately \$1.5 million from AMAFCA, minus \$400,000 to be withheld, plus the \$5.2 million amount of the performance bond, for a total of \$6.3 million available to finish the job, as specified in paragraph 10 of the agreement.

Director Hernandez asked how the amount of \$400,000 was negotiated, wondering if it would be sufficient to cover AMAFCA's extra expenses as a result of the contract not finishing on time.

Mr. Lovato replied that he had looked at the current and future costs associated with Wilson & Company, AMEC, and additional staff time due to the project going past the completion date, and those costs would be approximately \$360,000-400,000. Mr. Kelly added that actual figures were used for the period from June 3, 2005 to the present, and future costs were estimated.

Mr. Bregman pointed out that there was a distinction between liquidated damages and actual costs. AMAFCA is entitled to liquidated damages under the contract regardless of actual costs incurred.

Director Hernandez replied that, in terms of a compromise position, it appeared that \$400,000 was fair based on the figures given by Mr. Lovato.

Director Lyon pointed out that future costs were projected, not actual costs. He asked if the surety could later contest what was included in the "lump sum." Mr. Bregman responded by reading paragraph six, which stated that the \$400,000 lump sum was in consideration for the surety waiving all other claims to date. He added that "any known claim" should read "any known or unknown claim."

Director Lyon also asked why Salls Brothers didn't start work on October 17, as had been promised at the October 12th Special Meeting, and why the takeover agreement had been referenced in Fidelity's contract with Salls Brothers? He stated he'd been told that Salls did not like having the takeover agreement in their contract.

Mr. Finley replied that the contract with Salls Brothers had a clause stating that if Fidelity could not enter an agreement with AMAFCA, Salls' contract was null and void. He stated he was unaware that Salls Brothers had objected to this clause, as their attorney had not



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 4

conveyed this information to him. He believed Fidelity and Salls Brothers were close to agreement on the terms of their contract.

Director Hernandez pointed out that at the last Board meeting, Mr. Finley and Fred Salls had assured the Board that Salls Brothers would start work on October 17, whether or not a takeover agreement with AMAFCA was already in place. Mr. Finley apologized, stating his information had not been accurate. In response to a follow-up question from Chairman Brown, he added that Salls Brothers' attorney was Lillian Apodaca.

Mr. Kelly summarized the agreement as AMAFCA's agreeing to fix the damages at a lump sum, in exchange for Fidelity waiving their right to any known or unknown claims for additional time or damages, up to and including the date of the agreement. He mentioned a third of the project remained to be completed. He noted that, due to possible future change orders for unforeseen weather delays, additional items of work, and a final adjusting change order, the final contract completion date and contract amount could change between now and March 17, 2006. The surety would be responsible for all costs beyond the contract amount, up to the limit of their performance bond.

Director Hernandez asked where the funds to pay unpaid suppliers and subcontractors would be coming from. Mr. Lovato replied that the separate labor and material payment bond would cover suppliers, subcontractors, and Department of Labor wage claims.

Mr. Finley confirmed this, stating there were two separate bonds on the project: a \$5.2 million labor and material payment bond, and a \$5.2 million performance bond, for a maximum exposure of approximately \$10.4 million.

Chairman Brown reminded the Board that staff had asked for the Board's guidance for the business deal proposal represented by the takeover agreement change order before them, specifically regarding the concept that the surety would waive all claims against AMAFCA in return for AMAFCA agreeing to a lump sum of \$400,000 for liquidated damages.

In response to a question from Director Hernandez, Mr. Kelly stated that liquidated damages for the period June 1, 2005 through March 17, 2006 would be \$457,700 if the requested suspension of contract time were extended. If the suspension were not extended, liquidated damages would total \$591,000.

Director Eichenberg pointed out that \$400,000 was approximately two-thirds of the potential amount AMAFCA could collect in liquidated damages. He asked what would prevent Fidelity from later coming to AMAFCA and claiming that we'd overpaid on work not done, or another fraud?



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 5

Mr. Bregman clarified this as if Fidelity claimed AMAFCA had overpaid AEI at some point in the contract. Mr. Finley stated that all AEI rights had been transferred to Fidelity. Mr. Bregman concluded that AEI couldn't come after AMAFCA with such a claim, and paragraph six of the agreement appeared to cover this situation as well.

In response to a question from Director Hernandez, Mr. Bregman did not anticipate any AMAFCA liability, except on the Department of Labor claim if Fidelity failed to pay. Mr. Finley added that paragraph 12 of the agreement addressed the Department of Labor claim.

Director Eichenberg pointed out that if Fidelity had been granted all of AEI's rights, Fidelity could sue AMAFCA. The two-thirds offer was to prevent claims from being brought against AMAFCA.

In response to a question from Director Saiers and a statement from Director Eichenberg, Mr. Kelly replied that delaying a vote on the extension of suspension of contract time until after the takeover agreement change order #14 had been approved and signed would be prudent. The change order, if approved, would make the decision on extension of the suspension moot.

He added that liquidated damages would kick in again after the March 17, 2006 completion date if the project had not been completed by that time, and asked for Board input on the amount of the lump sum to be used in the agreement.

Director Saiers stated she'd support a takeover agreement change order with a lump sum figure close to the liquidated damages figure of \$457,700 if the suspension were extended. She left the meeting at 10:47 a.m.

Director Lyon commented that the agreement should have the language regarding the "lump sum" in paragraph six strengthened to affirm that "lump" means everything. He stated his support of a \$500,000 lump sum in the agreement.

Director Eichenberg stated he was also leaning towards \$500,000. While this would cover most of AMAFCA's costs, it would not come anywhere near compensating everyone for the excess time and aggravation this project has caused over the past year. He added that AMAFCA could ask for \$600,000 since the amount of liquidated damages would be nearly \$600,000, but it was important that AMAFCA and Fidelity agree on an amount so this issue could be settled and all parties could move forward. He would not support a figure of \$400,000 at all.

Director Lyon stated he was also not in favor of the \$400,000 amount.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 6

Director Eichenberg commented that the draft agreement showed a lot of hard work on the part of staff and Mr. Finley, and he appreciated that effort.

Chairman Brown stated he could also support an amount of \$500,000. He asked the Board about the possibility of a small incentive where some of this would be refunded if the project were completed early. The total incentive could be fixed at certain maximum, such as \$50,000. He stated he would be in favor of such an agreement.

Director Eichenberg, Director Lyon, and Director Hernandez also expressed their support for \$500,000 with an early completion incentive set with a maximum of \$50,000. Director Eichenberg added that Director Saiers would probably also support these figures, since if the maximum incentive were earned, the net figure would be near the one she had named.

Mr. Finley stated it had taken a lot of work to get Fidelity management to agree to the \$400,000 amount and he was not sure he could get them to agree to something higher. He asked how it was possible that in the period from November 1, 2004 through September 1, 2005, only 20% of the project had been completed. He acknowledged there had been some time postponements, but asked whose interests were being served by the slow progress made by AEI during this period.

Mr. Bregman pointed out the surety had been kept informed of progress on the project during this period, and that AMAFCA had given AEI every opportunity to finish the project. He asked if this prejudiced Fidelity. Mr. Finley affirmed that the surety had been notified of project progress, and added that the delay in declaring AEI in default had prejudiced Fidelity.

Mr. Bregman asked if Mr. Finley was saying that Fidelity shouldn't have to pay because AMAFCA hadn't called the bond early enough. Mr. Finley affirmed that this was essentially his position. Mr. Bregman countered that the AMAFCA Board, and a judge, may not agree that this was the case.

Chairman Brown summarized that the direction of the Board was that staff negotiate an agreement with a lump sum of \$500,000, and with an early completion incentive of \$2300 per day, up to a maximum incentive of \$50,000.

b. Consideration of Extension of Suspension of Contract Time

Director Eichenberg made a motion that the Board continue to defer consideration of an extension of suspension of contract time on the West I-40 Diversion Channel Phase III, to the next Board meeting. Director Lyon seconded the motion, which passed (4-0).

Mr. Finley's participation in the meeting by phone ended at this point.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 7

4. Approval of Minutes

a. September 20, 2005

Director Eichenberg made a motion to approve the minutes of the September 20, 2005, Regular Board Meeting. Director Hernandez seconded the motion, which passed (4-0).

b. October 12, 2005

Director Eichenberg made a motion to approve the minutes of the October 12, 2005, Special Board Meeting. Director Hernandez seconded the motion, which passed (4-0).

Director Eichenberg praised the high quality of the minutes.

5. Financial Matters

a. Approval of September 2005 Expenditures

Irene Jeffries, AMAFCA Business Manager, presented the September 2005 Expenditure Report.

Director Eichenberg asked about the process of verifying AMAFCA credit card use. Ms. Jeffries replied that most of these expenses are small charges, or at places where AMAFCA does not have an account. She stated that she and Mr. Kelly review all the charges. Mr. Kelly added that the invoices are compared to the credit card statement, and are charged against the appropriate budget category. He and Ms. Jeffries checked all entries.

Director Lyon made a motion to approve the September 2005 Expenditure Report. Director Hernandez seconded the motion, which passed (4-0).

b. Investment Report

For Information.

c. Financial Recap September 16, 2005 through October 15, 2005

For Information.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 8

d. Financial Forecast October 16, 2005 through November 15, 2005

Ms. Jeffries presented the Financial Forecast for the period October 16, 2005 through November 15, 2005.

Director Eichenberg made a motion to approve the Financial Forecast. Director Lyon seconded the motion, which passed (4-0).

6. Personnel Matters

Mr. Kelly reported that AMAFCA had received eight responses to the ad for the Field Engineer position. All résumés had been reviewed by Ms. Jeffries, Mr. Lovato, and Mr. Kelly. Four applicants were interviewed by Mr. Kelly and Mr. Lovato. An employment offer had been made to and accepted by Kurt Wagener, who is a registered engineer with extensive construction experience. He will be starting at AMAFCA in about 3 weeks.

7. Legal – Status Report

Attorney Sam Bregman briefed the Board on the status of various legal matters.

9. U.S. Army Corps of Engineers Southwest Valley Drainage Projects – Briefing on First Two Public Meetings

Mr. Lovato briefed the Board on the first two public meetings on the Southwest Valley Drainage Projects. A copy of a letter written by the facilitator summarizing the first two meetings was provided, as well as copies of recent newspaper articles about the project. He stated that meeting procedures had been changed slightly based on feedback received after the first meeting.

Director Hernandez added that the public meetings have given southwest valley residents a say in the project, and the cooperation between AMAFCA and Bernalillo County is working well.

Mr. Kelly invited the Board to attend any of the remaining public meetings. The final three meetings are at Adobe Acres Elementary School, November 10; Polk Middle School, November 30; and Los Padillas Elementary School, December 14. All meetings start at 6:00 p.m.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 9

10. Real Property Acquisitions

a. Approval of Resolution 2005-13, Acquisition of Right of Way for Southwest Valley Dam Outfalls – Corps of Engineers Black Mesa Project

Martin Eckert, AMAFCA Real Estate Manager, presented proposed Resolution 2005-13, *Acquisition of Right of Way for Southwest Valley Dam Outfalls – Corps of Engineers Black Mesa Project*. As a local sponsor, AMAFCA needs to acquire an easement from east of Isleta Boulevard to the river. The Real Estate Committee had visited the site and concurred with the recommendation.

Mr. Kelly stated that as a part of the Black Mesa Project, there would need to be gravity outfalls for three dams in the area (Raymac, McCoy, and Don Felipe). One of these was along the public utility right of way on Raymac Road. Mr. Eckert added that there was a small gap of additional easement that needs to be acquired across the last lot on the road.

Director Lyon made a motion that the Board approve Resolution 2005-13, *Acquisition of Right of Way for Southwest Valley Dam Outfalls – Corps of Engineers Black Mesa Project*, and authorize the Chairman to execute the Resolution. Director Hernandez seconded the motion, which passed (4-0).

b. Approval of Resolution 2005-14, Acquisition of Right of Way for Southwest Valley Isleta Boulevard Tributary Storm Drain Project

Mr. Eckert presented Resolution 2005-14, *Acquisition of Right of Way for Southwest Valley Isleta Boulevard Tributary Storm Drain Project*. He stated this would be for easement acquisition for a storm drain along La Vega Drive and El Serrano Court, to the La Familia Pond site.

Director Hernandez confirmed that he had observed the need for a storm drain in the area after a recent storm, and asked about the routing of the storm drain. Mr. Lovato responded that Smith Engineering had re-designed this portion of La Vega so that it would drain into the inlet for the storm drain.

In response to a question from Director Eichenberg, Mr. Eckert confirmed that the property owners at the end of El Serrano Court were very agreeable to the easement acquisition, and asked only that AMAFCA build a fence along the easement, between their two properties.

Director Hernandez made a motion that the Board approve Resolution 2005-14, *Acquisition of Right of Way for Southwest Valley Isleta Boulevard Tributary Storm Drain Project*, and



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 10

authorize the Chairman to execute the Resolution. Director Lyon seconded the motion, which passed (4-0).

11. Amole Arroyo Phase III & 98th Boulevard Crossing – Consideration of Phased Construction Engineering Services Agreement with HDR, Inc.

Christy Burton, AMAFCA GIS Manager, introduced Tim Archibeque of HDR. She presented the proposed phased agreement with HDR for construction engineering services for the Amole Arroyo Phase III & 98th Boulevard Crossing Project. The phased agreement included \$12,400.00 in fees for the first phase of the agreement. After that phase was complete, fees for phase II and phase III of the agreement would be negotiated and brought before the Board next month for their approval.

Director Hernandez made a motion that the Board approve Phase I of the Agreement with HDR Construction Control Corporation to provide Design Review and Construction Engineering Services for the Amole Arroyo Phase III Project, in the amount of \$12,400.00. Director Eichenberg seconded the motion, which passed (4-0).

12. Lyon Boulevard Storm Drain – Consideration of Funding Agreement with City of Albuquerque and TVI for Interim Intersection Improvements at Lyon Boulevard and Irving Boulevard

Director Eichenberg was not present during discussion of this agenda item.

Mr. Kelly summarized the proposal for constructing interim intersection improvements at Lyon Boulevard and Irving Boulevard, the costs to be paid by TVI and the City. These improvements would relieve traffic congestion at the intersection, and reduce the traffic impact of AMAFCA's Lyon Boulevard Storm Drain Project.

The cost of these improvements would be paid 100% by the City, minus the \$40,000 that would be paid by TVI. He added that the agreement was currently going through TVI legal review, and had passed City legal review. He requested that the Board approve the cost sharing agreement with the City of Albuquerque and TVI.

Director Lyon expressed his support of the proposal, stating he had visited the project area and it would greatly improve traffic flow during the storm drain project, at no cost to AMAFCA. Director Hernandez stated his approval of the fact that these improvements would not cost AMAFCA anything beyond the amount already budgeted for temporary detours on the project.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 11

Director Lyon made a motion that the Board approve the Funding Agreement with City of Albuquerque and TVI for Interim Intersection Improvements at Lyon Boulevard and Irving Boulevard, substantially the same as attached. Director Hernandez seconded the motion, which passed (3-0). Director Eichenberg was not present during the vote.

Director Eichenberg returned to the meeting.

13. Prima Entrada Subdivision – Consideration of Funding Agreement with GHP, LLC.

Lynn Mazur, AMAFCA Development Review Engineer, stated that Phillip Pickard, representing GHP Limited, had stated his intention to attend the meeting, but was not yet present.

She presented a funding agreement for the West I-40 Phase III Diversion Channel, Estancia Road to Unser Boulevard, as related to the Prima Entrada Subdivision. She stated that this agreement was similar to others entered into with Westland and Dragonfly Development to fund a portion of the West I-40 Diversion Channel. The per-acre assessment is the same as that used in the August 2005 agreement with Dragonfly Development, \$2,719.50.

In response to a question from Director Eichenberg, Ms. Mazur stated that the amount used in the Dragonfly Development agreement in August 2005 was a 5% increase from the amount used in the first agreement with Westland, nearly 2 years ago.

Director Eichenberg pointed out that land values in the area had nearly doubled during that time period, and asked if the per-acre assessment should be adjusted. Director Hernandez asked about the formula used to calculate the assessment.

Mr. Kelly stated that during negotiation with major property owners along the project area two years ago, he had arrived at the original per-acre amount to raise \$1 million towards the cost of the project, at a 60-40 private/public split. This per-acre amount was adjusted upward for the August 2005 agreement.

Director Hernandez asked if developer contributions to the project should be tied to land values. Chairman Brown asked if AMAFCA needed to acquire additional right of way for the project.

Mr. Kelly stated that AMAFCA and the City already have easements for much of the project, but additional right of way and the land for the 98th Street Detention Dam are still needed.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 12

Chairman Brown pointed out that concrete construction costs had risen about 30% during that time, as well as the value of the land that would be needed for the dam site, so the total cost of the drainage delivery system had certainly increased.

Director Hernandez stated that, although the assessment was not tied directly to land value, he felt AMAFCA should update the amount to account for rising land and construction costs.

Director Eichenberg suggested that the Board defer the decision, and have staff bring the agreement back before the Board at the next meeting with a revised per-acre amount.

Director Lyon made a motion that the Board defer the decision, and have staff bring the agreement back before the Board at the next meeting with a revised pre-acre amount. Director Eichenberg seconded the motion, which passed (4-0).

Director Eichenberg requested that the revised amount reflect the 80-20 private/public split favored by the Board. Director Hernandez agreed.

Chairman Brown noted that Phillip Pickard had arrived, and informed him the Board had deferred a decision on the agreement because the per-acre assessment numbers used were nearly two years old and the cost of the delivery system had increased. Mr. Pickard's engineer, David Soule, had also arrived.

Director Saiers returned to the meeting at 11:38 a.m.

Mr. Pickard addressed the Board, stating that this agreement was the same as the ones approved for neighboring properties, the most recent only two months prior. He did not understand why there should be this delay.

Ms. Mazur added that the Prima Entrada subdivision had been on the Drainage Review Board agenda two months ago, but they were asked to defer a decision until this agreement with AMAFCA had been signed. She suggested that the preliminary plat could be approved, with the AMAFCA funding agreement listed on the infrastructure list.

Chairman Brown stated that the Board felt there should be an equitable cost distribution among the properties in the area. Mr. Kelly added that he could use the same methodology he'd used to come up with the original figure two years ago, to develop an updated per-acre assessment.

Mr. Pickard countered that the existing figure had been approved in August, for Dragonfly Development, and asked why it needed to be changed.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 13

Mr. Kelly replied that the figure had been increased by 5% in August for the agreement with Dragonfly Development, but at that time, AMAFCA did not realize that construction costs, including the costs of concrete and steel, would increase as much as they have this fall.

Director Eichenberg asked if the Chairman was comfortable with allowing staff to proceed with a preliminary plat of this development, with the agreement to be listed on the infrastructure list, knowing that the per-acre assessment would be some figure greater than \$2,719.50.

Director Eichenberg made a motion, for discussion purposes, that the Board reconsider this item. Director Lyon seconded the motion, which passed (5-0). Chairman Brown stated the item was back on the table for reconsideration, and was open for discussion.

Mr. Kelly summarized that the Board had asked him to reassess the appropriate developer contribution to reflect the actual cost of the delivery system, at the 80% private/20% AMAFCA split preferred by the Board. He added that the developer had asked for preliminary plat approval so they could proceed with grading; this is commonly used when AMAFCA has a financial guarantee for the drainage infrastructure, which wasn't the case here as the dollar amount had not yet been set.

After further discussion, Director Eichenberg stated that preliminary plats were commonly done. He would be willing to reconsider an agreement with a new per-acre amount at the November meeting, in three weeks, and allow the developer to move forward with a preliminary plat.

Director Eichenberg made a motion that the Board defer the decision, and have staff bring the agreement with a new per-acre amount back before the Board at the next meeting, and that staff monitor the situation as the developer moves forward with preliminary plat approval. Director Lyon seconded the motion.

Further discussion centered on the area covered by the Prima Entrada Subdivision, the scope of the project funded by these agreements, and the scope of the entire channel of which this is a part. Mr. Kelly stated that the fees paid by developers offset the cost of the downstream trunk infrastructure construction, and are deposited to the construction fund. The cost is shared by developers between Ladera and I-40, up to the City Open Space on Atrisco Terrace.

In response to a question from Director Hernandez, Mr. Kelly stated that staff is also monitoring upstream development to assess future needs in that area.

The motion passed unanimously, (5-0).



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 14

14. Multi Use Planning with City of Albuquerque – Briefing by Christina Sandoval, City of Albuquerque Department of Municipal Development

a. Las Ventanas Detention Dam and Outfall Pipe Area

Mr. Kelly introduced Christina Sandoval, City of Albuquerque Department of Municipal Development, who briefed the Board on the City's plans for joint use of AMAFCA's Las Ventanas Detention Dam and Outfall Pipe Area, the Ventana Ranch Community Park. She stated that the City has begun master planning of this area, and wants to work with AMAFCA and the County during that planning. There are currently no community recreation facilities in this area.

Ms. Sandoval answered questions from the Board during her presentation. She stated that the City wanted to plan ahead to eventual use of the entire area before they finalize plans for the City's adjacent 17 acres and begin seeking funding for those improvements. The City will come back to the Board for a license agreement at a later time.

Mr. Kelly added that, as the Las Ventanas Dam was being planned and built, excess capacity was built into the dam to allow for 30 acre-feet of fill to be brought in on the City acreage, to build that area up enough over the basalt layer to allow for turf in the park area. The AMAFCA facility also allowed for eventual parking needs.

b. Piedras Marcadas Detention Dam

Ms. Sandoval then briefed the Board on the City's plans for the Piedras Marcadas Detention Dam area. She stated that the City standard is having a community park within a half mile of all residential areas, and several neighborhoods in the area do not have nearby facilities, or have to cross major streets to reach other parks. This proposed facility would provide for those neighborhood needs at the eastern end of the dam.

She explained that the City's plans include play areas, shade structures, and parking. She added that the City has funds for the design and some of the improvements. An existing trail will be extended to run from Golf Course to Eagle Ranch, and will pass by the proposed park.

Ms. Sandoval and Mr. Eckert answered several questions from the Board.

c. Kinney Dam / North Domingo Baca Park Plat Issues

Mr. Eckert referenced the Second Amendment Agreement with the City concerning the Kinney Dam / North Domingo Baca Park area and the City's purchase of seven AMAFCA-owned lots needed for its Park. He mentioned that AMAFCA agreed to cooperate with the



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 15

City on a replat of the properties. A portion of Anaheim is being vacated, which will provide AMAFCA more free and clear right of way, and the City would like to widen the roadway right of way along Louisiana to allow for a proposed street widening project. Other properties along the street were required to dedicate additional right of way as they were developed.

He stated that when the dam was constructed, AMAFCA anticipated a future widened right of way along Louisiana and allowed for it with a 35 foot fence setback. The right of way change will not adversely affect the AMAFCA facility.

In response to a question from Director Eichenberg, Mr. Eckert stated that the City was seeking an approximately 100 foot wide corridor for long range street planning purposes. This would line up with right of way in the blocks north and south of the dam area.

Mr. Kelly added that the City is just seeking the land right of way, not money, and will not be widening the street soon. It would simply be cost-effective to include the right of way change in the re-plat that will be done for the City's North Domingo Baca Park development.

Director Eichenberg was concerned that widening the street at this point would cause too much traffic in a recreational area. Director Hernandez agreed, stating the road should be narrower at this point so that traffic would slow for pedestrians using the park.

Director Saiers commented that Louisiana is listed on the City's Long Range Major Street Plan, and that park access will be on the other side of the park, not along Louisiana. The plans involving eventually widening this street have been publicly available and shouldn't come as a surprise to anyone.

Director Hernandez asked about people living to the west of the park, who want to walk to the park facilities.

Chairman Brown suggested that staff obtain further information for the Board's consideration, including a profile of the proposed street. He added that the dam was built knowing that this section of Louisiana was a temporary paving section.

Mr. Kelly stated that staff would bring the proposal back before the Board with additional information for their consideration.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 16

15. Consideration of On Call Services Contracts

- a. **Surveying Services – Jeff Mortensen and Associates, Bohannon Huston, Inc., Albuquerque Surveying Company, and Wilson & Company**
- b. **Site Photography Services – Eagle’s Eye Photo Imaging**
- c. **Title Services – LandAmerica Albuquerque Title**
- d. **Real Estate Appraisal Services – Commercial Appraisal Professionals, Shipman/Foley & Associates, and American Property**
- e. **Geotechnical/Environmental Engineering Services – AMEC Earth & Environmental, Vinyard & Associates, and Kleinfelder**

Director Hernandez stated that he would like to consider all five categories of on-call services contracts at once.

Director Hernandez made a motion that the Board approve the on-call contracts for surveying services, site photography services, title services, real estate appraisal services, and geotechnical/environmental engineering services with the companies listed, and authorize the Executive Engineer to execute each contract. Director Eichenberg seconded the motion, which passed unanimously (5-0).

Director Eichenberg requested that title services be expanded in the future, as he routinely saw the same title company be the sole contractor on this on-call contract.

There was no item 16 on the agenda.

17. North Camino Arroyo, San Mateo to I-25 – Selection Advisory Committee Recommendation for Construction Engineering Services

Christy Burton, AMAFCA GIS Manager, presented the recommendation of the Selection Advisory Committee for construction engineering services for the North Camino Arroyo, San Mateo to I-25 Project. Six firms picked up the request for proposals, and four firms responded to the RFP.

The SAC met October 25, 2005. Bohannon Huston, Inc., was ranked number one by the SAC and by each member of the committee, and the SAC recommends that they be chosen by the Board.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 17

Director Saiers made a motion that the Board accept the recommendation of the Selection Advisory Committee, authorize the Executive Engineer to commence negotiations per the NM Procurement Code, and come back to the Board at a future meeting for approval of an agreement for Construction Engineering Services with Bohannon Huston, Inc. The motion was seconded by Director Eichenberg.

Director Eichenberg asked why there was not a City representative on the SAC. Mr. Kelly replied that the SAC was appointed by the Chairman, and a City representative was not invited to serve since the City was not a party to the cost-share agreement for this channel.

The motion passed unanimously (5-0).

Chairman Brown called a recess for lunch at 12:25 p.m. The meeting resumed at 12:47 p.m. Chairman Brown stated that item 21 would be heard next, followed by item 19 and then item 20.

21. Real Estate

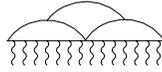
a. Extension of Agricultural Leases – Abeita and Maestas

Mr. Kelly requested that the Board approve extensions of agricultural leases with Marvin Abeita and Ron and Patsy Maestas for two Southwest Valley Drainage Project properties that AMAFCA currently has leased on an interim basis. Mr. Eckert and the Real Estate Committee recently inspected the properties and are satisfied with the lessees' stewardship of the properties. Staff recommendation is that the leases be extended a year each, per the terms of the leases.

After brief discussion, Director Lyon made a motion that the Board authorize the Executive Engineer to execute Lease Option Extension Agreements with Marvin Abeita and Ron and Patsy Maestas. Director Hernandez seconded the motion, which passed unanimously (5-0).

b. Lobo Little League Menaul Detention Basin – Consideration of License Agreement with City of Albuquerque for Use of AMAFCA Right of Way

Mr. Eckert introduced Christina Sandoval, of the City of Albuquerque, who was available to answer questions. He stated that the City would like to make some additions to the existing Little League facility in the Menaul Detention Basin, and has requested an updated Recreation License to allow these improvements.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 18

Director Hernandez made a motion that the Board approve the issuance of a Recreation License to the City of Albuquerque for a portion of Parcel A, A.M.A.F.C.A. North Diversion Channel Embudo Channel Phase 3 and AMAFCA Drainage Easement area within Tract A, Balduini Park. The motion was seconded by Director Eichenberg.

Director Hernandez suggested that staff try to find some way of reducing motorized public access along the blue line on the map, while still allowing law enforcement access for arroyo rescues in the Embudo Channel, to reduce offroad driving occurring in the area. He suggested the use of a boulder or jersey barrier.

The motion passed unanimously (5-0).

19. Westland North Development – Briefing by Leroy Chavez, Westland Development North

Mr. Kelly introduced Leroy Chavez, John Nelson, and Fred Ambrogi of Westland Development, and James Topmiller and Craig Hoover of Bohannon Huston, Inc., their engineers.

Mr. Chavez briefed the Board on two high-growth areas in Westland North, Grasslands and Cordero Mesa Industrial Park. As a result of this development, Bohannon Huston plans to update the Drainage Management Plan for the area, including evaluating additional ponding areas that would minimize the sizes of downstream pipes and channels.

Mr. Topmiller presented a few more details about Westland's plans and growth on Albuquerque's westside, and answered questions from the Board. Goals of the DMP update are: to amend the DMP to reflect actual construction, update the DMP for current development trends, optimize the DMP drainage facilities, identify phasing approaches, explore cost sharing opportunities, and explore agreements for right of way acquisition.

Mr. Kelly stated that revisions to DMPs are routinely made as development occurs. He briefly reviewed the major facilities in the existing DMP. He went on to say that Westland plans to have the updates done by the company who put together the original DMP.

In response to a question from Director Lyon, Mr. Chavez replied that updating the DMP will allow the developer to put most of their money into facilities that are at their ultimate locations. If interim ponding is done, it can be done at locations that will later be a part of the drainage system.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 19

In response to another question from Director Lyon, Mr. Kelly stated that some of the improvements would be built in the next 2-3 years, and some were a decade or two away from being built.

In reply to a question from Director Hernandez about the potential sale of Westland Development Company, Mr. Chavez stated that there would still be a need for drainage facilities, although different parties may be involved in building the system.

20. Floodplain Development in North Albuquerque Acres – Review and Discussion on Draft Engineering and Development Guidelines

Ms. Mazur introduced Mr. and Mrs. Ashot Tumagyan, owners of a lot in North Albuquerque Acres where they propose to build a pier house in the floodplain, and Larry Read of Larry Read & Associates, their engineer.

She reported that staff had presented the draft resolution to the City, the County, and the DPM Drainage Subcommittee for their comments. Comments included specifying which thalweg of the arroyo the regulations applied to, and specifying that these regulations applied to existing platting only. New platting takes into account arroyos and drainage easements, and lots are not platted across arroyos. The next step is to present the draft resolution to the public. Staff is requesting direction on how to do this.

Ms. Mazur introduced Dan Hogan, of the City of Albuquerque Drainage Management Division. Mr. Kelly stated that he and Mr. Hogan had decided it would be appropriate to show the Board video demonstrating a 3500 cfs flow in the Embudo Arroyo after the July 9, 1988 storm. The slope and condition of the arroyo are about the same as the La Cueva Arroyo in North Albuquerque Acres.

Mr. Hogan stated that he was not part of the development review process at the City of Albuquerque, but would be expressing his personal opinion, based on 22 years of experience, at the meeting. He had provided the Board with a copy of an article regarding flood recovery and remediation from a flood in 1997 on the Red River in Minnesota and North Dakota. He stated that the national trend was moving towards local governments (with the help of federal funding) buying properties which are in danger of flooding and which have already flooded, except in certain coastal areas, rather than allowing development. He stated that the coastal situation is far different and not applicable to this situation.

He then showed the video to the Board. In addition to the heavy flow of fast-moving water full of debris, the video pictured a phenomenon known as “bore” or “roll waves” – a large, unpredictable wave moving downstream very quickly. Bore can occur even with just a small amount of water in the channel.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 20

The channel was designed for about 850 cfs, but was carrying 3500 cfs. The concrete portion handled the flow very well, although some overtopping of the channel occurred. Large boulders were seen traveling down the channel, as well as a vehicle caught in the flood and being washed down the channel.

The video showed a large bore shoot out over the roadway, at Chelwood and Indian School, more than once. The channel in this area was dirt, not concrete. The water overtopped the lined channel at several places, and caused considerable erosion damage. Box culverts, which carried the flow during high velocity, completely filled with 8 to 12 feet of sediment towards the end of the storm event as the water flow slowed.

Mr. Hogan concluded that a flow of 3500 cfs at a 3.5% - 5% slope, a slope very similar to the La Cueva in the North Albuquerque Acres, is very damaging.

He also showed pictures of the channel at Wyoming that demonstrated square-edged piers resulted in a large splash, and a parabolic curve-edged pier on Louisiana resulted in a smaller splash. Some sediment clogging also occurred.

Mr. Hogan stated he did not like paragraphs 4.e.4 and 4.f.1 of the draft resolution, because bore, splashing and clogging are big problems. A two foot clearance would probably not be sufficient. He added that the national trend was to purchase properties that would be damaged by flooding, rather than rebuilding on that same plot.

Director Hernandez remarked that the photos showed concrete lined channels, whereas the La Cueva is dirt, so clogging and sediment deposition will be even greater problems in North Albuquerque Acres than they were in the photos.

Director Eichenberg related his personal experiences in the storm. He had been advised to raise the elevation of his lot by three feet when he built his house a year prior to the storm, which he did. The floodwater had come up to the splash plate of his door. The water pressure against the walls of his neighbor's homes was tremendous. Neighbors up the street had opened their front and back doors to let the three feet of water flow through their house to relieve the pressure on their walls.

He added that debris, which included fast-moving bowling ball sized rocks, punched holes in the sides of houses and wiped out studs in the walls of homes in his neighborhood. The weakened walls frequently collapsed. If they were load-bearing walls, the ceilings also collapsed. His home escaped this damage due to the fact his lot elevation had been raised.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 21

Mr. Kelly acknowledged that 3000 cfs of water can be very damaging. The platting in this area had not taken the arroyos into account, but so far owners had been able to build out of the floodplain. There was a potential for many future submittals for building on lots without a suitable building pad out of the floodplain. He referred to the Board's responsibility to balance private property rights with the public interest and good engineering practices.

Further discussion followed. Mr. Kelly acknowledged that the effects of bores were unable to be tested in the computer model of the arroyo due to their unpredictability, but it was possible that 2 feet of freeboard may not be enough for the safety of the home and occupants. Bore is unpredictable and can occur even in small amounts of water flow. The engineer doing a structural design has a lot of responsibility and liability to be sure the design is adequate for these conditions.

He added that it would be very expensive to buy the 40 lots in North Albuquerque Acres that couldn't be built upon without infringing on the floodplain, and that there were other areas of town, on the southwest mesa and west of Ventana Ranch, that have similar deficient platting, although those lots are larger and can probably be developed.

The City also has jurisdiction over some of North Albuquerque Acres, and the City could elect to adopt a similar policy, or could elect not to. The owner would have to comply with the more stringent requirements.

Director Hernandez opined that it was too late to buy the land, as it had gotten too expensive. He recommended a policy that would either ensure sound engineering, or that AMAFCA deny approval. He added that he'd been out in the 1988 storm, and the water flow was tremendous.

Mr. Kelly remarked that the 1988 flood they'd seen on the video was greater than the 100 year event in a very small area, but over the entire watershed, was much less than a 100 year storm. He reminded the Board that they'd seen boulders tumbling down the arroyo in the video.

Director Lyon agreed that it would be very expensive to buy the affected properties. He stated he was generally in favor of upholding individual property rights, but there was a limit when insisting on those rights did damage to neighboring properties. If a boulder coming down the arroyo damaged a house, parts of that house could then go on to damage adjoining properties.

Mr. Kelly pointed out the computer analysis of pier houses did not consider the effect of boulders, portions of houses, or cars in the water flow. Director Lyon added that yard furniture such as picnic tables would also likely be caught up in the flow.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 22

Director Hernandez stated that he was not ready to see cars being washed down the arroyo.

Director Eichenberg pointed out that human life and safety was also at issue, since children would play and build “forts” where they wanted, including under the elevated portion of a house. Children, when scared, frequently retreat to their “fort” for safety – which could be deadly in the event of a flood.

In response to a question from Chairman Brown about the comments received from other public agencies, Mr. Kelly stated that they could be summarized as, “well-written, appears to take care of the engineering, but is it right to allow development in the floodplain?” In response to a question from Director Hernandez, he allowed that the engineering computer model did not take into account the effect of bore waves. Director Hernandez opined that someone could die if a storm like the one in 1988 came to the La Cueva watershed.

Director Eichenberg reminded the Board of a situation years ago on the Westside, where an attorney had stated he’d rather defend AMAFCA for not allowing construction in a certain area, rather than defend them because construction had been allowed and a child had lost his life as a result.

In response to an inquiry from Chairman Brown, Ashot Tumagyan stated that during the design of their home, the engineer tried to consider what could happen if the arroyo became flooded, including a 2 foot clearance. He added that he’d been working on the design for two years, and this permit process had taken 18 months without a decision.

Larry Read, their engineer, stated that they had considered a 100-year flood, planning to keep the structure 2 feet above the highest water level, although he was unsure if two feet was enough freeboard. He had performed HEC-RAS analysis and had done the scour calculations. A structural engineer designed the pier system, then he doubled the length of piers over what the analysis had indicated was required.

Director Hernandez pointed out that the Board’s decision would affect others as well, not just the Tumagyan house. If the Board chose wrongly, life could be lost.

In response to a question from Director Lyon, Mr. Read stated that about 80% of the house would be in the floodplain. Director Lyon continued, stating that many lots in the area have a portion of the lot in the floodplain. Director Hernandez added that if AMAFCA approved the policy, they would be allowing development in the floodplain, anywhere in AMAFCA’s jurisdiction.

In response to an inquiry from Director Saiers, Mr. Bregman stated that if AMAFCA did not adopt the policy and the permit was denied, the next step could be to go to court, under



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 23

“taking” law, as the decision would prevent them from exercising their right to use the property as they desired. The possibility of loss of life, and the precedent that approval would set, should also be considered.

He continued that it was very important for the Board to base their decision on sound engineering. AMAFCA is technically immune to liability, but still could be sued. AMAFCA’s mission to protect life and property should remain foremost.

He added that the trend throughout the country was away from pier houses, and that the pier house could harm others downstream. The Board should make a decision that they were very comfortable with. The concept that the proposed two foot freeboard may not be enough was disquieting.

Mr. Read replied that two feet was double the FEMA requirement, and that the house on piers was not a new structural design, but was based on bridge design. Mr. Tumagyan added that if AMAFCA did not want piers in arroyos, they could not allow bridges, either.

Director Hernandez replied that the difference is people do not live on bridges. If a bridge goes down, cars stop crossing the bridge. A house could go down and injure or kill the occupants or others downstream.

Mr. Kelly clarified that the one-foot FEMA requirement is for a type AH flood zone, the ponding water that occurs in low-lying areas. Under current County regulations, building is allowed if the lot is filled to raise the building pad elevation one foot above the water level. For moving water in an arroyo, the freeboard need is greater. Bore waves also need to be considered.

Engineer Elvidio Diniz, also present, stated that he has a client in the area who is proposing to add fill to reduce the portions of his lots in the floodplain. He pointed out that the area of the arroyo here is much wider than the typical arroyo floodplain area, and that bores usually happen in narrow areas. Bore may occur in a wider area, but will tend to dissipate quickly. He continued, stating that the big problem was sediment deposition, as was demonstrated on the video with the plugged box channel.

He stated one option AMAFCA could consider was the concept of a floodway, where there is absolutely no potential for development, and a rise in water level is allowed.

Mr. Diniz pointed out that there were two major flow paths in the arroyo, and numerous old meander paths. Another option to be considered could be to designate and improve one main path, reducing the floodplain. A lined channel could also be considered.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 24

Chairman Brown stated current AMAFCA policy was to fill the area and properly armor the bank, allowing enough capacity for the designed water flow to pass by, and to not build in the floodplain.

Mr. Kelly stated that someone could build next to the floodplain and armor the edge, so erosion doesn't take the house out, or set the building back from the floodplain. Multiple owners in the North Albuquerque Acres area complicated any possible solution. Usually problems like this are solved by a developer owning the entire area and proposing a solution for the development as a whole. Some consolidation of lots is now occurring, but most are individually owned.

He pointed out that, as Mr. Diniz had stated, it is always possible to have a storm bigger than the design storm, as occurred in a small area in the 1988 storm. There is a chance in any watershed that this storm could be exceeded.

Director Saiers stated that government takes on predictable risks all the time, but rainfall is not predictable.

Mr. Kelly replied that the Corps of Engineers built the backbone of Albuquerque's drainage system, the North Diversion Channel, the South Diversion Channel, and the Embudo Channel, to an approximately 500 year event. The Corps of Engineers built the levees along the Rio Grande to 42,000 cfs, which is approximately a 270 year event.

He added that there were two development proposals where the Board has imposed a greater than 100 year event in their planning, where the potential for damage and loss was great in case of failure. These were one within the floodway of the Rio Grande, and one in the lower Tijeras. Also, spillways on AMAFCA dams are designed for Probable Maximum Flood, which is approximately a 14 inch rainfall. These are examples of times that AMAFCA has used a greater than 100 year event when making their decisions.

He added that a lot of the public works design parameter decisions made by government are zoning and population density based, but that model falls apart for drainage, where the risk is based on extremes of weather, rather than on population density.

In response to a question from Director Hernandez, Mr. Kelly stated that maintenance requirements are stated in section five of the policy.

Director Lyon asked about FEMA regulations, wondering if a concrete-lined channel might be a good alternative on the La Cueva Arroyo area.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 25

Mr. Diniz responded that a lined channel had been considered about ten years ago, in the Drainage Management Plan, and is still a viable alternative, although perhaps not politically or environmentally popular. From a practical standpoint, it might be difficult to get the individual property owners to all agree on that solution.

Chairman Brown stated that government assumes risks, and establishes the floodplain, based on probable rainfall. However, certain events can exceed the planned rainfall event, and therefore exceed the design parameters. He opined that he had a problem determining how establishing a policy that allowed development in the floodplain, served the public interest.

He continued, saying that at the beginning of the Board's consideration of this issue, he'd assumed AMAFCA could come up with an appropriate policy allowing such development. Now, however, he was uncomfortable with any policy that would allow floodplain development, as the potential repercussions were too great.

Mr. Hogan commented that, while the 1988 storm may have been 5 to 7 inches of rain, creating 3000 cfs, the design event for 2 to 3 inches of rain in the La Cueva results in 3000 cfs. Five or more inches of rain in that basin would result in greater than 3000 cfs. The 3000 cfs of the planned 100 year event could easily be exceeded by another freak storm like the July 1988 storm. He continued, stating that he enjoyed the open space in the foothills created by someone's foresight to purchase that land. It would be a lot of money to buy affected lots, but it would cost even more after homes were built on the lots.

Mr. Kelly clarified a comment made earlier by Mr. Diniz, stating that the DMP for the Camino and La Cueva Arroyos had considered two options for this segment of the La Cueva: a concrete-lined channel, and a naturalized channel where one thalweg would be improved and become the main channel. He proposed refreshing the Board on the DMP and the possibilities for this stretch of the La Cueva.

Director Saiers stated that before a decision was made on the policy, she would like to know the cost of each option (channelization, lot purchase, or another alternative).

Chairman Brown stated that he wouldn't want to commit AMAFCA or any public agency to purchasing any lots in the established floodplain. The Tumagyan's lot could be built upon with some drainage modifications and stabilization. Some solutions are cost-effective and others are not.

Roger Paul, Bernalillo County Public Works Department, reminded the Board that any policy the Board adopts would be applied across AMAFCA's jurisdiction if approved, and would also be implemented across the County and in the City approval process.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 26

Due to a prior commitment, Director Hernandez left the meeting at 2:36 p.m.

Mr. Diniz suggested that the property owners could participate in a flood control district, similar to an SAD, to address drainage in the area. Property owners would participate financially and with property donations, as was done in Sunset Hills. Chairman Brown added that AMAFCA could not form the SAD, but the County and City could.

Mr. Kelly summarized the discussion, and suggested further discussion. Mr. Bregman stated that the Tumagyan's deserved some sort of closure. Director Lyon suggested staff could deny this application, then continue to work on a policy.

Chairman Brown opined it was reasonable to deny the application at this time, due to a lack of a policy in place that would allow such development and the fact it would take longer than a reasonable amount of time for such a policy to be developed and adopted.

Mr. Tumagyan stated he'd complied with all appropriate regulations, and asked why his application couldn't be approved. Chairman Brown replied that building in a floodplain was not allowed. Mr. Tumagyan countered that he would be building above the floodplain, not in it. Chairman Brown responded that unless the section of the house above the floodplain were cantilevered, a portion of it, the supporting piers, would be in the floodplain.

Director Saiers summarized that a structural portion of the home would physically touch the floodplain.

In response to a question from Director Eichenberg, Mr. Kelly stated that in the case of the expansion of University Boulevard into the Mesa del Sol development, planning was done for the 500 year event. Villa del Sol, downstream, is considering a similar solution. Some areas in the AMAFCA jurisdiction were developed at a greater than 500 year event, including everything in the Tijeras watershed.

Director Eichenberg wondered if AMAFCA should expand its policy from "you can't build within the 100 year floodplain" to a restriction on the 250 year or 500 year floodplain. He added that the criteria for freeboard, pier spacing, and so on would need to be carefully considered so development would be safe.

Chairman Brown reminded the Board that they hadn't had enough public input to make a policy decision at this time, and the timeline for this input indicates it would be a lengthy process. The Board can't set policy until there is substantial opportunity for public comment, and there is not yet a policy in place to allow the approval of the proposed structure.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
October 27, 2005**

Page 27

Director Eichenberg asked if public comments could be obtained while staff is exploring expanding the requirement to the 250 or 500 year floodplain. Chairman Brown replied that any policy change needed to be done in conjunction with the City and County.

Director Lyon stated he believed the County and City were already involved in the decision.

Mr. Paul responded that the County has been involved at the staff level in discussions of the proposed policy, but only preliminary discussions with elected officials had taken place. The county would need to develop concurrent policy within the County's approval process. As County Engineer, he has the ability to bring in certain policies that augment the Drainage Ordinance. For something of this magnitude, he suspected he would want to bring it to the County Commission first. He has not done this yet.

Chairman Brown moved on to the next item.

- 18. Field Highlights**
 - a. Construction Report**
 - c. Field Report**

(Due to time constraints, this agenda item was not heard.)

22. Unfinished Business

None.

23. New Business

None.

24. Items from the Floor/Public Comment

None.

25. Adjourn

With no further business to discuss, Chairman Brown adjourned the meeting at 2:51 p.m.

Tim Eichenberg, Secretary-Treasurer 11/17/05

Recorded by Pam Woodruff, Secretary to the Executive Engineer