



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
December 14, 2006**

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1. Call to Order and Roll Call

Chairman Eichenberg called the Regular Board Meeting to order at 10:02 a.m. Thursday, December 14, 2006. Roll was noted as follows:

Directors present: Chairman Tim Eichenberg
Director Danny Hernandez
Director Daniel Lyon
Director Ronald D. Brown
Director Janet Saiers (arrived at 10:11 a.m.)

Others present: John Kelly, Executive Engineer
Sam Bregman, Attorney
Staff
Other attendees on file at AMAFCA

A quorum was present.

2. Approval of Agenda

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

3. Meetings Scheduled

- a. January 25, 2007, 10:00 a.m. – Regular Meeting
- b. February 24, 2007, 10:00 a.m. – Regular Meeting

Director Lyon noted that the fourth Thursday in February is February 22, 2007. The corrected meeting schedule is:

- a. **January 25, 2007, 10:00 a.m. – Regular Meeting**
- b. **February 22, 2007, 10:00 a.m. – Regular Meeting**

Consent Agenda:

Chairman Eichenberg asked if there were any questions on the Consent Agenda items. Those questions are indicated below. Director Saiers arrived at 10:11 a.m., during the question period.



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4. Approval of Minutes

a. November 16, 2006 Regular Board Meeting

Chairman Eichenberg stated that regarding item 24e in the minutes, it was his recollection that he did not want the Board to make any decisions, either for or against, a hypothetical situation.

5. Financial Matters

a. Approval of November, 2006 Expenditures

b. Investment Report for November, 2006

c. Financial Recap November 16, 2006 through December 14, 2006

d. Financial Forecast December 15, 2006 through January 15, 2007

The Financial Reports were provided by Irene Jeffries, AMAFCA Business Manager.

Director Hernandez asked for clarification of several expenses. Clarifying a computer expense, Ms. Jeffries responded that the GIS Manager's computer had several hard drive failures that resulted in the need to replace those hard drives. Time was also spent trying to recover data from the original drives, and transferring data to the new hard drives.

In response to another question from Director Hernandez, Kurt Wagener, AMAFCA Field Engineer, stated a crew member had a minor accident that did not result in missed time from work. He indicated that AMAFCA's policy dictates a post-accident drug screen in such cases.

In response to a question from Chairman Eichenberg, Ms. Jeffries stated that the Executive Secretary matches all credit card receipts to the credit card statement, and the receipts are also reviewed by herself and the Executive Engineer.

Mr. Kelly noted that the Construction Fund references to "Taxes on La Familia Property (Armijo)" and "Taxes on La Familia Property (Terpstra)" should read "Taxes on Southwest Valley Property (Armijo)" and "Taxes on Southwest Valley Property (Terpstra)."

6. Legal – Status Report

The memo from Attorney Sam Bregman reported on the status of various legal matters.



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7. Embudo Arroyo Floor Replacement – Authorization to Advertise for Construction Bids

The memo from Kurt Wagener stated that approximately 2600 LF of concrete floor on the Embudo Arroyo needed replacement, using approximately 1900 CY of concrete. He requested authorization to advertise for construction bids. Mr. Kelly confirmed that there was sufficient time between the mandatory pre-bid tour and the date bids are due.

8. Johniece Storm Drain – Authorization to Advertise Request for Proposals for Design, Right of Way Identification and Construction Management Services

The memo from Christy Burton, AMAFCA GIS Manager, stated that the Johniece Storm Drain Design, with right of way identification and construction management services, needed to be advertised. The project would be built in conjunction with the McCoy Channels Project. She requested authorization to advertise the request for proposals for the Johniece Storm Drain.

9. Black Arroyo Channel Storm Water Quality Inlet and Storm Drain Penetration – Approval of Turnkey Agreement with Calabacillas Group

The memo from Lynn Mazur, AMAFCA Development Review Engineer, stated that the Calabacillas Group wished to construct a concrete swale, water quality inlet, and storm drain penetration to the Black Arroyo Channel. AMAFCA would maintain the improvements after construction. She requested authorization for the Executive Engineer to execute the turnkey agreement.

Mr. Bregman stated that he was gathering information to confirm the legal name of the partnership.

Director Lyon noted that the agreement raises AMAFCA's hourly construction inspection rate from \$50 to \$100, equivalent to the market rate, and stated his support of the increase.

There being no other items on the consent agenda, Director Brown made a motion that the Board:

- approve the minutes of the November 16, 2006 Regular Board Meeting;
- approve the November 2006 Expenditure Report;



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- approve the Financial Forecast for the period December 15, 2006 through January 15, 2007;
- authorize the Executive Engineer to advertise for construction bids for the Embudo Arroyo Floor Replacement Project;
- authorize the Executive Engineer to advertise the request for proposals for the design, FEMA CLOMR/LOMR, right of way identification, and construction management services for the Johniece Storm Drain; and
- authorize the Executive Engineer to execute the Agreement to Provide Maintenance for Drainage Facilities in the Black Arroyo Dam & Channel Rights-of-Way, substantially the same as attached.

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

Regular Agenda:

10. Adoption of Resolution 2006-8, Reimbursement for AMAFCA Goods and Services

Mr. Kelly stated that Resolution 2006-8 had not changed since it was reviewed by the Board at the November 16, 2006, Board meeting. Legal Counsel had reviewed the resolution. He added that the resolution number was assigned earlier this year, and was not a typographical error.

Director Hernandez made a motion that the Board adopt Resolution 2006-8, Reimbursement for AMAFCA Goods and Services. Director Brown seconded the motion, which passed unanimously (5-0).

Mr. Kelly stated that he had directed staff to begin collecting Gross Receipts Tax on everything AMAFCA sells, including excess sediment, unless there is a valid Non-Taxable Transaction Certificate from the buyer, effective December 1, 2006. Previously, AMAFCA had been absorbing this tax rather than passing it on to purchasers.



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11. Canvassing of 2006 AMAFCA Elections

a. Approval of Resolution 2006-18, 2006 Bond Question Canvass

Mr. Kelly stated he recommended approval of Resolution 2006-18, 2006 Bond Question Canvass, which was the same resolution as used in the past, updated for this bond election.

Director Brown made a motion that the Board adopt Resolution 2006-18, Bond Question Canvass Resolution. Director Lyon seconded the motion.

In response to a query from Chairman Eichenberg, Mr. Bregman opined that the language used in Section 6 on page 3, while convoluted, did express the intent of the Board that all previous actions of the Board regarding the 2006 AMAFCA Bond Question, consistent with this resolution, were also ratified by this resolution. Mr. Kelly stated that he would review the resolution with Bond Counsel, to see if Section 6 could be re-worded for the next bond election resolution.

The motion passed unanimously (5-0).

b. Approval of Resolution 2006-19, 2006 Directors Election Canvass

Mr. Kelly recommended the Board also pass Resolution 2006-19, 2006 Directors Election Canvass.

Director Hernandez made a motion that the Board adopt Resolution 2006-19, 2006 Directors Election. Director Lyon seconded the motion.

In response to a question from Chairman Eichenberg, Mr. Bregman stated it was fully appropriate for the Chairman to execute the resolution, even though it referred to him, as the Secretary/Treasurer would also sign the resolution. Chairman Eichenberg stated it would be his preference to have the Vice Chair sign instead.

The motion passed unanimously (5-0).



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12. Authorization to Transfer Funds for Emergency Equipment Rentals, Fuel, and Crew Overtime – Adoption of Resolution 2006-20, Transfer of Funds from the Contingency Fund to the Operating Fund

Mr. Kelly stated that unusually strong storm events in the summer of 2006 had caused major erosion and sediment deposits in many AMAFCA facilities. The FY-2007 budget did not allow for the costs of emergency equipment rentals, extra fuel, and maintenance crew overtime that were required to deal with the aftereffects of the storms.

He added that staff had prepared a spreadsheet showing these unanticipated costs. He recommended the Board pass Resolution 2006-20, Transfer of Funds from the Contingency Fund to the Operating Fund, which would allow transfer of \$143,221.56 to cover these costs. \$93,766.54 would be allocated to equipment rental, \$20,005.58 to overtime, and \$29,449.44 to fuel.

Mr. Kelly stated a similar transfer will be requested when the South Diversion Channel Sediment Removal Project contract is awarded.

Director Brown made a motion that the Board adopt Resolution 2006-20, Transfer of Funds from the Contingency Fund to the Operating Fund, and authorize the Executive Engineer to transfer \$143,221.50 from the Contingency Fund into the Operating Fund. Director Hernandez seconded the motion.

Director Brown opined that the occasional use of the Contingency Fund for emergencies such as caused by this past summer's storms helps further the legitimacy of the fund. Chairman Eichenberg added that, because AMAFCA had the Contingency Fund, emergency repairs could be done immediately. Other area agencies were not able to do so, and were criticized as a result. He praised AMAFCA's foresight in having a Contingency Fund.

The motion passed unanimously (5-0).

13. AMAFCA Project Rights of Way

Mr. Kelly stated the discussion of acquisition of real estate would be in closed session.

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 Attorney General Madrid's document, "*The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*," fifth



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edition, January 2004, to discuss acquisition of real estate. Director Brown seconded the motion, which passed unanimously (5-0).

Chairman Eichenberg closed the meeting at 10:19 a.m., and reopened it at 11:00 a.m. He stated that the Board had taken no action during the closed meeting, but had discussed the acquisition of real estate.

a. Southwest Valley Dam Outlet Right of Way Issues – Discussion on Terms of Easement Agreements (closed session)

Chairman Eichenberg stated that this item was informational and no action needed to be taken at this time.

b. West I-40 Diversion Channel Extension (closed session)

Mr. Kelly stated that he recommended adoption of Resolution 2006-21, Acquisition of Right of Way for West I-40 Diversion Channel.

Director Hernandez made a motion that the Board adopt Resolution 2006-21, Acquisition of Right of Way for West I-40 Diversion Channel. Director Brown seconded the motion, which passed unanimously (5-0).

Chairman Eichenberg called a brief recess at 11:02 a.m. The meeting resumed at 11:10 a.m.

14. I-40 Channel: Assumption of Project Ownership, Operation and Maintenance by AMAFCA – Briefing by Terry Doyle, Assistant District 3 Engineer, New Mexico Department of Transportation (NMDOT)

Mr. Kelly introduced Terry Doyle, Assistant District Engineer with District 3 of the NMDOT, who briefed the Board on a preliminary proposal by NMDOT to have AMAFCA assume project ownership, operation, and maintenance of a four-mile stretch of the Embudo Channel, also known as the East I-40 Channel, located in the median of I-40 from east of Eubank to west of San Mateo. Mr. Doyle also introduced Larry Velasquez, District Engineer for District 3 of the NMDOT, who arrived midway through the discussion.

Mr. Kelly stated that the Embudo Channel is over 40 years old, has deteriorated over the years, and is near the end of its expected life span, with significant repairs needing to be done soon. Also, it was not built to current construction standards. Maintenance access is difficult, with the addition of mid-channel bridge piers making future maintenance even more problematic. He stated that he expressed to NMDOT that AMAFCA would consider



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discussing taking over the channel if it were rebuilt to current construction and design standards, while still maintaining its current flow capacity (the 500 year event).

Mr. Doyle stated NMDOT has identified a funding stream of \$3 to \$5 million per year over a number of years that could be used to repair or rebuild the channel in phases. Rather than doing the job piecemeal, NMDOT would like AMAFCA to consider working with NMDOT on funding so that the job could be done more quickly. The NMDOT would transfer the channel to AMAFCA for routine operation and maintenance after the work is complete.

Mr. Doyle stated that NMDOT would like AMAFCA to provide design oversight and high-level construction oversight, with NMDOT's assistance in construction inspection, and a cooperative effort between NMDOT and AMAFCA to obtain funding to complete construction in a shorter period of time.

In response to a question from Chairman Eichenberg, Mr. Doyle stated that NMDOT is planning to eventually add lanes to the freeway between the Big I and the new construction to the east of Wyoming. A portion of this work will begin construction in 2007. Based on the 20-year projections, there will be a need for another lane (HOV lanes) in the next 20 years, and the only way those can be constructed is if the lanes can somehow be built on top of where the channel is now.

In response to a question from Director Hernandez about a \$62 million bond for funding of this project, Mr. Kelly stated that the Board had discussed increasing AMAFCA's debt limit to \$80 million, but that was to allow mill levies to remain the same while increasing frequency of bond sales. He had not had a chance to discuss this opportunity with AMAFCA's financial advisors to determine how AMAFCA might participate.

He continued, stating this is a major channel, with an impact on the drainage system approximately equal to the North Diversion Channel. Failure of the I-40 Channel would have a huge impact, especially if it took out lanes on the freeway.

Mr. Kelly stated he will ask Kevin Powers, of RBC Dain Rauscher, if AMAFCA would be allowed to put out a bond that would be paid from future federal contributions to the local transportation efforts, rather than being paid from property taxes.

Chairman Eichenberg commented that, as NMDOT had identified a funding source, if AMAFCA and NMDOT were to negotiate a memorandum of understanding that funding source would also be available to AMAFCA.



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Mr. Doyle confirmed that fact, and added that NMDOT has a loaning bank, the State Infrastructure Bank, which has approximately \$30 million available. An entity that has identified funding for payback can enter into an agreement with NMDOT and that money can be loaned. However, NMDOT is not allowed to loan that money to itself. A funding strategy could include making AMAFCA the lead agency on this project, dedicating the federal funds that NMDOT has set aside for this project to AMAFCA, and allowing AMAFCA to access the State Infrastructure Bank.

As this proposal would leave a considerable amount unfunded, Mr. Doyle said that another question was whether this project could be done in phases over a number of years rather than all at once. He stated that NMDOT desired to bring the AMAFCA Board into the discussion to determine if this project can be accomplished.

Mr. Velasquez stated that NMDOT feels that AMAFCA is in the best position to manage storm drains and storm drain construction, and that this is a very high risk project due to the cost of channel failure.

Chairman Eichenberg asked about the possibility of obtaining legislative funding. Mr. Velasquez stated that in the past, capital funds have gone to GRIP projects and education. He did not anticipate that capital funding would be available this session.

Mr. Kelly used a map to demonstrate that the NMDOT I-40 portion of the Embudo Channel is upstream of AMAFCA facilities, feeding into AMAFCA's portion of the Embudo Channel through four 12'x12' box culverts under the freeway at Morningside.

Director Lyon stated that, as this legislative session had been designated the Year of Water and this was an important water project, legislative funding could be requested and perhaps some state funds could be obtained. Mr. Velasquez replied that NMDOT does not typically request capital outlay money from the legislature, stating that local governments usually request those funds. However, the Governor could decide to fund rebuilding the channel. The only funds that NMDOT controls are federal funds. Most significant projects, such as this one, have some sort of special funding, such as bonding authorized by the legislature, or federal money.

Chairman Eichenberg pointed out that federal money built the channel in the first place, and there may be some excess federal funds available, perhaps through the Corps of Engineers, if the freeway were widened and the channel was put in box culverts. Mr. Doyle replied that the funding stream NMDOT has identified is 100% federal, with a portion that is state matched, earmarked as interstate maintenance funds. As anything that happens with this channel affects the interstate, it is eligible for replacement and repair using federal maintenance dollars.



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Mr. Velasquez stated that NMDOT is looking into another possible source, as I-40 is a WIPP designated route. He added that not very much money is available, but perhaps some of those funds could be dedicated to this project.

Director Saiers summarized that it was not so much that AMAFCA and AMAFCA's taxing district would pay for the repairs, but that AMAFCA would be the government entity that other sources of money came through so that the rehabilitation of the channel could be moved up to an earlier time frame. Mr. Kelly confirmed that discussions seemed to be moving in that direction, although NMDOT would like to see some AMAFCA funding as well. The State Infrastructure Bank loan could go through AMAFCA, with the loan to be paid off by the future federal funds approved through the MRCOG process.

Chairman Eichenberg asked if AMAFCA could shut down lanes of the freeway, at a moment's notice, if repair/maintenance were required in the future. He noted that NMDOT has that authority, but it could be problematic if AMAFCA were solely responsible for future maintenance.

Mr. Doyle stated that AMAFCA and NMDOT would have to work together on issues such as maintenance. Chairman Eichenberg concurred.

Director Saiers asked if there were examples of similar projects in other states, where the channel is between the traffic lanes, and asked how traffic detours were handled during construction or rehabilitation. Chairman Eichenberg replied that Bohannon Huston had briefly mentioned the problems that were encountered in Houston during a similar rehab, where the channel was still in use. As the Embudo/I-40 Channel constantly conveys water, a similar situation could occur here.

Chairman Eichenberg stated that the purpose of this discussion was to see if AMAFCA wanted to support this project at some point in the future. Mr. Doyle commented that, this past summer, NMDOT lost about 100 feet of channel and finally was able to repair it about a month ago. Two lanes of the freeway were closed during those repairs. He opined that it would not be unreasonable to close lanes for staged construction and for maintenance. Any agreement between AMAFCA and NMDOT would have to allow for lane closures for maintenance purposes. He anticipated that the construction job would allow a lot of work at night to provide for as little disruption to daytime freeway traffic as possible during the rehab work.



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Mr. Doyle stated he hoped to have further discussions with staff regarding the timeframe and some potential funding schemes to bring back before the Board at some future time. He requested that the Board give direction to staff.

In response to a query from Director Brown, Mr. Doyle stated that, as major rehab work is needed on the channel, he hoped that it could be re-done into an ultimate configuration that would be compatible with the eventual addition of more lanes of the freeway on top of the channel. Director Brown concurred.

Director Hernandez gave an analogy of a 40 year old channel being similar to a 20 year old car, stating that perhaps it was time to upgrade rather than continue piecemeal repairs. If the channel is upgraded now, the upgrade should be planned to be compatible to the later construction of additional freeway lanes. He stated the questions to be answered by staff in future meetings would be what would it cost AMAFCA in terms of money and bonding capacity.

The consensus of the Board was for staff to hold further discussions with NMDOT about cooperating with NMDOT on the project, and seek input from counsel and AMAFCA's financial advisors about how this project would impact AMAFCA's mill levies, bond rating, and other relevant items.

15. Field Highlights

a. Construction Report

Mr. Kelly stated that the final adjusting change order was being prepared for the West I-40 Diversion Channel Phase III Project.

b. Black Arroyo Dam Sediment – Approval to Waive Royalty

Mr. Wagener stated that staff had determined that the Black Arroyo Dam has approximately 30,000 CY of excess sediment that washed into the reservoir flood pool, which needs to be removed. Mr. Kelly added that it would be of benefit to AMAFCA to have others remove the excess sediment at no cost to AMAFCA, and recommended that the Board waive the \$1/CY royalty on this sediment.

Director Saiers made a motion that the Board authorize the Executive Engineer to advertise the availability of sediment at the Black Arroyo Dam and enter into sediment agreement(s) waiving the \$1.00/CY Sediment Royalty Fee. Director Brown seconded the motion, which passed unanimously (5-0).



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**c. Isleta Boulevard Phase II Construction Issues Impacting
AMAFCA/Bernalillo County Cost Share Agreement**

Mr. Kelly introduced Roger Paul, of Bernalillo County.

Mr. Kelly stated that the Isleta Phase II project had run into some complications regarding putting storm water into irrigation facilities, and a portion of the project is being cut.

Director Hernandez expressed his concern that the County is backing away from this situation when the project will need to be complete to work as designed.

Mr. Paul responded that portions of the project will not be able to be completed on the timeline included in the contract, so those portions of the project will be removed. When the issues have been worked out, those portions of the project will be constructed.

Mr. Kelly confirmed that AMAFCA is continuing to work with the County and Bureau of Reclamation to come to a resolution of the issues involved.

d. Field Report

Chairman Eichenberg stated that the Field Report pictures would be deferred until the next meeting.

16. Unfinished Business

**a. Presentation of Plaque to Kurt Browning, Chairman of 2006 AMAFCA
Bond Committee**

On behalf of the entire Board of Directors, Chairman Eichenberg presented a plaque to Kurt Browning, Chairman of the 2006 AMAFCA Bond Committee, thanking him for the committee's fundraising efforts. The committee raised nearly \$40,000, which helped the 2006 Bond Question pass with more than 70% "yes" votes. This was the second-largest percentage win for a bond question on the ballot this year.

Mr. Browning thanked the Chairman and the Board for the plaque, and thanked the committee for their dedication and hard work. He added that this past summer's storms had made the bond question an "easy sell."



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17. New Business

a. January Agenda Items

Mr. Kelly stated that there were two items which will be coming up on the January agenda, Mesa del Sol and the El Pueblo Hydrology and Hydraulics Study, which the Board might find useful to visit in the field prior to the meeting. Directors should arrange field visits through the Executive Engineer or Executive Secretary.

18. Items from the Floor/Public Comment

None.

19. Adjourn

There being no further business, Chairman Eichenberg adjourned the meeting at 11:50 a.m.

Tim Eichenberg, Secretary-Treasurer 1/25/07

Recorded by Pam Woodruff, Secretary to the Executive Engineer