



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 1

1. Call to Order and Roll Call

Chairman Hernandez called the Regular Board Meeting to order at 10:04 a.m. Thursday, May 3, 2007. Roll was noted as follows:

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

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

A quorum was present.

2. Approval of Agenda

There were no changes to the agenda. Director Brown made a motion to approve the agenda. Director Saiers seconded the motion, which passed (4-0).

Mr. Kelly introduced two new AMAFCA employees. Loren J. Hines, the new Real Estate Manager, will begin work on May 7, 2007. Mr. Hines came to AMAFCA from the Pueblo of Sandia. Prior to that, he was the Real Property Manager for the City of Albuquerque, instrumental in handling the Elena Gallegos exchange lands. He also worked in the Environmental Health Department at the City, with an emphasis on alternative energy and fuels. He holds Masters Degrees in Public Administration and Political Science.

Mr. Kelly stated that Manny Romero is a new member of the maintenance crew, working with Larry Trujillo. He is a Sandia High School graduate, and is currently completing his Class A CDL. He is also planning to complete the requirements for the Hazardous Materials Certification.

The Board welcomed both new employees.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 2

3. Meetings Scheduled

- a. May 10, 2007, 9:30 a.m. – Work Study on Project Schedule
- b. May 17, 2007, 9:30 a.m. – Work Study on On-Calls and SIB Financing
- c. May 31, 2007, 10:00 a.m. – Regular Meeting
- d. June 7, 2007, 9:30 a.m. – Work Study on Project Schedule
- e. June 28, 2007, 10:00 a.m. – Regular Meeting

Director Saiers requested that the 9:30 meetings be changed to 9:00. There were no objections to this change. The revised meeting schedule is:

- a. **May 10, 2007, 9:00 a.m. – Work Study on Project Schedule**
- b. **May 17, 2007, 9:00 a.m. – Work Study on On-Calls and SIB Financing**
- c. **May 31, 2007, 10:00 a.m. – Regular Meeting**
- d. **June 7, 2007, 9:00 a.m. – Work Study on Project Schedule**
- e. **June 28, 2007, 10:00 a.m. – Regular Meeting**

4. Approval of Minutes

- a. **March 22, 2007**

Director Brown made a motion to approve the minutes of the March 22, 2007, Regular Board Meeting. Director Lyon seconded the motion, which passed (4-0).

- b. **April 12, 2007**

Director Brown made a motion to approve the minutes of the April 12, 2007, Work Study Session. Director Lyon seconded the motion, which passed (4-0).

5. Financial Matters

- a. **Approval of March, 2007 Expenditures**

Irene Jeffries, AMAFCA Business Manager, presented the March, 2007 Expenditure Report.

In response to a question from Director Saiers about check #3796 from the Construction Fund, Mr. Kelly stated that the appraised value of the property involved in the pending litigation had to be paid to the Court.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 3

Director Lyon had questions about the phone service. Ms. Jeffries stated that the office long distance is through Qwest, and the AT&T long distance charge is for the USGS monitoring station.

Director Brown made a motion to approve the March, 2007 Expenditure Report. Director Lyon seconded the motion, which passed (4-0).

b. Investment Report for March, 2007

For Information.

c. Financial Recap March 16, 2007, through April 15, 2007

In response to a question from Director Saiers, Mr. Kelly explained that two payments to the City were made sooner than forecast (AMAFCA's contribution toward the Barelas/Tingley Park Surge Pond, and the final payment on the Grade Control Structures that were part of the Calabacillas Arroyo/McMahon Blvd. Crossing Project). Ms. Jeffries added that the income from the La Cueva lots sold to Llave Construction had not been included in last month's forecast, and came in earlier than expected.

d. Financial Forecast April 16, 2007, through May 15, 2007

Ms. Jeffries presented the Financial Forecast for the period April 16, 2007, through May 15, 2007.

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

6. Legal – Status Report

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

Chairman Hernandez stated that he would like to further discuss pending litigation in closed session.

Director Brown 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 edition, January 2004. Director Saiers seconded the motion.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 4

Director Lyon noted there would be a closed session later in the meeting, and asked if both discussions could be held in the same closed session. Chairman Hernandez commented that Director Eichenberg could be a part of the discussion if it were held later.

After discussion, consensus of the Board was to defer the closed session discussion of item 6, bullet point 7, until all Board members were present before discussing the pending legislation. Chairman Hernandez decided to combine the closed session with the one scheduled for later in the meeting for item 13.

Consent Agenda:

Mr. Kelly briefly summarized each of the items on the Consent Agenda. Questions were answered where noted.

7. Bidability/Constructability Reviews – Approval of First Extension to Agreements

The memo from Kurt Wagener, AMAFCA Field Engineer, stated that on May 25, 2006 the Board had approved Agreements for Engineering Services – Design, Bidability and Constructability Reviews with A.S. Horner, Inc., AUI, Inc., New Mexico Underground, Inc., RMCI, Inc., and Salls Brothers Construction, Inc. All were standard one-year contracts with three optional one-year extensions. Staff is satisfied with the contractors' services. The contractors were contacted and each stated they would like to extend their contract for another year with no change in the fee schedule. This would be the first extension of the contracts.

8. Manual Trash and Debris Removal – Award of Contract

The memo from Mr. Wagener stated that the Board authorized advertising of this project at the March 22, 2007 Board meeting. Three firms picked up the bid documents, and three contractors submitted bids at AMAFCA on April 27, 2007. Contract time will run for one year, with three optional one-year extensions. Staff verified the bid results, and recommended the contract be awarded to the low bidder, Black Forest Tree Service, in the amount of \$37,640.00 plus NMGRT. The contract establishes the hourly rate and AMAFCA will only be billed for the amount of work actually scheduled and completed.

Mr. Kelly added that staff has had discussions with the low bidder, Black Forest Tree Service, and he is satisfied with his bid and looking forward to working on the project. He is also the contractor on the West I-40 Landscape Maintenance Project, and is doing a good job there. Mr. Kelly stated that the contractor may decide to not renew after a year; if so, AMAFCA would need to re-advertise and re-bid the project.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 5

9. Mechanical Trash and Debris Removal – Award of Contract

The memo from Mr. Wagener stated that the Board authorized advertising of this project at the March 22, 2007 Board meeting. Two contractors picked up the bid documents, and one contractor submitted a bid at AMAFCA on April 27, 2007. The other contractor indicated they had too much work on hand to bid. Contract time will run for one year, with three optional one-year extensions. Southwest Sewer has been under contract with AMAFCA for this type of work and has been providing satisfactory service. Staff recommended the contract be awarded to Southwest Sewer Service, Inc., in the amount of \$122,000.00 plus NMGRT.

Mr. Kelly noted that Desi Schollander, President of Southwest Sewer Service, Inc., was present. In response to a question from Director Lyon, Mr. Kelly stated that the work done under the Mechanical Trash and Debris Removal involved confined spaces, so could not be done by the Manual Trash and Debris Removal crews.

10. AMAFCA Yard Improvements – Consideration of Funding Agreement with City of Albuquerque for Retaining Walls and Security Fence

The memo from Mr. Wagener stated that, pursuant to direction from the Board at the March 22, 2007 Board meeting, City of Albuquerque Risk Management was asked about the use of steel picket fence in lieu of standard chain link. Their comments are being addressed on the plans and specifications. The Agreement provides that the City will create a separate bid lot for the AMAFCA portion of the wall and fence, and AMAFCA will pay for only that portion of the project. AMAFCA legal counsel had reviewed the Agreement, and the Agreement was being reviewed by City legal counsel. Staff recommended approval of the Agreement.

Chairman Hernandez asked if paragraph 3.4 on page 2 of the agreement was sufficient to hold AMAFCA harmless. After discussion, with Ms. Bregman reviewing the City's underlying license for bike trails, "License Agreement - City Trail Systems on AMAFCA R/W", Ms. Bregman and Mr. Kelly opined that the paragraph was sufficient due to the fact that anyone who might be injured would do so while using the trail.

11. Authorization to Advertise for Pipe Rail

The memo from Mr. Wagener stated that last year's bulk purchase of pipe rail for construction of access control fences at AMAFCA facilities resulted in cost savings. He asked the Board for authorization to advertise for bids for approximately 10,000 lf of 2 3/8" medium wall black steel pipe, which would yield over 3,000 lf of pipe railing, estimated at \$15,000.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 6

12. Real Estate

a. North Camino Arroyo – Consideration of Quitclaim/Release of Flood Plain Easement

The memo from Lynn Mazur, AMAFCA Development Review Engineer, stated that the May 2005 agreement between AMAFCA, the City, MCT Industries, Mart-Nair Investments and Blue Cross and Blue Shield for construction of the North Camino Arroyo west of Interstate 25, required AMAFCA to quitclaim/release certain floodplain easements on the properties upon receipt of a Letter of Map Revision (LOMR). The improvements were completed in August 2006, and the LOMR was received from FEMA in January 2007, with an effective date of May 10, 2007.

The memo stated that upon review, it was discovered one of the Temporary Drainage Easements on the property was omitted from the list in the agreement. The easement encumbers Tracts A, B, C1 and C2 of North Gateway. The memo requested that the Board authorize execution of a Quitclaim Deed/Release of Temporary Drainage Easement for this easement.

Ms. Bregman noted that the memo also referenced tracts C1 and C2, while the quitclaim/release did not. She asked that Ms. Mazur review the legal description used to ensure it was sufficient and correct.

b. Consideration of Quitclaim/Partial Release of Easement, Lot 31, Block 7, Tract 3, Unit 2, North Albuquerque Acres

The memo from Ms. Mazur stated that a drainage easement for a small arroyo on a lot in North Albuquerque Acres, granted in 1998, would no longer be required under current criteria. It has a 100-year flow rate of only 20 cfs. The lots on either side of the subject lot do not have drainage easements for this small arroyo. The current owners have engaged the engineer who prepared the original grading and drainage plan in 1998, and the engineer requested that AMAFCA execute a Quitclaim Deed/Partial Release of Easement.

There being no more items on the Consent Agenda, Director Brown made a motion that the Board:

- Authorize the Executive Engineer to extend the Design, Bidability, and Constructability Agreements with A.S. Horner, Inc., AUI, Inc., New Mexico Underground, Inc., RMCI, Inc., and Salls Brothers Construction, Inc., for a one-year term as per the provisions of the contracts;



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 7

- Accept Black Forest Tree Service as the lowest responsible bidder and authorize the Board Chairman to execute a contract with Black Forest Tree Service in the amount of \$37,640.00 plus NMGRT for the Manual Trash and Debris Removal 2007 project;
- Accept Southwest Sewer Service, Inc., as the lowest responsible bidder and authorize the Board Chairman to execute a contract in the amount of \$122,000.00 plus NMGRT for the Mechanical Trash and Debris Removal 2007 project;
- Approve the Funding Agreement between AMAFCA and the City of Albuquerque, for Construction of the MSE Wall within the AMAFCA Property in conjunction with the Embudo Channel Trail Project, substantially the same as attached, and authorize the Board Chairman to execute the agreement;
- Authorize the Executive Engineer to advertise for bids for 2 3/8" diameter steel pipe;
- Authorize the Board Chairman to execute the Quitclaim Deed/Release of Temporary Drainage Easement, which encumbers Tracts A, B, C1 and C2 of North Gateway, subject to verification of the correct legal description; and
- Authorize the Board Chairman to execute the Quitclaim Deed/Partial Release of Easement for Lot 31, Block 7, Tract 3, Unit 2, North Albuquerque Acres.

Director Saiers seconded the motion, which passed (4-0).

Regular Agenda:

As Director Eichenberg had not yet arrived, Chairman Hernandez decided to hear item 14 next.

14. West I-40 Diversion Channel Extension – Review and Discussion on Agreement with New Mexico Department of Transportation Including Use of State Infrastructure Bank Loan

Mr. Kelly introduced Kevin Powers, of RBC Capital Markets, AMAFCA's financial advisor, and Duane Brown, AMAFCA's bond counsel.

Mr. Kelly stated that, pursuant to Board direction, AMAFCA Bond Counsel Duane Brown had modified the State Infrastructure Bank (SIB) loan agreement to ensure that AMAFCA could not be held in default on the SIB loan. The draft agreement had been reviewed by AMAFCA staff, AMAFCA's general counsel, AMAFCA's bond counsel, and AMAFCA's financial advisor.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 8

Ms. Bregman pointed out the language on page five of the agreement that specified AMAFCA could not default on the agreement. All loan repayments will be obtained solely from pledged federal revenues. If the federal funding source is discontinued, the loan can be recalculated, or, the agreement could terminate as stated in paragraph d on page eight.

Mr. Powers stated he had forwarded the agreement to the bond rating committees at Standard and Poor's and Moody's for review. Neither agency had a problem with the agreement, and both stated the agreement as written would not affect AMAFCA's bond rating or future borrowing capacity. They are comfortable with the future pledged revenue provisions and the default provisions. He added that they have no concern that there will be any type of lien on AMAFCA's tax revenue or general operating fund in the event federal highway funds are not available on the anticipated schedule. The bond rating agencies are also comfortable with the remedies in the agreement.

Mr. Kelly stated the draft agreement was sent to the NMDOT for their review. AMAFCA staff will meet with NMDOT staff to review and discuss the agreement on Tuesday, May 8, along with AMAFCA's legal counsel, bond counsel, and financial advisor. A revised agreement may be available for review at the May 17, 2007 Special Board Meeting. The MRCOG will need to take action to make AMAFCA the lead on the existing funds for which the City is currently the lead. Once that action has taken place via resolution, the AMAFCA Board can approve the agreement, at the May 31, 2007 meeting.

In response to a question from Director Lyon, Mr. Brown stated that notification of the pending resolution will be published because the loan agreement reads as an obligation, and state statute indicates a summary of the resolution should be published twenty days prior to adoption of the resolution. Ms. Bregman added it was not clear whether this agreement would fall under those regulations, but the publication would protect AMAFCA from later challenges.

Responding to another question from Director Lyon, Mr. Brown stated the transcript of proceedings for the resolution would include a copy of the memo from Mr. Powers regarding the statements from Standard and Poor's and Moody's that AMAFCA's bond rating would not be affected. Mr. Powers concurred with this statement.

In response to a question from Director Saiers, Mr. Kelly stated that AMAFCA would be investing \$5,054,000 of its own funds in the project. About \$1.5 million of the funds would be retained by AMAFCA to build the East Amole Flood Control Dam. Construction of the first element of the project would begin in the fall.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 9

Chairman Hernandez reminded the Board that there would be a special work study session to discuss the SIB loan on May 17, 2007, at 9:00 a.m. Consensus of the Board was to continue moving forward with the agreement.

Mr. Kelly introduced Leroy Chavez and Fred Ambrogi, of SunCal.

13. Consideration of Easement Agreement with George Meeks for Corps of Engineers Southwest Valley Black Mesa 3 Dam Outlet Project (closed session)

Chairman Hernandez stated that discussion of the Easement Agreement with George Meeks for the Corps of Engineers' Southwest Valley Black Mesa 3 Dam Outlet Project would be in closed session. Immediately after that discussion, the Board would discuss pending litigation, while still in closed session.

Director Brown 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 edition, January 2004. Director Lyon seconded the motion.

Chairman Hernandez stated that the closed session would be for purposes of discussion only, regarding the acquisition of real estate, and pending litigation. The motion passed (3-0), with Director Saiers momentarily away from the meeting.

Chairman Hernandez closed the meeting at 10:55 a.m., and reopened it at 11:32 a.m. Director Eichenberg had arrived during the closed session and joined the closed session in progress.

Chairman Hernandez stated that the Board had taken no action during the closed meeting, but had discussed the easement agreement and had given direction to staff. The Board had also discussed pending litigation regarding property acquisition for the West I-40 project during the closed session.

Director Saiers made a motion that the Board approve the proposed Agreement for Grants of Easement document with George A. Meeks, substantially the same as attached, subject to final review and approval by Attorney Bregman. Director Lyon seconded the motion, which passed unanimously (5-0).



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 10

15. Pino Dam Emergency Spillway Modifications

Director Brown excused himself from the meeting, citing potential conflict of interest.

a. Briefing by Craig Hoover, BHI, on Technical Aspects of Proposal

Mr. Kelly introduced Dr. William Galbreth, owner of the underlying property to be discussed, and his engineer, Craig Hoover of Bohannon Huston, Inc.

Mr. Kelly stated that AMAFCA has an easement-only interest for the Pino Dam. Rights reserved to the grantor included the right to reshape the spillway, provided that plans and specifications are prepared by a professional engineer and submitted to AMAFCA for approval. The easement further states that "approval shall not be withheld if the operation and use of the spillway as designed will not be endangered or impaired by such work."

Mr. Hoover briefed the Board on the technical aspects of the proposal to reshape the emergency spillway area of the Pino Dam to allow a building pad to be constructed.

Mr. Hoover stated that the Pino Dam was constructed with an expectation of greater densities in the watershed, with the result that there is 14 ft. of freeboard below the crest of the emergency spillway in the 100 year event. In the 500 year event, there is 6 feet of freeboard. He estimated that a 1,570 year event would be required to fill the dam to the crest of the emergency spillway. The 1977 design Probable Maximum Flood (PMF) flow through the spillway is 32,000 cfs. Using current State Engineer criteria, the PMF flow is 26,500 cfs.

He stated that the emergency spillway is located within a spillway easement. The owner of the underlying land proposes modifications to the spillway that will create a building pad within a portion of the spillway easement. Improvements to the emergency spillway will include a 250 ft. long concrete cap control structure along the full width of the spillway, and riprap protection along the bank of the spillway. Flow would still be contained within the spillway.

Mr. Hoover added that hydraulic analysis indicated that by modifying the spillway and installing an additional control section, the encroachments will not adversely affect the hydraulic performance of the spillway. The modifications will also provide an added level of erosion protection, decreasing the potential for significant erosion of the spillway.

In response to a question from Director Saiers, Mr. Kelly stated that AMAFCA has drainage easements for the dam and emergency spillway. The underlying owner of the dam is B & A Associates, and of the spillway, Dr. Galbreth. This dam is the only major AMAFCA facility except the North Diversion Channel Outfall where AMAFCA does not own the underlying land.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 11

Responding to a question from Director Lyon, Mr. Hoover stated that there were no other residences close to the dam. Mr. Kelly confirmed that there were no other residences within AMAFCA's drainage easements.

Responding to a question from Director Eichenberg, Mr. Hoover stated hydraulic analysis showed a maximum increase in flow velocity in the spillway during the PMF of no more than 2 feet per second, and a maximum increase in water surface elevation of less than 0.2 feet. Mr. Kelly added that these standards were based on Corps of Engineers guidelines.

Mr. Hoover stated the initial results of the analysis were presented to the New Mexico Office of the State Engineer (OSE) for review. Based on comments from the OSE, the hydrology for the PMF and 100-year events was updated. Modeling was also done to evaluate the effect of those events on the proposed encroachment. Both analyses indicated the encroachment will not affect the hydraulic performance of the spillway, and the potential for spillway erosion and possible failure is decreased.

Responding to another question from Director Eichenberg, Mr. Kelly stated that the agreement provides an additional dedicated legal access for AMAFCA from San Antonio. The exact location of this access will be determined as a part of the platting of the property at a later date. He added that AMAFCA will retain the drainage easement except at the location of the house pad(s).

b. Review and Discussion on Draft Turnkey Agreement

The Board reviewed and discussed the draft Turnkey Agreement for the Pino Dam Emergency Spillway Modifications. Mr. Kelly pointed out on page 3, that AMAFCA is not funding any of the improvements, except for coordinating the OSE review. Mr. Kelly introduced Elaine Pacheco of the Office of the State Engineer, who was in attendance to brief the Board regarding the next item. He stated that AMAFCA will forward the final report to OSE for approval.

Mr. Kelly added that Dr. Galbreth will pay for the improvements to the dam and the emergency spillway. He will provide a performance bond on all of the flood control work, with AMAFCA named as co-beneficiary. He will also pay for construction inspection and certification by a licensed engineer. Dr. Galbreth will also be responsible for change orders, and the cost of AMAFCA staff construction inspection.

Mr. Kelly stated that AMAFCA will quitclaim portions of three easements back to Dr. Galbreth at the conclusion of the project. Aesthetic maintenance of the improvements will be



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 12

provided by Dr. Galbreth. AMAFCA will handle structural maintenance of the project. AMAFCA will issue an encroachment permit to allow the improvements to be constructed.

Mr. Kelly stated that inundation mapping will be done as a part of this project. This mapping will be incorporated into AMAFCA's Emergency Action Plan for the Pino Dam, which will be submitted to the OSE at a later date.

Dr. Galbreth stated that he is providing the inundation mapping, and making the dam safer, both of which are of benefit to AMAFCA. Having homes closer to the dam site will also increase area security, which is of benefit to AMAFCA and the neighborhood.

In response to a question from Director Eichenberg, Mr. Kelly stated that the anti-donation clause precludes AMAFCA from sharing in the cost of the project. Mr. Kelly added that the dam, as built, is safe and provides sufficient protection. The improvements are development driven and are not needed unless building pads are contemplated in the emergency spillway area.

Consensus of the Board was to support the project.

Director Brown returned to the meeting at 11:55 a.m.

16. New Mexico Rules and Regulations for Dam Design, Operations, and Dam Safety – Briefing by Elaine Pacheco, P.E., Chief, Dam Safety Bureau, N.M. Office of the State Engineer

Mr. Kelly introduced Elaine Pacheco, Chief of the Dam Safety Bureau of the NM Office of the State Engineer (OSE), who briefed the Board on the New Mexico Rules and Regulations for Dam Design, Operations, and Dam Safety.

Ms. Pacheco stated that in 2003, the OSE improved the criteria for dams to also address safe design. The new regulations, a copy of which was provided to the Board, are comprehensive and detailed.

She stated that most of the work her office oversees is the improvement of existing infrastructure rather than the construction of new dams. The new regulations call for increased documentation of design decisions, as well as the preparation of operation and maintenance manuals and an Emergency Action Plan (EAP) for each dam. These documents are required for all high and significant risk existing dams. Compliance deadlines have been set. Owners of multiple dams, such as AMAFCA, have been given an approved schedule of compliance.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 13

Ms. Pacheco also briefly discussed the legislation that had been proposed at the 2007 legislative session. She stated the Office of the State Engineer had envisioned legislation expanding statute 72.5.32 from the OSE's current tasks of reviewing dam designs and issuing permits, to cover dam operations also. However, the bill as drafted also added provisions regarding water rights. In addition, the OSE had commonly exempted owners of dams from certain appropriation of water regulations when they drain within 96 hours after a storm – however, that provision was not included in the bill.

She stated the OSE had not coordinated the bill with those affected, who objected to the bill and it died in committee. She stated the OSE will redraft the bill so that dam owners can support it.

In response to a question from Director Saiers, Ms. Pacheco stated that some elements of an EAP, such as computer simulation of a dam breach analysis, require input from an engineer, but not all. The local jurisdiction's emergency manager would also be involved in the EAP, along with local responders.

Director Saiers noted the cost of preparing an EAP for new dams might tend to discourage cities from putting in drainage facilities. Chairman Hernandez added that the EAP adds about \$30,000 to \$50,000 to each project.

Ms. Pacheco replied that an EAP is expensive, but a critical element to protect those downstream.

Replying to a question from Director Saiers, Ms. Pacheco stated that there were several dams on federal land subject to OSE regulations, but currently there were no such dams on sovereign native lands. The U.S. Forest Service follows the regulations of the OSE for dams on their lands.

Mr. Kelly stated that AMAFCA is programming the cost of compliance with the OSE requirements into the budget.

In response to a question from Director Lyon about the distinction between traditional, historic runoff, which goes to the river, and new runoff that is created when an area is paved and new rooftops are built, Ms. Pacheco stated that the OSE considers all the runoff to be under state jurisdiction. She added the position of the State Engineer is that there is no "new water," as prior to development the runoff would have joined the ground water, which is also under state jurisdiction.

She added, in response to a question from Director Saiers, that there are no state agencies regulating flood control. The state views flood control as a local government issue. In general,



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 14

flood control is not an issue until the land is developed, and the local government controls development.

Ms. Pacheco commented that she and the OSE appreciate the good working relationship they have had with AMAFCA.

Chairman Hernandez called a brief recess for lunch at 12:20 p.m. The meeting resumed at 12:30 p.m.

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

Staff presented a slide show of current AMAFCA projects.

Mr. Lovato stated he was very close to finalizing the final adjusting change order for the West I-40 Diversion Channel Phase III Project. He noted that final project cost less than bid, with additional work done. The project has won five awards. He acknowledged that Dan Aguirre and Wilson and Company did a good job on the design and construction management of the project. Mr. Aguirre thanked the Board for their hard work, along with staff, to keep the project out of litigation. He also thanked the Board for allowing the special aspects of the project that led to the awards.

Mr. Wagener stated that the La Cueva project, Barstow to Alameda, is complete. He also discussed photos of the Amole Phase III Project, which has been seeded and the intersection opened.

Christy Burton, AMAFCA GIS Manager, discussed photos of the Isleta/Hartline Storm Drain Project, which showed the final surfacing and striping of the basketball courts.

Mr. Wagener commented on photos of the Albuquerque/Bernalillo County Water Utility Authority Raw Water Project.

Mr. Wagener then showed pictures of the AMAFCA crew attending safety training, and installing access control at the Amole Arroyo Phase I project. Other pictures showed shotcrete installation on the Corrales Main Canal, Universe Plaza, the Embudo Arroyo Floor Repair Project, Sediment Removal at the South Diversion Channel Outlet, the RMCI Water Project, and the Calabacillas Arroyo Embankment Stabilization Project.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 15

**c. Proposed Sediment Agreement with Saiz Trucking and Earthmoving, Inc.
– North Diversion Channel Outfall**

Mr. Wagener stated that staff is negotiating with Larry Saiz, President of Saiz Trucking and Earthmoving, Inc., for a sediment agreement for excess sediment at the North Diversion Channel Outfall. In the past, the Board has indicated they would waive royalty payments for this sediment in lieu of the cost to screen out and dispose of the trash, debris, and rubble. The proposed agreement would be for 100,000 CY and expire December 31, 2007, but could be extended in quantity or date with the mutual consent of both parties.

He stated that work would be suspended during one-day events at the Balloon Fiesta Park, and for two weeks prior and two weeks after the Balloon Fiesta, due to the fact that project access is adjacent to the Balloon Fiesta Park.

Discussion followed. In response to a question from Director Eichenberg, Mr. Wagener stated it was not cost effective for the crew to do this work, due to the cost of screening the material and properly disposing of the debris. Responding to a question from Director Brown, he estimated that it cost at least \$1.50 to \$2 per CY to do so. Director Eichenberg noted that AMAFCA would be gaining something of value by having Saiz do this work.

Director Lyon made a motion that the Board authorize the Executive Engineer to execute a Sediment Sales Permit and Agreement with Saiz Trucking and Earthmoving, Inc., for 100,000 CY of sediment, waiving royalty payments in lieu of the cost to screen out and properly dispose of the trash, debris, and rubble. Director Brown seconded the motion, which passed unanimously (5-0).

**18. La Cueva Arroyo Improvements, Alameda to Ventura – Briefing by Bob Keeran,
Llave Development**

Mr. Kelly introduced Bob Keeran, of Llave Development, and Elvidio Diniz, of Resource Technology, Inc., and Graham Means, of Jeff Mortensen and Associates, his engineers.

Mr. Keeran briefed the Board on proposed improvements to the La Cueva Arroyo from Alameda to upstream of Ventura. He stated that building these improvements would allow further development in the area. The improvements to the arroyo would also involve a slight realignment of Alameda to the south, which would avoid the need to construct a bridge at Alameda. There would be a bridge across the channel at Ventura.

Mr. Kelly added that construction of the channel will make AMAFCA's Signal Avenue Training Dike on four lots south of Alameda unnecessary. Mr. Keeran proposed an agreement similar to the one for the recently completed section of the La Cueva Arroyo, whereby after



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 16

construction was complete, AMAFCA property made surplus by the channel construction was sold to Mr. Keeran, as per the terms of the agreement.

In response to a question from Director Eichenberg, Mr. Kelly stated that a structured sale agreement would be used, similar to ones used previously with Curb and Llave. The advertisement and sale agreement would require that the purchaser build the channel improvements to remove land from the floodplain, before the land sale is completed.

Director Saiers asked if there was any interest expressed by the City in having the four AMAFCA lots as a potential park site. Mr. Kelly replied that the training dike located on those lots is currently necessary. Only the building of the channel improvements would make the lots surplus.

Mr. Keeran added that, in meetings with the neighborhood associations, the neighborhood expressed concerns with traffic and road access, but no requests for a park were made.

Replying to questions from Director Eichenberg, Mr. Keeran stated that approximately 1600 feet of channel will be built, at a cost of \$1.6 million for the channel only. A box culvert would cost approximately twice as much, which is not cost effective.

Responding to a question from Director Saiers, Mr. Kelly stated that Alameda currently continues across the arroyo through a dip section. Without this proposal, the area would remain as it is. No projects are currently scheduled to improve this section of arroyo. The training dike is sufficient to maintain adequate drainage at this time.

Mr. Keeran added that building the south half of Alameda would be his responsibility as the developer. The City would build the north half of Alameda. The neighborhoods want to see Alameda expanded to four lanes before Signal is closed. A portion of old Alameda will be retained to access lots on the north side of the arroyo near Ventura.

Mr. Kelly stated that an alternative to entering a negotiated sale of the property would be to participate in the project, and sell the lots on the open market after the project is complete.

After further discussion, consensus of the Board was to further explore Mr. Keeran's proposal.

19. AMAFCA Office Tenant Improvements – Award of Construction Contract

The memo from Ms. Jeffries stated that bids were opened for the AMAFCA Office Tenant Improvements Project on April 18, 2007, after several changes were made in the project specifications. Two bids were received, one of which was considered non-responsive due to non-compliance with bid instructions.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 17

The memo stated that the other bid was submitted by Ayala Construction, for a base bid of \$61,424 plus the permit allowance of \$5,000 and an Audio/Visual Allowance of \$12,000, for a total bid of \$78,424 plus NMGRT. The base bid allows for painting and new carpeting for the public areas of the office, including the Board Room, new acoustical ceiling tiles in the Board Room, and audio visual equipment and installation in the Board Room.

The bid included two additive alternatives: Alternate #1 for painting and carpeting the remaining (non-public) areas of the office, in the amount of \$13,665, and Alternate #2, for construction of a new wall in the southwest corner of the Board Room to provide a surface for the audio/visual equipment to be mounted, and creating a built-in cabinet in the new wall to house the components, in the amount of \$5,320.

The base bid plus the two alternates is \$97,409 plus NMGRT, for a total of \$104,106. The FY 2007 Operating Budget identified \$60,000 for this project. However, the Salaries and Payroll Expenses line item is projected to come in \$60,856 below budget due to one crew member being on National Guard Duty for most of the fiscal year, and the fact that the Real Estate Manager position was vacant for over five months.

She suggested the Board consider transferring \$44,106 from Salaries and Payroll Expenses to Other Operating Expenses per Board Resolution, pending approval by the Department of Finance and Administration, at the next Board meeting. With this transfer, the entire project could be accomplished with funding from this fiscal year. In the alternative, the Board could approve the project base bid only.

The memo from Ms. Jeffries added that Ayala Construction carries the appropriate contractor's license, and has previously done two remodeling projects for AMAFCA. One was completed ahead of schedule, and the other on schedule.

Director Eichenberg made a motion that the Board award the contract for Tenant Improvements to Ayala Construction for the base bid and Alternate #1 and Alternate #2 for a total of \$104,106 plus NMGRT, and support the transfer of \$44,106 of the excess in the Salaries and Payroll Expenses line item of the Operating Fund to the Other Operating Expenses line item, subject to approval by the Department of Finance and Administration, with the transfer to be accomplished via Resolution at the May 31, 2007 Board meeting. Director Brown seconded the motion, which passed unanimously (5-0).

Chairman Hernandez commented that if the project had been further delayed, the cost would simply increase further.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 18

20. FY 2008 Budget

a. Evaluation of Need for Compact Tracked Loader

Mr. Kelly stated that the memo from Mr. Wagener responded to a request from the Board for additional information. The memo stated that the purchase of a Compact Tracked Loader would result in a reduction in equipment rentals, and allow more clean up projects to be accomplished more efficiently.

Mr. Wagener's memo stated AMAFCA had spent \$18,916.68 in the last three years on rentals of similar equipment. While purchase of a Compact Tracked Loader would not completely eliminate these rentals, it would greatly reduce them.

The memo added that purchase of a Compact Tracked Loader would allow the AMAFCA crew to more efficiently clean up many of the larger items that are found in AMAFCA facilities, such as tires, furniture, and appliances. With the use of the brush grapple attachment, the operator could load these items directly into a dump truck. Wheeled loaders tend to sink in or spin out when used in the dam pool area, but the tracked loader would not do so. Using the AMAFCA crew and the loader to remove these larger items would free up the Manual Trash Removal contractor to concentrate on smaller items and increase their efficiency.

Mr. Wagener further stated that the addition of a Compact Tracked Loader would give the maintenance crew a backup unit when the backhoe and loader are in for service or repair. It would also free those units up for larger sized projects and not tie them up on projects where the smaller unit is better suited. He anticipated that the crew will find many other uses for the Compact Tracked Loader, including using it to carry backfill up the slopes of dams and levees to repair slope erosions, while doing minimal damage to the slope embankments.

He estimated the cost of a Compact Tracked Loader with implements would be approximately \$80,000.00. Consensus of the Board was support of including the purchase of a compact tracked loader in the FY 2008 Operating Budget.

Director Lyon made a motion that the Board approve the addition of a Compact Tracked Loader in the FY 2008 Operating Budget. Director Eichenberg seconded the motion.

After discussion, it was determined that a separate motion was not needed, as the purchase would be covered when the budget is approved. Director Eichenberg made a motion to table the motion, which was seconded by Director Brown. The motion to table passed unanimously (5-0).



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 19

b. Draft FY 2008 Operating Budget

Mr. Kelly stated that the second draft of the FY 2008 Operating Fund Budget included a listing of current FY 2007 expenditures (through March 31, 2007).

The memo from Ms. Jeffries stated that, pursuant to direction from the Personnel and Salary Committee, FY 2008 salaries were listed at their current level plus 5%, and including the proposed new maintenance worker/heavy equipment operator discussed at the last Board meeting. Changes to the budget since the March meeting included:

Payroll Expenses

- **Insurance (H&D and Life)** is computed at 14.87% of salary amounts. This amount was verified with the City budget analyst and was not expected to change.

Miscellaneous Employee Expenses

- **Worker's Compensation Insurance** – FY 2008 rates will increase by 8%, per the New Mexico Self Insurer's Fund. AMAFCA receives a dividend credit for meeting the NMSIF training requirements.

Elections and Government Affairs

- **Bond: Errors & Omissions (BOD)** – FY 2008 rates will increase by 5%.

Planning, Engineering, R&D

- The **USGS Cooperative Program** was increased by 3% to cover increases in rainfall gauge operating and overhead expense, plus the addition of 7 new rainfall gauging stations. The program work content remains the same to meet our EPA storm water reporting requirements.
- **GIS Professional/Intern Services** – reduced from FY 07, but an increase is expected in FY 2009 once the new Real Estate Manager begins his implementation of the GIS overlay for AMAFCA's right of way, easement, and license agreements.

Project Operation and Maintenance

- **Contract Mechanized Trash Removal** – Contract amount reduced based on review of historic use.
- **Contract Manual Trash Removal** – Contract amount reduced based on review of historic use.
- **Automotive** – FY 2008 insurance rates will increase by 5%, per the New Mexico Self Insurer's Fund.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 20

Responding to a question from Director Saiers about fuel costs, Mr. Kelly stated he would review the projected budget. However, if \$29,000 in expenditures of fuel in FY 2007 for emergency repairs were removed from the FY 2007 budget, the amount expended to date was approximately 50% of the amount budgeted.

In reply to a question from Director Eichenberg about the assumed collection rate of 98%, Mr. Kelly stated this assumption was upon recommendation of AMAFCA's financial advisor. When prior year tax collections are taken into account, it is reasonable to assume a 98% collection rate.

Director Saiers pointed out that \$10,000 in Special Projects would not go very far in producing and installing the proposed multi-use facility signage. Consensus of the Board was that this amount should be increased to the range of \$20,000 - \$30,000.

Ms. Jeffries stated that the comments and changes by the Board would be incorporated into the final budget, which would be adopted by the Board by Resolution at the May 31, 2007 Board meeting.

c. Draft FY 2008 Construction Fund Budget

Mr. Kelly stated that the second draft of the FY 2008 Construction Fund budget was provided in declining balance form, followed by a spreadsheet allocating the project costs over the next 18 months. These figures were then carried forward to the FY-08 budget in the format used for submittal to DFA. Bond sales are scheduled for early August, 2007, and April, 2008.

Mr. Kelly stated that the August, 2007 Board meeting may be moved to early August in order to incorporate the bond sale and Board acceptance of the sale.

He added that the budget shows all projects that have some kind of activity, or are on the FY-05 Project Schedule. As-bid or updated costs were used where available. New projects to the list were indicated.

Mr. Kelly stated that only two uncompleted projects from the Project Schedule were not listed:

- Domingo Baca Inlet Storm Water Quality Facility – design has been suspended until NMDOT plans for the Paseo del Norte/I-25 interchange and collector roads are finalized
- Amole Dam Gravity Outlet – delayed until the Corps of Engineers Southwest Valley Drainage Improvements Project receives federal funding.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 21

He stated that two construction projects were added that were not in the Project Schedule or the FY-07 Construction Fund Budget. Those were:

- El Pueblo Storm Drain, Phase I
- AMAFCA Project and Concrete Channel Rehab, 2008

One project was deleted from the draft budget, as AMAFCA's portion has been fully funded:

- Barelas / Tingley Park Surge Pond.

Two planning projects have been identified that were named generically in the Project Schedule and FY-07 Construction Fund Budget:

- John Robert Dam Emergency Action Plan
- North Domingo Baca and Kinney Dam Emergency Action Plan

Mr. Kelly stated that staff plans to prepare one Emergency Action Plan, with dam-specific inundation maps, as the inundation map sets up the evacuation parameters.

Two other planning projects were also added:

- Tijeras Arroyo 500-year Evaluation
- West I-40 Diversion Channel Extension LOMR

One surveying project was added:

- West I-40 Diversion Channel Plat of Drainage Right-of-Way

The Board reviewed and commented on the budget. Mr. Kelly stated that the comments and changes would be incorporated into the final budget, which would be approved by the Board at the May 31, 2007 Board meeting.

d. Draft FY-08 Debt Service Fund Budget

Ms. Jeffries stated the draft FY-08 Debt Service Fund Budget was based on interest income projected at \$148,036, based on the monthly balance in the SSFT and based on a 4.0% interest rate. Tax revenues were estimated using the October 2, 2006 abstract, and assuming a 3% growth rate in residential and non-residential, and a 2% growth rate in centrally assessed valuations. A 98% collection rate was assumed.

Ms. Jeffries stated that the SSFT is currently paying 5.1%, but AMAFCA's financial advisor, Kevin Powers, recommended assumption of a more conservative 4% for budget purposes.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 22

She added that, for the Board's information, the budget includes the projected July 2008 tax collection and the August 2008 Principal and Interest payments. Mr. Kelly added that the repayment schedule for the next bond sale may be adjusted to front load the payments.

The Board reviewed and commented on the budget. Ms. Jeffries stated that the comments and changes would be incorporated into the final budget, which would be approved by the Board at the May 31, 2007 Board meeting.

Due to a prior commitment, Director Brown left the meeting at 1:48 p.m.

e. Draft FY-08 Contingency Fund Budget

The memo from Ms. Jeffries stated that the draft FY-08 Contingency Fund Budget shows a July 1, 2007 balance that includes \$1,250,000 reserved for channel repair/rehab. Interest income was projected to be \$180,673 based on the monthly balance in the SSTF and based on a 4.0% interest rate. The transfer from the Operating Fund was listed at \$250,000. The Emergency Expenditure was unchanged, at \$400,000.

The memo stated that any comments and changes would be incorporated into the final budget, which would be approved by the Board at the May 31, 2007 Board meeting.

f. FY-08 Contingency Fund – Discussion of Reclassification of Reserve Designations

Mr. Kelly stated that some of the projects represented by fenced funds were not needed yet, and some were made moot by subsequent projects, such as the Borrega Channel Modifications, which was made moot by the Borrega Dam. He added that perhaps a portion of the construction cost of the Borrega Dam could be retroactively charged to the contingency fund, and when one of the fenced-fund projects comes up for construction in the future, a portion of the construction cost could be allocated from the contingency fund.

Mr. Kelly stated that some of the reserve classifications in the Contingency Fund were obsolete, as those projects have been completed. Other reserves need to be increased, and newer needs have also been identified, but do not have funds set aside to cover them. The proposed changes were:

- Modification of Alameda Outlet, NDC \$1,000,000 (increase reserve amount)
- Ladera Dam Safety Modifications \$ 500,000 (increase reserve amount)
- North Diversion Channel Lining Rehab \$2,000,000 (create new reserve)
- Parkway Channel, Unser to 98th Street \$ 500,000 (create new reserve)



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 23

Mr. Kelly added that repairs to the Hahn Arroyo should also be added to this list, at \$500,000.

He detailed what these projects include. He added that there have been no resolutions establishing the amount to be held in the contingency fund. If the Board wanted to spend some of the contingency fund, he recommended that they consider building the Parkway Channel, Unser to 98th Street.

The Board discussed the projects and the potential use of the contingency fund. Director Eichenberg asked if some of the fenced funds could be expended. Directors Lyon and Eichenberg pointed out that construction costs are rising, so it may be wise to begin work on some of the projects. Chairman Hernandez reminded the Board that AMAFCA was not ready to move forward on most of them.

Consensus of the Board was there was no objection to fencing funds for the proposed projects listed.

Mr. Kelly stated he would add repairs to the Hahn Arroyo at \$500,000 to the fenced funds, and evaluate the amount needed in the contingency fund. Some of the expenses of the Parkway Channel improvements could perhaps be taken from the fenced funds in the Contingency Fund.

He proposed a cleanup resolution to remove fenced funds from moot projects, and reallocate fenced funds to those projects that still need to be built.

Chairman Hernandez pointed out that having a healthy contingency fund has helped AMAFCA receive high bond ratings.

21. Unfinished Business

None.

22. New Business

a. AMAFCA Right of Way Issues – Fountain Hills Development

Ms. Mazur stated that Dan Hogan, of the City Department of Municipal Development Hydrology Section, recently contacted AMAFCA about a drainage problem in the vicinity of Paseo del Norte and Eagle Ranch Road, which is the location of the proposed Fountain Hills Development.

Ms. Mazur stated that there are AMAFCA, City, and privately-owned drainage facilities in the area. Some of the facilities are not being maintained. The unmaintained temporary



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 24

facilities are breached and/or bypassed during rain events, overflowing sediment into adjacent property and across Eagle Ranch Road.

She added that the developer of the Fountain Hills Development is proposing to cut off the flow, collect it in storm drains, and direct the flow to a pond on the AMAFCA tract that was planned in the mid-1980's to relieve the Eagle Ranch storm drain system. The Eagle Ranch storm drain system is maintained by the City.

She stated staff proposes to quitclaim the AMAFCA tract to the City; however, the City has indicated they may not wish to take ownership of the tract.

Mr. Kelly stated the pond has ended up being the upper end of the Eagle Ranch storm drain system. Earth channels which were supposed to be maintained by the property owner, but which have not been maintained, lead into the pond. The pond is critical to the hydraulic function of the downstream system. He asked if the Board would consider dedicating this pond, which was obtained at no cost to AMAFCA, to the City. He added that he had been unable to find any agreements obligating AMAFCA to maintain the pond, even though it is on land dedicated to AMAFCA.

Mr. Kelly introduced Brad Bingham and Dan Hogan of the City of Albuquerque, who have been involved in this issue.

Mr. Lovato added that the pond located on AMAFCA property functions as designed; however, re-grading on adjacent properties has led to stormwater failing to make it to the pond.

Ms. Mazur stated that the pond tract had been dedicated to AMAFCA by plat. AMAFCA owns the tract in fee simple. Mr. Hogan added that the dedication statement stated it was dedicated to AMAFCA "for ... maintenance," even though AMAFCA had never agreed to maintain the pond, and there is a reversionary clause in the dedication statement if the tract became unnecessary for flood control.

Mr. Hogan suggested further discussions of drainage in this area at the staff level.

Due to a prior commitment, Director Eichenberg left the meeting at 2:10 p.m.

Mr. Kelly concurred that further research and discussion is warranted, and stated discussions with the City would continue.



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
May 3, 2007**

Page 25

23. Items from the Floor/Public Comment

None.

24. Adjourn

With no further business to discuss, Chairman Hernandez adjourned the meeting at 2:14 p.m.

Ronald D. Brown, Asst. Sec.-Treas. 5/31/07

Recorded by Pam Woodruff, Secretary to the Executive Engineer