



**Albuquerque Metropolitan  
Arroyo Flood Control Authority  
Regular Meeting Minutes  
August 18, 2011**

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**1. Call to Order and Roll Call**

Chairman Hernandez called the Regular Board Meeting to order at 10:00 a.m. Thursday, August 18, 2011. Roll was noted as follows:

Directors present:	Chairman Danny Hernandez Director Bruce Thomson Director Tim Eichenberg Director Daniel Lyon
Directors excused:	Director Ronald D. Brown
Others present:	Jerry M. Lovato, P.E., Executive Engineer Attorney Marcus Rael, Jr. Staff Other attendees on file at AMAFCA

A quorum was present.

**2. Approval of Agenda**

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

**3. Meetings Scheduled**

- a. **Thursday, September 15, 2011, 10:00 a.m. – Regular Meeting**
- b. **Thursday, October 20, 2011, 10:00 a.m. – Regular Meeting**
- c. **Thursday, November 17, 2011, 10:00 a.m. – Regular Meeting**

There were no changes to the meeting schedule.

**4. Items from the Floor / Public Comment**

None.

**5. Approval of Minutes**

- a. **July 25, 2011**

Director Eichenberg made a motion to approve the minutes of the July 25, 2011 Regular Board Meeting. Director Thomson seconded the motion, which passed (4-0).



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**6. Financial Matters**

**a. Approval of July 2011 Expenditures**

Irene Jeffries, AMAFCA Business Manager, presented the July 2011 Expenditure Report. In response to a question from Director Thomson, she stated that tax collections are initially deposited to the Operating Fund, then the portion due to the Debt Service Fund is transferred to that fund.

In response to a comment from Director Lyon regarding bundling phone, internet, and cell phone service, Mr. Lovato stated that Kevin Troutman had been reviewing phone and internet options. Mr. Troutman reported that he has been studying how the merger of Qwest and Century Link will affect AMAFCA. At this point, combining the accounts is not financially prudent. He stated that the contracts for phone and internet service will change as AMAFCA's bandwidth needs change in the future.

Director Lyon made a motion to approve the July 2011 Expenditure Report. Director Thomson seconded the motion, which passed (3-0), Director Eichenberg being out of the room at the time of the vote.

**b. Investment Report for July 2011**

Ms. Jeffries presented the investment report for July 2011. She noted that principal and interest was paid on the bonds. There were no questions, and no Board action was required.

**c. Financial Recap July 16, 2011, through August 15, 2011**

Ms. Jeffries presented the Financial Recap for July 16, 2011 through August 15, 2011. She noted that, in the Debt Service Fund, AMAFCA had made principal and interest payments on the bonds. There were no questions, and no Board action was required.

**d. Financial Forecast August 16, 2011, through September 15, 2011**

Ms. Jeffries presented the Financial Forecast for the period August 16, 2011, through September 15, 2011, noting that payments would be made to the contractors on two construction projects, as well as a number of engineering services payments from the Construction Fund. She requested Board approval of the forecasted expenditures. There were no questions from the Board.

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



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**e. Certification of FY 2012 Budget by the Department of Finance Administration**

Ms. Jeffries stated that the budget certification letter had not been received from the Department of Finance Administration (DFA), but was expected shortly. The DFA must certify AMAFCA's budget by September 1, 2011. She stated that certification of the budget by DFA will be on the September meeting agenda. State law requires that this be included in the minutes, although no Board action is required.

Director Eichenberg stated that the DFA's Chief Counsel, along with the Director of the Local Government Division, would be at the Revenue Stabilization and Tax Policy Committee meeting on August 25-26, 2011 at MRCOG to listen and observe. Director Eichenberg also reported on a conversation he had with Secretary Richard May of the DFA, who will be speaking at the meeting. AMAFCA is scheduled to give a presentation on the effects of the Yield Control Act on the afternoon of August 25, 2011.

Director Eichenberg opined that legislation may be needed to resolve the issue, as local governments need a little more independence and discretion in setting their budgets. If they can set a budget that meets DFA's approval, they should also be able to set their mill levy rates. He also stated that Mr. Schaeffer, the DFA's Chief Counsel, told him that the Yield Control legislation does not mention proportionality anywhere, in spite of previous administrations insisting on proportionality between residential and non-residential mill levy rates. He asked Mr. Schaeffer to consider both sides of the issue.

Chairman Hernandez noted that the Personnel and Salary Committee had been unable to meet prior to the Board meeting, so agenda item 8a, on the agenda as a closed session item, would be deferred to another meeting.

**7. Legal**

**a. Status Report**

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

Chairman Hernandez stated that he had attended training on the New Mexico Government Conduct Act in Santa Fe. As of July 1, 2011, the Act applies to local government agencies as well as state government agencies. The Act requires that elected officials disclose their outside employment within 30 days of taking office, although some leeway will be given this year as word is still getting out about this new requirement. He recommended disclosure as soon as



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possible. Disclosure of outside employment is also required from the employees of local agencies.

Mr. Lovato noted that employees already provide this information, which is treated as confidential and kept within their personnel files. He asked if employment information would be confidential for the Board as well.

The Board discussed several different employment and business scenarios, and how those scenarios should be disclosed.

Director Eichenberg stated that the Board's outside employment would be considered public information. He suggested that staff and AMAFCA's attorney create a form for reporting outside employment.

Chairman Hernandez recommended that AMAFCA create a policy to address outside employment and the reporting requirement, beyond what is stated in the Personnel Manual for employees.

The Board concurred with both suggestions.

Attorney Rael stated that the disclosure form would be created as soon as possible.

**b. Personnel Matter**

Attorney Rael stated that he had some information to report regarding the personnel matter the Board had previously discussed.

Chairman 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 *"The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens,"* seventh edition, 2010, to discuss a personnel matter. Director Eichenberg seconded the motion.

Chairman Hernandez stated that the closed session would be for purposes of discussion only, regarding a personnel matter. The motion passed (4-0), on a roll call vote.

Chairman Hernandez closed the meeting at 10:31 a.m.

Director Eichenberg made a motion that the meeting be re-opened, stating that the Board had made no decisions during the closed meeting, but had discussed a personnel matter. Director Thomson seconded the motion, which passed (4-0), on a roll call vote.



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Chairman Hernandez reopened the meeting at 11:07 a.m.

**8. Personnel Matters**

**a. Executive Engineer Annual Review**

Deferred.

**9. Executive Engineer's Report**

**a. Notification of Past Month's Activities**

Mr. Lovato highlighted significant activities of the past month, answering questions from the Board during his presentation. He covered the following:

- Corps of Engineers – Bernalillo County and AMAFCA are working together with the Corps of Engineers to close out the feasibility portion of the Southwest Valley Flood Reduction Project, and the Los Padillas Spillway Diversion construction completed by AMAFCA. The Corps project continues along the Los Padillas Drain and Isleta Drain. A member of the contractor's work force is recuperating from injuries he received as a result of his inattention. Bernalillo County and AMAFCA are working with the Corps to close out the design and construction portions of the Black Mesa Phase I contract.
- City of Albuquerque – The City of Albuquerque has opened the first phase of the Unser Expansion. The City requested changes to the Boca Negra Dam plat. AMAFCA will sign the plat after the modifications have been made, reviewed, and approved. The Osuna Boulevard and Singer Road bike notch designs have been submitted to the Corps of Engineers for review. A physical model of the North Diversion Channel has been built at UNM, and testing began August 15. The City of Albuquerque is completing Phase II design of the Ventana Dam Park. AMAFCA staff have emphasized the need to obtain AMAFCA and Office of the State Engineer approvals before any construction is done.
- Department of Finance and Administration – Chairman Hernandez hand delivered a letter to Bernalillo County Chairwoman Stebbins. The letter was also forwarded to Governor Martinez and Department of Finance and Administration Secretary May.
- Public Outreach – AMAFCA participated in a public outreach event to address the South Valley Flood Reduction Project and the Duran Open Space on August 2, 2011, at the Duran Open Space. AMAFCA passed out water quality and ditch safety information.
- US Fish and Wildlife Service – Chairman Hernandez met with Regional Director Dr. Benjamin Tuggle to discuss the South East Valley Water Quality Drainage Management



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Plan currently being developed by AMAFCA, and the interaction between AMAFCA and USFWS. The Chairman passed along information concerning water quality and flood control facilities planned in and around the Prices Valley Gold property, which the USFWS is interested in developing as an urban national wildlife refuge. The Chairman arranged for future staff level meetings to discuss a possible collaboration on future projects.

- State of New Mexico – A meeting with the State Land Commissioner's office was held August 9, and included a field visit of numerous AMAFCA facilities. The State Land Office is interested in future discussions concerning watershed management and how federal and state mandates concerning flood control and water quality can be modified to avoid conflicts.
- Levee Task Force – the task force subcommittee has met twice to explore alternative levee evaluation criteria, funding options, flood mapping criteria, and possible education/ assistance programs to assist residents who find themselves in a newly-mapped flood plain.

Regarding the USFWS, Chairman Hernandez added that at first, Dr. Tuggle was reluctant to work with AMAFCA on any project. After their discussion, Dr. Tuggle understood that there are many types of AMAFCA facilities, and now supports the idea of working with AMAFCA.

Responding to a question from Director Thomson about the Land Office, Mr. Lovato stated that a parcel the State Land Office owns is located next to a parcel to be used for the South East Valley Water Quality Management project, so this presents an opportunity for the agencies to work together.

**b. Notification of On-Call Services Task Orders**

Mr. Lovato stated that one on-call task order had been issued this month, as outlined in his memo to the Board. He gave the Board additional details on the assignment. There were no questions from the Board.

**10. Request AMAFCA enters into MOU with Bernalillo County to Establish a County Designee for AMAFCA**

Bradley Bingham, AMAFCA Drainage Engineer, stated that a 1975 Memorandum of Understanding (MOU) with the City of Albuquerque allowed the protection of AMAFCA's interests through the creation of an "AMAFCA Designee" who was authorized to sign off on plats that did not directly affect AMAFCA. He stated that this arrangement has been very successful, and opined that it would be prudent to set up a similar MOU with Bernalillo County, to provide a similar level of customer service.



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He requested authorization for the Executive Engineer to draft such an MOU.

Director Thomson made a motion that the Board authorize the Executive Engineer to draft a Memorandum of Understanding with Bernalillo County to establish an AMAFCA Designee at Bernalillo County. Director Eichenberg seconded the motion.

In response to questions from Director Lyon, Mr. Lovato stated that the MOU would allow Bernalillo County to essentially do a "one stop shop" for building permits, the same as City residents now enjoy. Mr. Bingham responded that an AMAFCA employee would make the determination as to whether or not the Designee could sign for AMAFCA.

Nolan Bennett, Engineering and Construction Manager with the Technical Services Department of the Bernalillo County Public Works Division, stated that the County would probably seek to have their Floodplain Administrator take on this role. The plan is to free up AMAFCA staff from having to review and sign plats which otherwise do not involve AMAFCA at all.

The motion passed (4-0).

**11. Request to go to RFP for Engineering On-Calls**

Kevin Daggett, AMAFCA Stormwater Quality Engineer, stated that the current Engineering On-Call contracts reach the end of their final extensions in November 2011. He stated that the basic sample agreements had some changes from four years ago, which he explained. He requested authorization to advertise the Request for Proposals for Engineering On-Calls in three categories.

After discussion, the consensus of the Board was to further amend the agreements as follows: to reimburse mileage at the state rate instead of the federal rate, to add a definition for "emergency" work, and to require the Board to approve any fee changes over the course of the contract.

Director Eichenberg made a motion to authorize advertisement of a Request for Proposals for On-Call Engineering services in three categories, with the changes outlined above, and requesting attorney review of the changes before the agreements are released to the public. Director Lyon seconded the motion, which passed (4-0).

**12. 2011 Bond Sale**

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



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Using a PowerPoint presentation, Mr. Lovato then explained the Operating and Debt Service tax collection process, and the bond payoff process.

**a. Bond Payout and Funding Informational Briefing by RBC Capital Markets, AMAFCA Financial Advisor, on Bond Sale Amount, Structure and Timing**

Kevin Powers briefed the Board on bond payout and funding information for the 2011 bond sale, including the amount, structure, and timing of the sale.

He stated that there were additional changes in the tax base effective August 1, 2011. The protested valuations rose from \$68 million to \$138 million when the multi-family protests, which had a later protest deadline, were included. Centrally assessed valuations rose by \$10 million. Overall, the total of unprotested valuations plus half of the protested valuations is down \$25 million. This has a projected net change of reducing AMAFCA's debt service tax revenue by about \$25,000.

Mr. Powers stated that he believed revenues would not be down this much in actuality, due to the conservative 2.5% interest rate assumed in their projections. If the bonds had been sold that day, the rate would probably be around 1.75%.

He discussed the bond rating agencies, bond ratings, and the current bond market (nationally and internationally) in some detail. He stated that AMAFCA has a stable, high rating with an attractive bond issue, and the bonds should sell well on September 15. If an adverse situation develops between now and then, the sale can be cancelled or rescheduled. The Board can also reject all the bids if they are too high.

Director Eichenberg supported Mr. Powers' conservative estimates. He stated that Bernalillo County generally returns considerably more than 50% of the protested properties to the tax rolls, and the interest rate would almost certainly be lower than the estimated figure. He opined that the net effect on AMAFCA revenue would be positive rather than negative.

**b. Adoption of Resolution 2011-12, Notice of Bond Sale**

Duane Brown explained Resolution 2011-12, *Notice of Bond Sale*.

Director Eichenberg made a motion that the Board adopt Resolution 2011-12, *Notice of Bond Sale*. Director Lyon seconded the motion, which passed (4-0), on a roll-call vote.

The Board briefly discussed who will represent AMAFCA at the bond rating presentations. Mr. Powers commented that the presentations should be held 10-20 days prior to the bond sale.



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**13. Approval of Resolution 2011-13, *Ad Valorem Tax Levy for Tax Year 2011, Applicable to General Operating Fund***

Mr. Lovato stated that Resolution 2011-13, *Ad Valorem Tax Levy for Tax Year 2011, Applicable to General Operating Fund*, sets the mill levy rates for the Operating Fund. The Board has expressed a desire to maintain the same mill levy rates as last year, which this resolution does.

Director Eichenberg made a motion that the Board adopt Resolution 2011-13, *Ad Valorem Tax Levy for Tax Year 2011, Applicable to General Operating Fund*, setting the mill levy at 0.165 Residential and 0.477 Non-Residential. Director Thomson seconded the motion, which passed (4-0), on a roll-call vote.

**14. Approval of Resolution 2011-14, *Ad Valorem Tax Levy for Tax Year 2011, Applicable to Debt Service Fund***

Mr. Lovato stated that Resolution 2011-14, *Ad Valorem Tax Levy for Tax Year 2011, Applicable to Debt Service Fund*, also maintains the same debt service mill levy rate as last year.

In response to a question from Director Eichenberg, Ms. Jeffries stated that the portion of Sandoval County which used to be under AMAFCA's jurisdiction is still responsible for two outstanding bond issues, which will be completely paid off on August 1, 2013.

Director Eichenberg made a motion that the Board adopt Resolution 2011-14, *Ad Valorem Tax Levy for Tax Year 2011, Applicable to Debt Service Fund*, setting the Debt Service mill levy at 0.299 for property within the boundaries of AMAFCA as existed prior to the January 1, 2005 Bernalillo County/Sandoval County boundary change, and an additional 0.376 within the current boundaries of AMAFCA, for a total mill levy of 0.675. Director Thomson seconded the motion, which passed (4-0), on a roll-call vote.

**15. Approval of Resolution 2011-15, *Raymac Dam Watershed Drainage Management Plan***

Lynn Mazur, AMAFCA Development Review Engineer, introduced Michael Smith of Weston Solutions.

Ms. Mazur requested adoption of the Raymac Dam Watershed Drainage Management Plan (DMP). She stated that, under all options, the dam pool will be further excavated to increase its capacity, as planned for during initial construction. AMAFCA already owns the required right of way. She also explained the various measures the owners of Southwest Landfill have taken which address the issues brought up by Director Thomson at the last Board meeting. The landfill is in a closed basin, and no flows leave the basin during a 100-year event. She opined that the assumptions made about the landfill in the DMP are correct.



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She recommended adoption of Resolution 2011-15.

Director Thomson made a motion that the Board adopt Resolution 2011-15, *Raymac Dam Watershed Drainage Management Plan*. Director Lyon seconded the motion, which passed (4-0), on a roll-call vote.

Director Thomson thanked Ms. Mazur for following up regarding the landfill.

**16. City of Albuquerque**

**a. Review and Comment – Draft Cost Share Agreement with the City of Albuquerque for Design and Construction of the Sagebrush Trail Dip Replacement**

Brad Bingham, AMAFCA Drainage Engineer, stated that the Board had heard a presentation regarding the Sagebrush Trail Dip Replacement at the June 23, 2011 meeting, and had directed staff to draft a cost share agreement.

He noted that the draft agreement provides for the funding of the construction of the bridge and associated channel improvements. Under the agreement, the City of Albuquerque is responsible for design engineering services and construction management of the project. The current Engineer's Estimate is approximately \$900,000. The agreement provides for a 50% contribution not to exceed \$500,000, payable to the City upon award of the construction contract.

Mr. Bingham noted the agreement had been submitted for legal review at both agencies. He stated that, after legal approval and the incorporation of Board comments, staff planned to finalize the agreement for Board consideration at a future Board meeting.

Consensus of the Board was support of the draft cost share agreement as written.

Chairman Hernandez called a brief recess at 12:01 p.m. The meeting resumed at 12:12 p.m.

**17. Field Highlights**

**a. Construction Report**

The memo from Kurt Wagener, AMAFCA Field Engineer, contained a summary of current construction projects. There were no questions.



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**b. Field Report**

Mr. Wagener gave a report of various projects and events over the past month, answering several questions from the Board during his presentation, with Mr. Bingham's assistance on several of them.

**18. Real Estate**

**a. Boca Negra Dam Update**

Loren Hines, AMAFCA Real Estate Manager, gave the Board an update on the Boca Negra Dam. He stated that the preliminary plat to consolidate easements and grant new easements has been reviewed by the City Surveyor and comments are being addressed. The PNM Encroachment Agreement has been fully executed and recorded. The Encroachment Agreement for the New Mexico Gas Company easement is still being developed.

He noted that the Executive Engineer and the Chief Administrative Officer for the City of Albuquerque need to sign the plat, and the City needs to provide Wilson and Company with deeds to the property showing City ownership. Mr. Hines stated he had been meeting with City staff to enlist their assistance in moving the plat forward. Wilson and Company would like to submit the plat to the Development Review Board as soon as possible. The current estimate for the earliest possible date is the second week of September.

Mr. Hines stated that staff was still awaiting review comments from the Office of the State Engineer on the design submittal for the dam.

No Board action was required.

**b. Authorization to Advertise RFP for Agricultural Lease – Herring Property**

Mr. Hines stated that the current lease on the Herring Property, west of Second Street and north of Shirk Road, would be coming to an end soon, and requested authorization to advertise for a new lease on the property. AMAFCA does not yet need the property for flood control or as a storm water quality facility, but hopes to have the need to use it within the next 3 to 5 years. Staff recommends the initial term of the lease be for two years, with up to two optional one-year extensions upon mutual agreement of the parties.

Director Lyon made a motion that the Board authorize the Executive Engineer to advertise the Herring Property for lease. Director Eichenberg seconded the motion, which passed (4-0).



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**c. Authorization to Advertise RFP for Agricultural Lease – Rutherford Property**

Mr. Hines stated that the current lease on the Rutherford Property, on the southwest corner of Malpais Road and Isleta Boulevard, would be coming to an end soon, and requested authorization to advertise for a new lease on the property. AMAFCA will not need the property for flood control or as a storm water quality facility for at least the next 1 to 3 years. Staff recommends the initial term of the lease be for one year, with up to three optional one-year extensions upon mutual agreement of the parties.

Director Eichenberg made a motion that the Board authorize the Executive Engineer to advertise the Rutherford Property for lease. Director Lyon seconded the motion, which passed (4-0).

**d. Notification of Short-Term Recreational License**

Mr. Hines stated that two short-term recreational licenses had been issued, for three cross country race events. Two will be held at the North Domingo Baca Dam, and one at the John B. Robert Dam.

**e. Notice of Issuance of a Temporary Encroachment License for Film Location**

Mr. Hines stated that a two-day temporary encroachment license for film location had been issued, for the filming of a climactic scene at the end of the film "Odd Thomas." AMAFCA's North Diversion Channel Outfall was not damaged, and was returned to its original condition upon completion of filming.

**19. Update on Levee Task Force**

Mr. Lovato briefed the Board on the activities of the Levee Task Force.

He stated that the Levee Task Force is currently in its third year. It is preparing to draft a memorial for the next legislative session which will emphasize that the arid southwest is different from the rest of the country.

A subcommittee of the task force has been formed to address FEMA public education assistance, using a Flow 2D model to model the floodplain in the Bosque, try to identify new timelines with FEMA, coordinate and assess the condition of the existing levees, and how the existing Corps of Engineers' and FEMA's levee criteria could be modified and incorporated. The subcommittee has met twice. They are considering an engineering study to look at 100 year protection in the Bosque, the Corps' criteria for levees for construction and determination of floodplain, what storm events should be planned for, and the possible conditions which could



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lead to seepage failure. The task force may come to participating agencies to ask for funding for this study.

Mr. Lovato noted that the levees experience more seepage damage with spring runoff (low flow/long duration) than they do with short duration/high peak flows from summer storms. So far, FEMA has only been looking at summer storms.

He also noted that he had been in recent contact with Mr. Siamak Esfandiary at FEMA headquarters regarding revising the criteria and standards to more accurately reflect the arid southwest. Albuquerque could either be a test subject, or money could be sought from FEMA to fund coming up with regulations for the arid southwest.

Mr. Lovato answered several questions from the Board. A letter to FEMA was signed by 15 Senators, and has led to FEMA considering localized regulations for the arid southwest. Director Thomson agreed with this approach, stating that he would rather have the regulations be looked at by local experts rather than national ones. Mr. Lovato stated that this was a definite possibility.

**20. Drainage Facility Planning Review – Review of Projects in the Southwest and Northwest Mesas**

Mr. Bingham, with assistance from Mr. Lovato, briefed the Board on the projects in the Southwest and Northwest Mesas which are intended to be listed on the FY 2012 Project Schedule. This was the third of four planned briefings on potential projects. Projects in these areas had been reviewed by the Tech Team in June. Mr. Bingham also offered to brief the Board on any other projects in these areas that they would like to learn more about.

He explained the rating schedule, which takes into consideration the urgency and importance of each of the proposed projects. He showed the location of each, and explained the need for each of the projects, answering a number of questions from the Board during his presentation.

Mr. Bingham concluded by covering the schedule for the final Project Schedule briefing next month.

Due to a prior commitment, Director Eichenberg left the meeting at 12:54 p.m., during this presentation.



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**21. Unfinished Business**

**a. Update on State Fair Parade Entry**

Mr. Lovato stated that AMAFCA had sent in the State Fair Parade application, and was expecting to hear back around the end of the month. Griffin and Associates had been contracted to assist with the artwork for the float, which will be a joint collaboration of the Ditch and Water Safety Task Force and the Storm Water Quality Team. Some additional banners are also being purchased to use on the float, and at other events afterwards.

**b. Redistricting**

Responding to a question from Director Thomson, Mr. Lovato stated that Kevin Troutman, AMAFCA's GIS Technician, had been working on the preliminary work involved in redistricting. He had used information from the State Legislature and UNM to do a first pass at redistricting, with populations down to the block level incorporated into the map.

Mr. Lovato added that AMAFCA is trying to do 50-75% of the work up front in order to negotiate a smaller fee for the balance of the redistricting effort, which will be completed next spring.

**22. New Business**

None.

**23. Adjourn**

There being no further business to come before the Board, Chairman Hernandez adjourned the meeting at 1:10 p.m.

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Bruce M. Thomson, Secretary-Treasurer, 9/15/11

Recorded by Pamela Woodruff, Executive Secretary