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Arroyo Flood Control Authority
Regular Meeting Minutes
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1. Call to Order and Roll Call

Chair Saiers called the Regular Board Meeting to order at 10:02 a.m. Thursday, September 30, 2010. Roll was noted as follows:

Directors present: Chair Janet Saiers
Director Danny Hernandez
Director Ronald D. Brown (arrived at 10:45 a.m.)
Director Tim Eichenberg
Director Daniel Lyon

Director excused: None

Others present: Jerry M. Lovato, P.E., Executive Engineer
Attorney Marcus Rael, Jr.
Staff and crew
Other attendees on file at AMAFCA

A quorum was present. Chair Saiers noted that Director Brown would be arriving at 10:45 a.m. due to another commitment.

2. Approval of Agenda

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

3. Meetings Scheduled

- a. **Thursday, October 28, 2010, 10:00 a.m. – Regular Meeting**
- b. **Thursday, November 18, 2010, 10:00 a.m. – Regular Meeting**
- c. **Thursday, December 16, 2010, 10:00 a.m. – Regular Meeting**

There were no changes to the meeting schedule.

4. Items from the Floor / Public Comment

Paul Smith, of the Albuquerque International Balloon Fiesta, thanked the Board for their cooperation in licensing the Balloon Fiesta another year. The Fiesta starts October 2 this year, running through October 10. He stated that 500 balloons are registered for this year's Fiesta. Although the number of balloons is down, it is still the largest hot air balloon event in the world, at more than double the size of the next biggest event.



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John Kelly, AMAFCA Special Projects Engineer, noted that the successful "x marks the spot" landing zone program on various AMAFCA facilities is being repeated again this year.

5. Recognition of Outstanding Service – Larry Trujillo, 30 Years of Service to AMAFCA

Chair Saiers recognized a number of guests, including former Board member, Chair, and AMAFCA employee Geneva Meeker, former Board member Linda Stover and her husband Bob Stover, and former employees Col. Rich Leonard, Col. Larry Blair, Kurt Browning, Roger Flegel, and Marty Eckert.

She congratulated AMAFCA Maintenance Superintendent Larry Trujillo for 30 years of service to AMAFCA. The Board and audience greeted this with applause.

Chair Saiers acknowledged those who helped him reach this milestone, including the members of the maintenance crew, and Mr. Trujillo's wife, Anna, and son, Frank. Friends and representatives from various suppliers and equipment companies were also acknowledged.

On behalf of AMAFCA, Chair Saiers presented a plaque to Mr. Trujillo, expressing the Board's appreciation for his 30 years of service to AMAFCA. This was greeted by applause from the audience.

The plaque read: "Presented to Larry B. Trujillo, in recognition of thirty years of dedicated public service in providing flood control and protection of life and property to the citizens of Albuquerque and Bernalillo County. 30 great years and still going strong! Buen Trabajo, Slick. ¡Oralé Pues! Presented by the AMAFCA Board of Directors, September 30, 2010."

Mr. Trujillo thanked the Board, crew, staff, suppliers, and dealers for their support. He especially thanked the crew for their hard work over the years.

Long-time employees Larry Blair, John Kelly, and Geneva Meeker added their stories of Mr. Trujillo's career at AMAFCA, expressing congratulations at his having reached this significant milestone.

Chair Saiers stated that employees of government like Mr. Trujillo are the ones who help give a great name to government – those who are willing to be on-call during the flood season, and do whatever it takes to provide for the public's safety without complaining. She added that Mr. Trujillo sets a standard for the rest of his crew as an example of the kind of employee that puts a good name on government – people who care about their jobs and serving their community. On behalf of the entire tax base of AMAFCA, Chair Saiers thanked Mr. Trujillo for his service.



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Chair Saiers called a brief recess at 10:22 a.m., resuming the meeting at 10:24 a.m.

Chair Saiers asked that those present remember AMAFCA Real Estate Manager Loren Hines, whose father had passed away earlier in the week.

6. Approval of Minutes

a. August 26, 2010

Director Hernandez made a motion to approve the minutes of the August 26, 2010 Regular Board Meeting. Director Eichenberg seconded the motion, which passed (4-0).

b. September 14, 2010

Director Hernandez made a motion to approve the minutes of the September 14, 2010 Special Board Meeting. Director Lyon seconded the motion, which passed (3-0). Director Eichenberg abstained from voting as he had not been at the meeting.

7. Financial Matters

a. Approval of August 2010 Expenditures

Irene Jeffries, AMAFCA Business Manager, presented the August 2010 Expenditure Report. There were no questions.

Director Lyon made a motion to approve the August 2010 Expenditure Report. Director Hernandez seconded the motion, which passed (4-0).

b. Investment Report for August 2010

Ms. Jeffries presented the investment report for August 2010, and a revised investment report for July 2010. She stated that the investment report for July 2010 was revised because the interest from the Reserve Contingency Fund had been reported incorrectly. The revised investment report for July 2010 had the correct information. There were no questions, and no Board action was required.

c. Financial Recap August 16, 2010, through September 15, 2010

Ms. Jeffries presented the Financial Recap for August 16, 2010 through September 15, 2010. She explained that because of correcting the interest issue, the figures for the balances forward



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(forecast and actual) on the recap do not match. Also, in the Construction Fund and in the Agency/Area-Wide Account, she had anticipated large pay estimates that were not as large as expected when they came in.

d. Financial Forecast September 16, 2010, through October 15, 2010

Ms. Jeffries presented the Financial Forecast for the period September 16, 2010, through October 15, 2010. There were no questions.

Director Hernandez made a motion that the Board approve the Financial Forecast. Director Lyon seconded the motion, which passed (4-0).

8. Legal

a. Status Report

Attorney Marcus Rael, Jr., briefed the Board on the status of various legal matters, answering several questions from the Board.

9. Notification of On-Call Services Task Orders

Mr. Lovato noted that there were three on-call task orders, as outlined in his memo. There were no questions.

10. Legislative Liaison/Lobbyist Services – Distribution of Proposals

Ms. Jeffries had previously distributed the proposals for Legislative Liaison/Lobbyist Services to the Board. She requested that the Board confirm the members of the Selection Advisory Committee (SAC), and set a date and time for the committee to meet.

Director Eichenberg made a motion that the Board serve as a committee of the whole to sit as the Selection Advisory Committee for Legislative Liaison/Lobbyist Services, and that Director Hernandez serve as chair of the SAC. Director Hernandez seconded the motion, which passed (4-0).

After discussion, the Board decided to defer a decision on the date and time of the SAC meeting until Director Brown was present.



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Consent Agenda (items 11 through 13):

11. Acceptance of Mini Audit

The memo from Ms. Jeffries stated that, as authorized by the Board, Ricci & Company had performed a Mini Audit of AMAFCA's financial status in conjunction with the change in the Executive Engineer position. The audit was performed on August 26, 2010, and found no exceptions. The memo requested that the Board accept the Independent Accountant's Report.

12. South Diversion Channel Baffle Chute Storm Water Quality Facility – Consideration of Award of Contract to RMCI, Inc.

The memo from Kevin Daggett, AMAFCA Storm Water Quality Engineer, stated that five contractors submitted bids on the South Diversion Channel Baffle Chute Storm Water Quality Facility, and the low bidder was RMCI, Inc., with a base bid of \$2,329,010.00. RMCI's additive alternate bid was \$351,755.00. The bids were checked, and WH Pacific and staff recommended award of the construction contract to RMCI for \$2,329,010.00 for the base bid and \$351,755.00 for the additive alternative. The combined amount is \$529,000 below the budgeted amount for this project in the "bond fails" scenario, which is fully funded by AMAFCA. The AMAFCA Campaign Contribution Disclosure Form had been completed. The memo requested the Board accept RMCI, Inc., as the lowest responsible bidder and authorize the Chair to execute the contract with RMCI.

13. Out of State Travel Request – World of Concrete Conference and Trade Show, January 17-21, 2011, Las Vegas, Nevada

The memo from Mr. Lovato stated that he would like to send two crew members to the World of Concrete Conference and Trade Show in Las Vegas, Nevada, in January. There are many onsite demonstrations and an extensive vendor area, as well as training seminars. The conference has been of great benefit to AMAFCA in the past and was expected to be of benefit this year as well.

There being no further items on the Consent Agenda, and there being no questions, Director Lyon made a motion that the Board take action on consent agenda items 11 through 13, as follows:

- Accept the Independent Accountant's Report performed by Ricci & Company;
- Accept RMCI, Inc., as the lowest responsible bidder and authorize the Chair to execute the contract with them for the construction of the South Diversion Channel Baffle Chute



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Storm Water Quality Facility in the amount of \$2,680,765.00 for the base bid and additive alternate, plus New Mexico Gross Receipts Tax; and

- Authorize out of state travel and expenses for two AMAFCA crew members to attend the World of Concrete Trade Show in Las Vegas, Nevada, not to exceed \$2,500.00, pursuant to Resolution 1998-16.

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

Director Eichenberg suggested that staff look into the Southwest Airlines Rapid Rewards VISA card, stating that putting normal daily and monthly expenditures on the card would earn enough free trips to cover the airfare portion of travel to the World of Concrete Trade Show each year.

Chair Saiers introduced Herman Chavez, of Ricci & Company, the auditors who had performed the mini-audit.

Regular Agenda:

14. AMAFCA GIS Implementation – Consideration of *Fifth Amendment to "Agreement for AMAFCA Professional Services Agreement for the Establishment of an Enterprise GIS Web Application,"* with AMEC, Inc.

In Loren Hines' absence, Kevin Troutman, AMAFCA GIS Technician, stated the January 22, 2009 contract with AMEC Earth & Environmental was a phased agreement to develop an in-house geographical information system (GIS) over a period of several years. This phase will develop AMAFCA's in-house capability. The cost of this phase has been proposed at \$71,975.00 plus New Mexico Gross Receipts Tax. The FY 2011 budget included \$145,000 for this phase.

He noted that in order to save money, some high-bandwidth map data may be stored off-site, reducing the cost of internet bandwidth and enhancing network security.

Director Hernandez commented that this proposal is scaled back from the original agreement. He approved of the fact that full implementation of the planned in-house system is delayed to save money in this budget cycle. The project is still moving forward, but at a slower pace.

Director Hernandez made a motion to approve the Fifth Amendment to the Professional Services Contract with AMEC Earth & Environmental, Inc., for the Year Three Phase of the GIS project, on a time and materials basis, not to exceed \$71,975.00, plus New Mexico Gross Receipts Tax. Director Lyon seconded the motion.



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Discussion followed. In response to a question from Chair Saiers, Mr. Lovato stated that emerging new technologies will probably cost less than those envisioned at the time of the 2009 contract. Delaying implementation of the in-house system six to nine months will probably end up saving AMAFCA money.

The motion passed (4-0).

Mr. Troutman introduced Joseph Jaramillo, of AMEC, who has been working on the project.

Director Brown arrived at 10:45 a.m.

15. AMAFCA Levee Evaluation – Report from Tetra Tech

John Kelly, AMAFCA Special Projects Engineer, introduced Walt Kuhn and Dick Kreiner, both of Tetra Tech.

Mr. Kelly stated AMAFCA had asked Tetra Tech to perform a regulatory evaluation of the levee-like sections of the AMAFCA North Diversion Channel and South Diversion Channel. Their report was attached to the Board mailout memo.

In response to a question from Director Lyon, Mr. Kreiner stated that there was no definitive definition of "levee" at the federal government level. However, portions of the North Diversion Channel and South Diversion Channel are "levee-like structures" and their report recommends AMAFCA treat those sections as levees and preserve 15 feet at the toe of the embankment.

Mr. Kelly stated that in some locations, AMAFCA does not have the 15 foot right of way interest at the toe of the levee. Where AMAFCA has the 15 foot interest, it should be retained rather than sold. Where AMAFCA does not have the 15 foot interest, an access easement should be considered.

He stated that the Corps of Engineers has a requirement that there be a 15 foot right of way interest on new projects to stay in the PL99 Program. The FEMA criteria have not mandated a 15 foot interest so far, but their standards are becoming stricter over time. It is anticipated that eventually, FEMA will adopt the Corps' standards regarding levees. He recommended a resolution regarding property preservation and acquisition to preserve an access easement 15 feet from the toe of the levee through dedications at the time of development. AMAFCA may need to acquire additional easements or condemn additional easements to preserve that access corridor where possible.

Mr. Kelly added that, before any additional easements are acquired, AMAFCA should look at where the sections that would be considered levees are located.



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Mr. Kreiner clarified that a new Engineer Technical Letter from the Corps exempts existing projects where the 15 foot access easement does not currently exist. Owners are not required to obtain the easement, however, the levee owner needs to be prepared to explain how they are going to maintain, monitor, and flood fight the levee without having that 15' access easement. He showed a cross-section of a portion of the South Diversion Channel (SDC). The SDC was designed to a Corps Standard Project Flood, approximately the 500-year event. FEMA criterion is the 100-year event. In many sections of the channel, the existing ground level is above the 100-year event profile in the channel, in which case the embankment is not a levee.

Bond Sale

At 10:55 a.m., the Board paused to view the Bond Sale bids as they came in electronically. Bids were due by 11:00 a.m.

Loretta Brush, of RBC Capital Markets, AMAFCA's Financial Advisor, and Duane Brown, of Modrall Spering, AMAFCA's Bond Counsel, explained the bid process as bids came in. Ms. Brush predicted an interest rate less than 2%. The final low bid was from First Southwest, at an average interest rate of 1.634%.

After verifying the final bid, Loretta Brush stated that RBC Capital Markets recommended award of the bond sale to First Southwest. This is the lowest interest rate AMAFCA has ever paid on its bonds.

Director Brown made a motion that the Board accept the bid of First Southwest and award the bond sale to First Southwest. Director Hernandez seconded the motion, which passed unanimously (5-0).

Before returning to agenda item 15, Director Brown congratulated the Executive Engineer on the accuracy of the Engineer's Estimate on the South Diversion Channel Baffle Chute project, in agenda item 12, noting that the engineer's estimate was midway between the second and third bids.

15. AMAFCA Levee Evaluation – Report from Tetra Tech (continued)

The Tetra Tech presentation of agenda item 15 resumed at 11:08 a.m.

Mr. Kreiner continued his presentation by giving an example of a cross-section of a portion of the South Diversion Channel where the surrounding land is lower than the level of the 100-year profile in the channel. These portions are likely to be considered levees in the future.



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Geotechnical analysis will have to be done on those segments in order to be able to certify them as levees.

He stated that beginning those analyses now will give AMAFCA the information they need, when FEMA asks for it.

Mr. Kelly stated that FEMA is currently working on remapping of the Albuquerque area, but he did not know if the river levees were included in that effort. Remapping is done on a ten-year cycle.

Brad Bingham, City Hydrologist for the City of Albuquerque, stated that URS told him that FEMA will not look at the Rio Grande levees during the current remapping effort.

Mr. Kelly added that, in 2008, when FEMA and the congressional delegation were in town, he and Mr. Lovato drove back to the office with the FEMA representatives. They stopped at the South Diversion Channel and Broadway, looking downstream. The FEMA reviewers confirmed it was a levee, but also stated that they would not ask for it to be certified at that time because they did not have the time, resources, or schedule to spend on it during their 2008 remapping effort.

Mr. Kelly stated that AMAFCA is ready to put together the information that will be required to certify these sections as levees. AMAFCA has design records and inspection records on the SDC. The soil stability and seepage information from the Corps of Engineers can be evaluated to see if it meets current FEMA standards. If not, a new seepage analysis will be needed.

Director Hernandez noted that FEMA will be looking at portions of the NDC and SDC as levees in the future, even if they are not looking at them now, and it would be prudent to begin now so that they can be certified when FEMA gets to them.

Mr. Kelly agreed, saying it would be prudent to calculate the 100-year flood event elevation in both channels now, so that it can be determined which stretches might be considered levees by FEMA.

He recommended that AMAFCA concentrate its efforts on maintaining a 15' vegetation-free zone at the toe of the levee, and take steps to preserve or acquire the 15' easement where necessary. He also recommended that the Board review a draft resolution to deal with preservation and acquisition of a vegetation-free zone at the toe of all levee-like embankments at the October 28, 2010 Board meeting, and concur with a task order to Tetra Tech to start evaluating the 100-year water surface and compare it to the toe of the levee. Much of this work has begun already as a part of the NDC Storm Water Quality Reconnaissance Study, and would just need to be expanded on.



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In response to a question from Director Eichenberg, Mr. Lovato stated that AMAFCA needs to take steps to preserve the easements that will be needed in the future at the toe of the levee portions of the channels. If surplus land is sold, sufficient land must be retained to satisfy the future requirements of FEMA.

Responding to a question from Chair Saiers, Mr. Kelly stated that the study in the task order would cost about \$30,000 to \$40,000 more to complete, which will come from capital funds.

Director Brown opined that it would be prudent to finish this task rather than start over several years from now and duplicate efforts. Mr. Kuhn confirmed that there would be some duplication of effort if the task were put off several years.

Mr. Kelly noted that when FEMA asks for certification of the levees, there may be little time to respond. He stated that Bernalillo County was given only 90 days to submit certification information in response to FEMA's request during the last re-mapping event. The information would need to be on hand prior to FEMA's request for it.

Director Hernandez stated that AMAFCA could delay the study a year or two, no longer, but he would rather move forward with the study as AMAFCA may need to plan ahead to buy land at the toe of the levee.

Responding to a question from Chair Saiers, Mr. Kelly stated that dam embankments, perched channel sections, and other portions of the AMAFCA system could also be declared as levees in the future. This effort would only look at 100-year water surface levels in the North Diversion Channel and South Diversion Channel.

Discussion followed. Director Hernandez noted that the information in this study will be needed in order to plan for the future, and not a lot of money is involved. Director Brown was also in favor of proceeding. Directors Eichenberg and Lyon stated they would like to have more detailed information on the scope of the study. Chair Saiers requested that Mr. Lovato bring a specific list of tasks and estimated costs for the study to the Board for their further consideration at a future Board meeting.

Mr. Lovato stated he would do so. He also reminded the Board of a similar issue in North Albuquerque Acres, involving the La Cueva Arroyo. Five years ago, a Conditional Letter of Map Revision (CLOMR) was acceptable to FEMA. Now, a Letter of Map Revision (LOMR) is not acceptable to FEMA, and FEMA is calling the channel a levee section. However, land at the toe of the levee has become unavailable, as development has occurred all the way up to the channel. He stated he would not like to see AMAFCA get into a similar situation again.



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16. UNM BBER Floodplain Impacts Study

Mr. Lovato introduced Dr. Lee Reynis, Director of the UNM Bureau of Business and Economic Research, and stated that Dr. Reynis had completed a study of the economic impacts of FEMA de-accreditation of levees along the Rio Grande in Bernalillo County. Dr. Reynis introduced Daren Ruiz, who had authored a portion of the study.

Mr. Ruiz and Dr. Reynis gave the Board a detailed briefing on the results of the study of the fiscal and economic impacts of the potential FEMA remapping of the Rio Grande floodplain in a "no levee" scenario.

Mr. Ruiz stated that, after Hurricane Katrina, FEMA increased the standards for certifying levees. It is not anticipated that the levees along the Rio Grande will meet those new standards, and a number of taxpayers will need to purchase flood insurance as they will be in newly-designated flood zones. Flood insurance premiums will cost residents approximately \$5.5 million the first year, and \$6.3 million in subsequent years, based on the most likely scenario.

Dr. Reynis stated that the floodplain designation will also affect development and property values, concluding that the requirement to purchase flood insurance reduces the value of the land. Stricter development standards will be very site-specific (elevating the building pad, compensatory on-site ponding, etc.), will increase building costs, and will force lower density development. This will tend to lead to larger lots with larger custom homes, and many alterations and additions to existing homes will be done without a permit so as to avoid having to upgrade to the new standards. Much of the older housing will be demolished and larger, custom homes built in their place. Construction of affordable and moderate housing will not be cost-effective and it will no longer be built in the floodplain area.

She concluded that there will be increased costs to live, to build, and to operate a business in the new floodplain, driving development elsewhere. The floodplain designation will tend to eliminate affordable housing options in the valley. The floodplain insurance requirement will also have a depressing effect on property values in the valley.

17. AMAFCA Construction – Hahn Arroyo

- a. **Consideration of the Agreement for the *Funding and Maintenance of the Hahn Arroyo Rehabilitation Project* (Comanche to California) with the City of Albuquerque**
- b. **Consideration of *Amendment Three to "Agreement for Hahn Arroyo Project Phase I for Design Engineering, Construction Engineering and Landscape Architecture Services"* with Smith Engineering Company, Inc., for**



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Construction Management Services for the Hahn Arroyo Rehabilitation Project (Comanche to California)

c. Authorization to Advertise for Construction Bids – Hahn Arroyo Rehabilitation Project (Comanche to California)

Director Hernandez made a motion that agenda items 17a, 17b, and 17c be deferred to next month's meeting. Director Lyon seconded the motion, which passed (3-1). Director Eichenberg voted against the motion and Director Brown abstained from the vote.

18. Approval of Resolution 2010-13, *General Obligation Bond Award Resolution*

Loretta Brush gave a comparison of the bond sale results, comparing them to prior years. This interest rate is the lowest rate AMAFCA has ever had on a bond sale. She reviewed the reasons given by Moody's for AMAFCA's excellent bond rating of AAA.

Duane Brown, AMAFCA Bond Counsel, explained Resolution 2010-13, *General Obligation Bond Award Resolution*.

Director Eichenberg made a motion that the Board adopt Resolution 2010-13, *General Obligation Bond Award Resolution*. Director Hernandez seconded the motion, which passed unanimously (5-0) on a roll-call vote.

Mr. Brown stated that the money will be available to AMAFCA on November 2nd.

Director Brown requested that AMAFCA issue a press release about the sale and the extremely low interest rate. The press release should also mention the excellent bond ratings and how maintaining excellent bond ratings lead to a low interest rate on the bonds, benefitting the taxpayers. Director Eichenberg agreed, requesting that the statement made by Moody's regarding the reasons for AMAFCA's AAA bond rating also be included in the press release.

Chair Saiers called a brief recess at 12:22 p.m. The meeting resumed at 12:26 p.m.

19. Sanchez Farm Tributary Storm Drains – Update on Progress

Lynn Mazur, AMAFCA Development Review Engineer, introduced Dave Thompson of Thompson Engineering, the engineer on this project, and Sean Wolfe of Cobb Findley, the utility locating company.

Ms. Mazur stated that the Board approved the *Agreement for Design Engineering Services (for) Sanchez Farm Tributary Storm Drain* with Thompson Engineering at the May 27, 2010 Board



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meeting. The contract was divided into phases, with Phase 1 for Conceptual Design and Phase 2 for Preliminary and Final Design. The Board requested a report after the first two tasks of Phase 1 (Field Survey and Utility Locating) had been substantially completed, as this provided a logical decision point if utility conflicts were found. No major conflicts were found.

Mr. Thompson stated that, although the project will have to work around existing utilities, there appears to be room for construction of the storm drain down the middle of Goff Road. There also appears to be enough room for the storm drain down one side of Sunset Road.

Mr. Wolfe used maps to show where the utilities are located, and discussed how they were located. He demonstrated that the storm drain can be put in the location contemplated. Locating the utilities accurately early in the design process allows for an accurately-placed conceptual design. In turn, this results in fewer change orders and fewer project delays during construction.

Mr. Thompson stated that he had not done the hydrology and hydraulics study yet, but the utility study shows that there is room for the storm drain in the locations shown. He gave further details about the utilities discovered and how they can be worked around in the design phase. The sanitary sewer in Goff appears to not be a problem.

Ms. Mazur stated that, based on this utility investigation and proposed storm drain layout, the project appears very feasible. She requested that the Board authorize Thompson Engineering Consultants, Inc., to proceed with the completion of Phase 1 of the agreement. She also noted that a cost share with Bernalillo County for construction of the project will be sought after the design has been finalized.

Mr. Lovato stated that the project cost cannot be estimated until a preliminary design has been completed. This portion of the study was to determine if it is a feasible project. The project as a whole is a backbone storm drain project. AMAFCA is designing the Sunset/Goff section, and Bernalillo County is designing the next tributary section. The project will take flows that will collect in storm drains being currently constructed, and take them to Sanchez Farm Detention Pond. Bernalillo County is planning to phase the construction of their portion of the overall project.

In response to a question from Chair Saiers, Mr. Lovato stated that a preliminary design needed to be completed so that a cost estimate could be prepared, before approaching Bernalillo County about construction funding. Ms. Mazur added that staff will come back before the Board at the conclusion of Phase 1 of the agreement with Thompson Engineering, asking for authorization to continue with Phase 2 of the agreement.

Director Brown stated he supported authorizing Phase 1 to continue, proceeding with the work that has already been authorized by the Board, but that it would be prudent to be sure that



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Bernalillo County is still planning to proceed with the project. Chair Saiers agreed, saying that the discussions could be held simultaneously with the work to complete the preliminary design.

Mr. Kelly pointed out that Bernalillo County is designing the system south of the Sanchez Farm Regional Pond, which is mostly tributaries, and AMAFCA is designing the system north of Sanchez Farm, which is a trunk line. The design of each part of the project is estimated to cost \$180,000. The design of the project was split, but construction has not been discussed yet.

Mr. Lovato stated that the FY 2010 Project Schedule assumes that construction will be split 50-50, with the County taking the lead on the project.

Director Hernandez noted that the County is doing their part on the overall project, but stated it would be prudent to confirm that the County still plans on completing their portion of the project.

Chair Saiers requested that Mr. Lovato get more information regarding the County's plans for this project.

Director Eichenberg made a motion that the Board get more information about the project and defer authorizing Thompson Engineering Consultants, Inc., to proceed with the completion of Phase 1 of the *Agreement for Design Engineering Services (for) Sanchez Farm Tributary Storm Drain*, until either the October or November Board meeting, at the Chair's discretion. Director Lyon seconded the motion, which passed unanimously (5-0).

20. Field Highlights

a. Construction Report

Kurt Wagener, AMAFCA Field Engineer, had provided a memo regarding current construction projects. There were no questions.

b. Field Report

Director Eichenberg made a motion to defer the Field Report to next month. Director Hernandez seconded the motion, which passed unanimously (5-0).



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21. Real Estate

a. Notice of Issuance of Three Recreational Licenses

The memo from Mr. Hines listed three short-term recreational licenses that had been issued in the last month, for cross country races at the John B. Robert Dam, Powerline Channel, and Calabacillas Outfall. There were no questions.

b. Consideration of *Turnkey Agreement for Side Inlet Channel Improvements on the South Diversion Channel as Related to Pueblo Metals Recycling*

Ms. Mazur stated she, Director Hernandez, and David Soule, the engineer on this project, had toured the site. The project will divert flows to an onsite water quality pond, then to the South Diversion Channel, rather than sending flows directly to the channel. She stated that it is expected that this will be the new standard for drainage projects. The agreement allows AMAFCA access for inspection purposes.

Director Hernandez stated his support of the project.

Director Hernandez made a motion that the Board approve the Agreement, substantially the same as attached to the memo, and authorize the Chair to execute the *Turnkey Agreement for Side Inlet Channel Improvements on the South Diversion Channel as Related to Pueblo Metals Recycling Project*. Director Brown seconded the motion, which passed unanimously (5-0).

c. Update on Black Mesa Phase I Pipe Easement

Mr. Hines' memo gave the Board an update on the Black Mesa Phase I Pipe Easement. There were no questions.

22. Unfinished Business

a. Update on EPC Hearing for Volcano Cliffs

The memo from Lynn Mazur, AMAFCA Development Review Engineer, stated that she had attended the Environmental Planning Commission hearing on the Volcano Cliffs Sector Development Plan, as directed by the Board. There were no questions.



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b. Approval of Resolution 2010-12, *Ad Valorem Tax Levy for Tax Year 2010, Applicable to General Operating Fund*

Director Brown noted that he had voted in favor of approval of Resolution 2010-12, and therefore was eligible to request that it be reconsidered.

Director Brown made a motion that the Board reconsider approval of Resolution 2010-12. Director Eichenberg seconded the motion, which passed unanimously (5-0).

Director Brown commented that the resolution had passed on a 2-1-1 vote, with Director Eichenberg absent, but that he would like to hear Director Eichenberg's thoughts on it. Director Hernandez stated that he would also like to have Director Eichenberg's input on the resolution and the mill levy rate situation.

Director Eichenberg stated that he would like to have the AMAFCA attorney demand information from the Department of Finance and Administration (DFA) regarding the statutory requirements regarding setting mill levies. Over the years, DFA has recommended rates higher than those allowed by AMAFCA's statutes. He stated that there are two options: (1) there is still time to not accept the rates recommended by DFA, or, (2) if the Board kept those rates, they should consider having AMAFCA counsel pursue what to do next year. The DFA appears to only give AMAFCA the option to increase or decrease rates, not to keep them the same. If the Board does not increase the mill levy in a particular year, the Board loses the chance to increase the mill levy in a later year. He wondered if DFA has the authority to control rates in that way.

Director Hernandez agreed with Director Eichenberg. He stated that he had voted "no" in protest of DFA's actions. He stated that, this year, AMAFCA had to lower its budget to meet the expected tax revenues at the lower mill levy rate. He stated that he would like to explore other options.

Director Lyon also agreed.

In response to a question from Director Lyon, Attorney Rael summarized the work he had done so far on this issue. He stated that he would need to pursue the issue a little further, researching legislative intent, to meet the request of the Board.

Director Eichenberg stated that he does not want to see another repeat of this situation. He inquired as to the possibility of legislation that gives smaller agencies more leeway in setting their mill levies.

Director Hernandez noted that the yield control formula never anticipated the situation that arises when the formula sets a rate higher than a cap set by statute.



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Attorney Rael stated that he did not believe the legislature intended to require agencies to exceed a cap set by statute, nor did they intend to have the yield control act set policy by requiring mill levies to be lowered. A look at the legislative intent would help resolve this issue.

Chair Saiers noted that the conclusion at the September 14 meeting was that the AMAFCA Board could not simply refuse to follow the direction of DFA – that to fight DFA would be an ineffective use of time and resources.

Director Brown suggested the Board direct Attorney Rael to communicate with DFA. The letter should state that AMAFCA wished to keep its rates the same, but DFA recommended rates that would exceed its statutory limits. The Board felt boxed in, because they did not want to change the rates. They chose a rate pair that resulted in the budget having to be reduced, as they did not want to raise rates. The letter should ask how the decision that rates should be different came about.

Mr. Lovato noted that this conversation had already occurred, prior to the September 14 meeting. The changes to the mill levy rate had already been made by DFA staff. The Board's September 14 action had been to clean up those changes and make them official.

Directors Brown and Eichenberg wondered why AMAFCA could not simply choose to retain the same rates year after year. He added that the County could have approved AMAFCA's rates from last year again, and then DFA would have had to go after the County and not AMAFCA.

Director Lyon suggested this issue be pursued further through counsel.

Director Brown suggested that Attorney Rael request an explanation from DFA, and state the position that the two choices that DFA gave the Board were both equally bad.

Director Hernandez stated that the Executive Engineer and Attorney Rael should seek an explanation from DFA, and find out what remedy AMAFCA has for the future.

Director Hernandez made a motion that the Board adopt Resolution 2010-12, *Ad Valorem Tax Levy for Tax Year 2010, Applicable to General Operating Fund*, setting the mill levy at \$0.165 Residential and \$0.477 Non-Residential. Director Brown seconded the motion, which passed (4-1) on a roll-call vote. Director Lyon voted no.

Director Hernandez stated that AMAFCA should take steps to ensure that DFA does not set the mill levy rates for AMAFCA again.



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23. New Business

None.

10. Legislative Liaison/Lobbyist Services (continued)

The board returned to a discussion of the Selection Advisory Committee for the RFP for Legislative Liaison/Lobbyist Services.

After discussion, the Board decided they would hold the Selection Advisory Committee meeting at 8:00 a.m. on Friday, October 1, 2010.

Director Hernandez made a motion that the Board recess the meeting until 8:00 a.m. on Friday, October 1, 2010. Director Eichenberg seconded the motion, which passed unanimously.

Chair Saiers recessed the meeting at 1:35 p.m.

At 8:05 a.m. on October 1, 2010, Chair Saiers reconvened the meeting, noting that Director Hernandez was running late but all other Board members were present. Executive Engineer Jerry Lovato and Executive Secretary Pamela Woodruff were also present.

Until Director Hernandez arrived, Chair Saiers appointed Director Brown as Vice-Chair of the Selection Advisory Committee (SAC).

Director Brown made a motion that the Board recess to go into a committee of the whole, to consider the proposals for Legislative Liaison/Lobbyist Services. Director Eichenberg seconded the motion, which passed (4-0).

The Board recessed at 8:06 a.m. to review and score the proposals, as a committee of the whole.

Director Hernandez arrived at 8:25 a.m.

Due to a prior commitment, Chair Saiers had to leave at 8:41 a.m.

At 8:48 a.m., Vice-Chair Hernandez called the meeting back to order. He stated that no decisions had been made by the Board during the meeting of the committee of the whole. The SAC had rejected all proposals.

On behalf of the Board, Vice-Chair Hernandez had directed staff to re-advertise the Request for Proposals, with a slight change in wording in the Legal Notice Ad and the Scope of Services.



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The Board will also set aside time to interview one or more of the firms responding. A decision on a firm will be made at the November 18, 2010 Board meeting.

24. Adjourn

There being no further business to come before the Board, Director Eichenberg made a motion to adjourn the meeting. Director Brown seconded the motion, which passed (4-0). The meeting was adjourned at 8:48 a.m.

Ronald D. Brown, Secretary-Treasurer 10/28/10

Recorded by Pamela Woodruff, Secretary to the Executive Engineer