



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Regular Meeting Minutes
July 30, 2009**

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1. Call to Order and Roll Call

Chairman Brown called the Regular Board Meeting to order at 10:00 a.m. Thursday, July 30, 2009. Roll was noted as follows:

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

Directors excused: None

Others present: John Kelly, Executive Engineer
Marcus Rael, Jr., Attorney
Staff
Other attendees on file at AMAFCA

A quorum was present.

2. Approval of Agenda

Director Eichenberg noted he had one additional item to add to the agenda under New Business, as item 19d. Chairman Brown concurred.

Director Eichenberg made a motion to approve the agenda as amended. Director Hernandez seconded the motion, which passed unanimously (5-0).

3. Meetings Scheduled

- a. **Thursday, August 27, 2009, 10:00 a.m. – Regular Meeting**
- b. **Thursday, September 24, 2009, 10:00 a.m. – Regular Meeting**
- c. **Thursday, October 22, 2009, 10:00 a.m. – Regular Meeting**

There were no changes to the meetings as scheduled, although later in the meeting a Special Meeting was added at 1:30 p.m. on Monday, August 24, 2009.

4. Items from the Floor/Public Comment

None.



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5. Approval of Minutes

a. June 25, 2009

Director Hernandez made a motion to approve the minutes of the June 25, 2009 Regular Board Meeting. Director Eichenberg seconded the motion, which passed unanimously (5-0).

6. Financial Matters

a. Approval of June 2009 Expenditures

Ms. Jeffries presented the June 2009 Expenditure Report. She stated that a water truck was rented during repairs to the AMAFCA water truck. Additional payments were made on some monthly bills, as an additional check run was done just before the end of the fiscal year to limit liabilities carried forward in the next fiscal year.

Director Lyon made a motion to approve the June 2009 Expenditure Report. Director Saiers seconded the motion, which passed (4-0). Director Hernandez had briefly stepped out of the meeting and missed the vote. He returned immediately after the vote.

b. Local Government Investment Pool Contingency Reserve Update

Ms. Jeffries provided letters from Attorney Rael to the Attorney General and AMAFCA regarding the Local Government Investment Pool Contingency Reserve. Mr. Rael added that he had received a reply from the Deputy Attorney General stating he would keep AMAFCA apprised.

c. Investment Report for June 2009

For information. There were no questions.

d. Financial Recap June 16, 2009, through July 15, 2009

For information. There were no questions.

e. Financial Forecast July 16, 2009, through August 15, 2009

Ms. Jeffries presented the Financial Forecast for the period July 16, 2009, through August 15, 2009. She noted that in the Construction Fund, under miscellaneous income, the good faith deposit for the bond sale was included, and under Debt Service, the August 1st principle and interest payments on the bonds, totaling \$8,824,000, are included.



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

7. Legal

a. Status Report

Attorney Marcus Rael's memo briefed the Board on the status of various legal matters. He answered several questions from the Board.

8. Notification of On-Call Services Task Orders

Mr. Kelly noted that one on-call services task order had been issued in the past month, as described in his memo. There were no questions.

9. South Diversion Channel Storm Water Quality Facility – Approval of Amendment Number Two to Agreement with WHPacific, Inc., for Design Surveys, Preliminary Design Phase and Project Permitting Services

With the help of photos of the project model and site, Kevin Daggett, AMAFCA Storm Water Quality Program Engineer, described the planned project to add a water quality facility to the I-25 baffle chute on the South Diversion Channel. He requested approval of Amendment Number Two to the agreement with WHPacific, Inc., for design surveys, preliminary design phase, and project permitting services. The total proposed fee for this work is \$17,232.00 plus NMGRT, which staff feels is reasonable.

He also stated that the model was nearly complete and will be run within a few days.

Director Hernandez made a motion that the Board approve Amendment Two to the Agreement with WHPacific (formerly ASCG) for Design Survey and Preliminary Design Services for the I-25 Baffle Chute Storm Water Quality Facility in the amount of \$17,232.00 plus NMGRT. Director Saiers seconded the motion, which passed unanimously (5-0).

10. Eastern Sandoval County Arroyo Flood Control Authority – Introduction of Board Members and Briefing on Formation of Authority

Chairman Brown introduced Larry Blair, former Executive Engineer for AMAFCA and current Executive Engineer for the Eastern Sandoval County Arroyo Flood Control Authority (ESCAFCA).



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Mr. Blair introduced Sal Reyes, Chairman of the ESCAFCA Board, and Debbie Kilfoy, Secretary of the ESCAFCA Board.

Mr. Reyes thanked AMAFCA for their assistance, along with SSCAFCA, in getting ESCAFCA established. He stated that ESCAFCA valued Larry Blair's extensive flood control experience.

Mr. Blair discussed the background of ESCAFCA's Board members. He stated their first \$6 million bond issue had passed in November, and they had recently sold their first \$3 million in bonds. He also stated that Wilson and Company had refined and expanded on HDR's first master plan, developing ESCAFCA's first project schedule. He described ESCAFCA's boundaries and the jurisdictional issues they face with pueblos and BLM land within their boundaries. As their tax base is relatively small, ESCAFCA plans to run a very small, but efficient, staff. A loan from the Town of Bernalillo helped fund expenses prior to their bond sale.

The Board thanked Mr. Reyes and Mr. Blair for the briefing.

11. AMAFCA North Diversion Channel Jurisdictional Determination – Briefing on Issues

Jerry Lovato, AMAFCA Drainage Engineer, presented to the Board the jurisdictional issues that arise as the Environmental Protection Agency (EPA) and the Corps of Engineers each interpret the Clean Water Act in different ways, with differing consequences for AMAFCA.

With input from Attorney Marcus Rael, Jr., who discussed some of the legal precedents involved, extensive discussion followed.

After a time, Chairman Brown declared a brief recess to view bond sale bids. He recessed the meeting at 10:57 a.m., resuming it at 11:02 a.m. Chairman Brown stated that agenda items 12 and 13 would be heard next, followed by a return to agenda item 11.

12. City of Albuquerque 2009 Bond Program – Briefing by Michael Riordan, P.E., Acting Director, City of Albuquerque, Department of Municipal Development

Michael Riordan, P.E., Acting Director of the City's Department of Municipal Development, briefed the Board on the City's storm drainage and other projects of interest to AMAFCA, answering several questions from the Board regarding the City's October 2009 General Obligation Bond Program.

Mr. Riordan stated that the drainage master plan for the mid-valley area, with a planned 50-50 funding split with AMAFCA, is included in the \$3 million for projects planned in the mid-valley. The drainage master plan is expected to cost approximately \$600,000, but the City does not have



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the money for their portion of the funding yet. If the City has to fund the entire field survey portion of the drainage master plan, it cannot be started until after the bond funds are received.

13. Adoption of Resolution 2009-5, 2009 General Obligation Bond Award Resolution

Mr. Kelly introduced Kevin Powers of RBC Capital Markets, AMAFCA's Financial Advisor, and Duane Brown of the Modrall Law Firm, AMAFCA's Bond Counsel.

Mr. Powers reviewed the nine bids received. Morgan Keegan's bid of 1.735% true interest cost was the lowest received. The top three bidders were within one basis point. These were very competitive bids. In AMAFCA's bond sale history, the previous low was 2.25 in 2003. He also noted that AMAFCA's AAA rating from S&P and Aaa from Moody's were reaffirmed, which was a factor in the low rate.

Mr. Brown guided the Board through adoption of the Bond Sale Resolution.

Director Saiers made a motion to accept the bid of Morgan Keegan for the purchase of the bonds, being the best bid received for the bonds. Director Hernandez seconded the motion, which passed unanimously (5-0).

Director Lyon made a motion that the Board adopt Resolution 2009-5, *2009 General Obligation Bond Award Resolution*. Director Eichenberg seconded the motion, which passed unanimously (5-0) on a roll-call vote.

11. AMAFCA North Diversion Channel Jurisdictional Determination – Briefing on Issues (discussion continued)

Chairman Brown noted that as the jurisdictional issue concerned potential litigation, further discussion on the issue 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 edition, January 2004. Director Eichenberg seconded the motion.

Chairman Brown stated that the closed session would be for purposes of discussion only, regarding potential litigation. The motion passed unanimously (5-0).

Chairman Brown closed the meeting at 11:28 a.m.



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Director Hernandez made a motion that the meeting be re-opened. Director Saiers seconded the motion, which passed unanimously (5-0). Chairman Brown reopened the meeting at 12:05 p.m.

A Special Board meeting had been set to further discuss this issue. This meeting was changed to 1:30 p.m. on Monday, August 24, 2009, later in the meeting.

Due to a prior commitment, Attorney Rael left the meeting at 12:05 p.m., and was replaced by Attorney Christina Anaya.

14. Drainage Facility Planning Review

a. Review of Projects in South Valley Area

Mr. Lovato covered the South Valley areas, briefly describing each proposed project on the map and whether its class or priority had changed since the FY-08 Project Schedule was created.

Roland Penttila, of the City of Albuquerque Department of Municipal Development, commented on the San Jose Drain project.

Chairman Brown called a brief recess at 12:22 p.m. The meeting resumed at 12:27 p.m. with agenda item 15, then returned to 14 b and 14 c.

15. Field Highlights

a. Construction Report

Mr. Wagener's memo contained a summary of current construction projects. There were no questions.

b. Field Report

Mr. Wagener presented a slide show of current projects, and video of the heavy flow in the Hahn Arroyo on July 21, 2009. He noted that in spite of several storms with heavy flows this year, no damage was done to any arroyos so no emergency repairs have been necessary.

Mr. Kelly commented that the Agency and Area Wide Flood Control Maintenance contract has worked so well, the agencies involved would like to extend the agreements another two years.



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14. Drainage Facility Planning Review (continued)

b. Mid Rio Grande Levee Task Force

Mr. Lovato stated that the Mid Rio Grande Levee Task Force, formed in compliance with Senate Memorial 18, has met twice.

Director Hernandez, who attended on behalf of the AMAFCA Board, stated that he had mentioned that if the levees are not fixed, flood insurance could cost affected property owners \$140 million a year. It would cost \$120 million to rebuild the levees. An economic impact study had been suggested at the Task Force meeting. The study would cost about \$60,000.

Chairman Brown asked if the Board would be interested in helping to fund the study, splitting the cost with the City of Albuquerque, Bernalillo County, and perhaps others as well.

After discussion, consensus of the Board was to solicit interest from other involved agencies for cost sharing the study.

Director Lyon noted the next meeting of the Task Force was Tuesday, August 25, at 9:30 a.m. and stated he would also like to attend.

c. Albuquerque West Levee

Mr. Lovato stated that the construction of the Albuquerque West Levee is complete, and awaiting FEMA re-mapping to remove property from flood plain.

16. AMAFCA Policy Revisions – Adoption of AMAFCA 2009 Personnel Manual

Mr. Kelly stated that the Personnel Manual had been re-written by Attorney Anaya, with input from AMAFCA supervisory staff, and reviewed by the Personnel and Salary Committee. The manual is a complete re-write of the 1997 manual, with the exception of the *Substance Abuse* and *Use of AMAFCA Personal Vehicles on AMAFCA Business* policies, which will be addressed later, and the *Cell Phone Use* and *Use of Communication Systems* policies, which had already been revised.

He added that the PSC also recommended a change to AMAFCA Resolution 2000-4, *Employee Compensation Policy*. They recommend that the section regarding notice to the Board of an in-house promotion be modified to remove the provision that the promotion is not effective until five days after the Board meeting where notice was made, although notice will still be required.



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Extensive discussion followed, during which changes were made to a number of sections of the manual to clarify or simplify the wording. The consensus of the Board was support of each of these changes as they were being made.

After the discussion, Director Hernandez made a motion that the Board accept the Records Retention Policy, as amended during the Board's discussion. Director Lyon seconded the motion, which passed unanimously (5-0).

17. AMAFCA Equipment – Authorization to Advertise for Bids for new 2000 Gallon Water Truck

Kurt Wagener, AMAFCA Field Engineer, stated that the FY 2010 budget includes the purchase of a 2000 gallon water truck. He requested that the Board authorize staff to advertise for bids.

Mr. Wagener and Mr. Kelly noted that, using a 1.5 multiplier to cover operations cost and maintenance, and amortized over the expected ten-year life span, a purchased water truck would cost about \$1,000 a month. A monthly rental of a water truck costs \$1,500.

Director Lyon made a motion that the Board authorize the Executive Engineer to advertise for bids for a 2000 gallon water truck. Director Hernandez seconded the motion, which passed unanimously (5-0).

18. Unfinished Business

None.

19. New Business

a. Out of State Travel Request – EPA Meeting to Discuss Jurisdictional Determination, Dallas, Texas, late August

Mr. Kelly stated that the EPA has requested the MS4 co-permittees travel to Dallas to meet with their staff. He requested authorization for out-of-state travel and expenses for Kevin Daggett, Storm Water Quality Engineer, and Jerry Lovato, Drainage Engineer, to attend the meeting. He stated the meeting will be in late August or thereabouts. Attorney Rael will also attend, and will be reimbursed for his travel via the terms of the General Counsel Services contract.

Director Hernandez made a motion that the Board authorize out of state travel and expenses for Kevin Daggett, Storm Water Quality Engineer, and Jerry Lovato, Drainage Engineer, to attend a meeting at EPA Region 6 to discuss the jurisdictional determination associated with the North



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Diversion Channel, at a cost not to exceed \$1,500, pursuant to Resolution 1998-16. Director Eichenberg seconded the motion, which passed unanimously (5-0).

- b. Trip Report, EPA Region Six MS4 Operators Conference, June 22-25, 2009, Houston, Texas**

There were no questions regarding Mr. Daggett's memo.

- c. Trip Report, 2009 ESRI International User Conference, July 13-17, 2009, San Diego, California**

There were no questions regarding Mr. Troutman's memo.

- d. Jackie Bregman's Birthday**

Director Eichenberg asked that the Board sign a proclamation declaring July 30, 2009 Attorney Jackie Bregman's birthday. Director Hernandez read the document to the Board.

20. Adjourn

There being no further business to come before the Board, Chairman Brown adjourned the meeting at 1:46 p.m.

Danny Hernandez, Secretary-Treasurer 8/27/09

Recorded by Pam Woodruff, Secretary to the Executive Engineer