



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

Chairman Eichenberg called the Regular Board Meeting to order at 10:01 a.m. Thursday, September 27, 2012. Roll was noted as follows:

Directors present: Chairman Tim Eichenberg  
Director Danny Hernandez  
Director Bruce M. Thomson (arrived at 10:03 a.m.)  
Director Ronald D. Brown (arrived at 10:02 a.m.)  
Director Daniel F. Lyon

Directors excused: None

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**

Chairman Eichenberg made a motion to approve the agenda. Director Lyon seconded the motion. Chairman Eichenberg stated that agenda item 10 would be removed from the consent agenda and placed on the regular agenda, to allow for discussion. The motion passed (3-0).

**3. Meetings Scheduled**

- a. **Thursday, October 25, 2012, 10:00 a.m. – Regular Meeting**
- b. **Thursday, November 15, 2012, 10:00 a.m. – Regular Meeting**
- c. **Thursday, December 13, 2012, 10:00 a.m. – Regular Meeting**

There were no changes to the meeting schedule. Director Brown arrived at 10:02 a.m.

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

Chairman Eichenberg recognized Dan Mourning, General Manager of EXPO New Mexico.

Director Thomson arrived at 10:03 a.m.

Mr. Mourning introduced himself, and thanked AMAFCA for cooperating with EXPO New Mexico in dealings with the EPA. He stated that their modifications to address EPA issues are moving forward. He also introduced EXPO New Mexico Chairman, Larry Kennedy.



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Chairman Eichenberg next recognized Paul Smith, of the Albuquerque International Balloon Fiesta.

Mr. Smith thanked the Board for all AMAFCA does for the Balloon Fiesta and for ballooning in Albuquerque. He stated that he has been working with Mr. Lovato to find possible balloon launch sites, as well as landing sites. He also thanked AMAFCA for the use of AMAFCA land adjacent to the Balloon Fiesta Park during the Fiesta.

In response to a question from Chairman Eichenberg, he stated that 550 hot air balloons were registered this year, including more than a hundred special shapes. New this year are an Elvis, a Lion, an Astronaut, and an Elephant, among other new special shape balloons. Five hydrogen gas balloons are also registered. A world-wide shortage of helium has reduced the number of gas balloons which can participate. Hydrogen gas balloons can use helium as an alternate fuel, but helium gas balloons cannot use hydrogen due to its smaller molecular size.

Responding to a question from Director Lyon, Mr. Smith stated that the Balloon Fiesta this year will be October 6 through 14, 2012.

**5. Approval of Minutes**

**a. August 23, 2012 Regular Meeting**

Director Lyon made a motion to approve the minutes of the August 23, 2012 Regular Board Meeting. Director Hernandez seconded the motion, which passed unanimously (5-0).

**6. Financial Matters**

**a. Approval of August 2012 Expenditures**

Irene Jeffries, AMAFCA Finance and Administration Manager, presented the August 2012 Expenditure Report.

In response to questions from the Board about certain expenditures, Kurt Wagener, AMAFCA Field Engineer, stated that a “grapple” was a skid steer attachment which allows it to pick up boulders and vegetation; Kevin Troutman, GIS Manager, stated that he purchased cabling and an HDMI switch for the new Board Room monitor; and Ms. Jeffries stated that after the entire amount of property taxes collected is electronically deposited to the Operating Fund, she uses a Journal Voucher (JV) to transfer the portion due to the Debt Service Fund to that fund. Ms. Jeffries also gave further information regarding the “reappraisal fee” listed on the Expenditure Report. 1% of the total amount collected is charged for collecting the taxes.



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Director Brown made a motion to approve the August 2012 Expenditure Report. Director Hernandez seconded the motion, which passed unanimously (5-0).

**b. Investment Report for August 2012**

Ms. Jeffries presented the investment report for August 2012, answering several questions from the Board. The “unencumbered” funds in the LGIP are programmed for projects which are in the pipeline and will be awarded in the next few months.

No Board action was required.

**c. Financial Recap August 16, 2012, through September 15, 2012**

Ms. Jeffries presented the Financial Recap for August 16, 2012 through September 15, 2012. She noted that the \$2.2 million expended in the Construction Fund included the \$1.81 million for AMAFCA’s portion of the purchase of Phase I of the Price’s Dairy project. This project had not been included in the forecast last month, because the Board had not yet approved the purchase at the time of the forecast. Mr. Lovato noted that the difference between \$2.2 million and \$1.81 million is the amount that had been forecasted for other construction fund expenses.

There were no questions, and no Board action was required.

**d. Financial Forecast September 16, 2012, through October 15, 2012**

Ms. Jeffries presented the Financial Forecast for the period September 16, 2012, through October 15, 2012. She noted that the \$1.6 million in expenditures in the Construction Fund included \$1.3 million to open the Boca Negra Dam Special Account. A separate listing showed the Boca Negra Dam Special Account opening with a \$1.3 million deposit, then those funds being transferred to the LGIP. There were no questions. She requested Board approval of the forecast.

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

**7. Legal**

**a. Status Report**

Attorney Marcus Rael, Jr., stated that his memo briefed the Board on the status of various legal matters. There were no questions from the Board.



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**b. Closed Session – Pending Litigation**

Chairman Eichenberg stated that the discussion of a pending litigation matter in agenda item 7b would be in a 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 *“The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens,”* seventh edition, 2010, to discuss a pending litigation matter. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg closed the meeting at 10:18 a.m.

At 10:57 a.m., Chairman Eichenberg recessed the closed session in order to view Bond Sale bids as they came in. He stated that the Board would return to the closed session after bidding had concluded.

As the Board was watching the bids come in, Mark Valenzuela, of George K. Baum, Inc., AMAFCA’s Financial Advisor, stated that he expected a good interest rate, around 0.9%, due to AMAFCA’s excellent bond ratings. The bond sale a year ago resulted in a low bid of 1.17%. Thirteen banks had requested information on the offering, although not all of them would bid.

He noted that bids closed at 11:00 a.m. local time, and as of 11:00 a.m., ten bids had been received. The lowest bid was 0.843285%, from Janney Montgomery Scott, LLC. He explained that Janney Montgomery Scott represents a bond fund which primarily looks for safety in their bond investments. He stated that George K. Baum, Inc., would verify the bids and confirm the results.

Mr. Valenzuela stated that 0.84% is a phenomenal rate, due in large part to the excellent natural AAA bond rating AMAFCA had been able to retain this year. He noted that the decision had been made to bring representatives of the bond rating agencies to Albuquerque this year in order to show them AMAFCA’s facilities and conduct the bond rating presentations in person, rather than doing the bond rating presentations telephonically. This decision had paid off in AMAFCA retaining its excellent ratings.

He stated that the award and the bond sale resolution would be brought back to the Board later in the meeting, as agenda item 17, after the bids were checked.

Chairman Eichenberg ended the recess at 11:05 a.m., returning to the closed session.



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At 11:29 a.m., Chairman Eichenberg stated that the Board would come out of closed session. No decisions had been made during the closed session, but the Board had discussed pending litigation.

Director Brown made a motion that the meeting be re-opened. Director Hernandez seconded the motion, which passed (4-0), on a roll call vote, Director Lyon being absent at the time of the vote.

Chairman Eichenberg reopened the meeting at 11:29 a.m.

**8. Executive Engineer's Report**

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

Mr. Lovato highlighted significant activities of the past month, which were further discussed in his memo to the Board.

Director Lyon returned to the meeting at 11:30 a.m.

Between the memo and the further information given in the meeting, Mr. Lovato covered the following:

- **Corps of Engineers (COE) – Southwest Valley Flood Reduction Project (SWVFRP) Phase I:** The COE has purchased motor starters for the Flygt Pumps which will drain the Isleta and Los Padillas Drains at the diversion structures. Outstanding work which remains unresolved include concrete work and slabs that do not meet the lines and grades shown on the plan set. Bernalillo County and AMAFCA are still waiting for as built and verification of the construction to date. Mr. Lovato planned to meet with Roger Paul, of Bernalillo County, and John D'Antonio, of the COE, to discuss the project.

Bernalillo County is modifying the OMRR&R document (Operations Manual) to separate out the irrigation responsibilities from the drainage responsibilities to ensure that the Middle Rio Grande Conservancy District has a clear understanding of each party's responsibilities.

*Southwest Valley Flood Reduction Project (SWVFRP) Phase II:* The COE notified AMAFCA that work to complete the SWVFRP must be done by the COE. The proposed second modification to the Project Coordination Agreement (PCA) that would allow Bernalillo County and AMAFCA to complete the work had been denied. Bernalillo County and AMAFCA wanted to do the design and construct work for Phase II; this work would be reimbursable. An IDR (an internal document generated by the Albuquerque District to justify the PCA amendment) was submitted by the



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Albuquerque District to COE Headquarters. The amendment to the PCA to allow design and construction of Phase II by AMAFCA or Bernalillo County was denied, therefore the work will be done by the terms in the original PCA, which has the COE designing and constructing the project. All design work by AMAFCA and Bernalillo County had been put on hold. He had requested copies of all documents including the IDR that form the basis of the denial, but the documentation had not been received to date. Mr. Lovato planned to meet with Roger Paul and John D'Antonio to discuss the project.

*Calabacillas Arroyo:* No additional information had been received from the COE. The Calabacillas Drop Structures Project design is 99% complete, and will be completed after the final determination has been received.

- **City of Albuquerque (COA) – Boca Negra Dam:** Staff opened construction bids on September 13, 2012, and mailed and emailed invoices to signatories to the Boca Negra Dam agreement. Attorney Rael met with COA legal staff concerning the agreement. The award of the Boca Negra Dam is the subject of agenda item 10 later in the meeting. In addition, a selection advisory committee has met and will make a recommendation to the Board in agenda item 12, to address the Office of the State Engineer Dam Safety Bureau's concern with the Emergency Action Plan for the dam.

*AO Expo New Mexico:* Staff has continued to maintain the temporary check dams to address bacteria from nuisance flows. Expo New Mexico has allowed AMAFCA on site to inspect the facilities. No illicit discharges from Expo New Mexico were detected. AMAFCA has started a dialog with EPA Region 6 and Expo New Mexico.

- **Bernalillo County – Sanchez Farm Tributary Storm Drains Update:** Bernalillo County has advertised the Goff Road Project, which incorporates the AMAFCA design report for the Sanchez Farm Tributary Storm Drains.
- **Public Outreach – MRCOG Award:** AMAFCA was honored during the MRCOG Annual Meeting for its outstanding cooperation with other governmental agencies, receiving the Public Partnership Award for the APS Stadium facility. Director Lyon was present to accept the award on behalf of AMAFCA.

*Hahn Arroyo Rehab Project:* The Hahn Arroyo Phase I Project has been selected as one of the finalists for a NAIOP annual award to be announced during their December meeting.

- **US Fish and Wildlife Service – Price's Dairy:** Closing was completed on September 21, 2012.



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

Mr. Lovato stated that an on-call task order and a letter authorization had been issued as described in his memo, and gave further information to the Board.

**9. Personnel and Salary Committee Recommendation**

Mr. Lovato reported that the Maintenance Superintendent had announced that he would retire at the end of 2012. He had met with the Personnel and Salary Committee several times to discuss the position and revise the position description. The position will be advertised soon. He stated that he would like to re-classify the position as an exempt employee, as the position has taken on much more of a managerial role over the years, and is now supervising 11 people. He also requested permission to create an up to three-month temporary position for the existing Maintenance Superintendent to allow training/acclimation of the new employee, if needed, by overlapping with the incumbent's final three months.

Mr. Lovato answered several questions from the Board. He confirmed that the engineering staff, along with the Finance and Administration Manager, Real Estate Manager, and GIS Manager, are exempt employees. The Personnel and Salary Committee will review the re-written position description before the position is advertised.

Director Hernandez stated that the Personnel and Salary Committee and the Board should approve the changes before the new employee is hired.

Director Brown stated that the position could be advertised before the changes are formalized. He urged that the advertisement begin as soon as possible.

The consensus of the Board was to advertise the position as soon as possible, with formalization of the changes in the position description to follow.

Chairman Eichenberg reminded the Board that agenda item 10 had been removed from the Consent Agenda and would be heard next.

**10. Consideration of Award of Construction Contract for Boca Negra Dam**

Director Hernandez made a motion that the Board defer consideration of the award of the construction contract for the Boca Negra Dam. Director Thomson seconded the motion.

In response to a question from Director Brown, Kurt Wagener, Field Engineer, stated that the contract needed to be awarded within 90 days of the date of bid, which was September 13, 2012. This would be December 12, 2012.

The motion passed unanimously (5-0).



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*Consent Agenda:*

**11. Construction Contract for Ecosystem Preservation and Maintenance Contract – Status Report**

The memo from Mr. Wagener stated that no bids had been received. Staff plan to rework the bid documents and re-advertise the contract for bids.

**12. Boca Negra Dam Emergency Action Plan – Consideration of Selection Advisory Committee Recommendation**

The memo from Brad Bingham, AMAFCA Drainage Engineer, stated that three firms had submitted proposals in response to the RFP. All were responsive, and all included the AMAFCA Campaign Contribution Disclosure Form. The Selection Advisory Committee (SAC) met, scored the proposals, and ranked them. Bohannon Huston, Inc., was the top-ranking firm. The SAC recommended that the Board accept the recommendation of Bohannon Huston, Inc., and that the Board authorize the Executive Engineer to negotiate a contract with them.

**13. Stormwater Quality Education and Outreach Coordinator – Authorization to Advertise Request for Proposals**

The memo from Kevin Daggett, AMAFCA Storm Water Quality Engineer, stated that AMAFCA is the fiscal agent for the Mid Rio Grande Stormwater Quality Team under the Intergovernmental Agreement between AMAFCA, the City of Albuquerque, the Ciudad SWCD, Bernalillo County, NMDOT, SSCAFCA, and UNM. The agreement calls for procurement of a Stormwater Quality Education Coordinator. The agreement with the current Coordinator, Cooney Watson, comes to an end in January, 2013. The memo requested authorization to advertise an RFP for these services.

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

- Concur with the plan to rework the bid documents and re-advertise the Ecosystem Preservation and Maintenance Contract for bids;
- Accept the recommendation of the Selection Advisory Committee and authorize the Executive Engineer to commence negotiations with Bohannon Huston, Inc.; and





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- Authorize the Executive Engineer to advertise the RFP for Mid Rio Grande Stormwater Quality Team Education Coordinator.

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

***Regular Agenda:***

**14. Discussion of air quality and maintenance obligations for flood control maintenance roads in an urban area**

Mr. Lovato reported that he had met with the City of Albuquerque Environmental Health Department officials concerning the Albuquerque-Bernalillo County Air Quality Control Board Fugitive Dust Control statute, and seeking to obtain approval to use pulverized millings and gravel for dust control on maintenance roads. The City is giving AMAFCA positive feedback at this point, so it appears that using pulverized millings rather than compacted millings may be the option used. Portions of maintenance roads which had already had millings applied would be milled in place, to make it more aesthetically pleasing but still receive credit towards dust control.

In response to comments from Chairman Eichenberg, Mr. Lovato stated that the Middle Rio Grande Conservancy District has some public areas, but the majority of their ditches are considered private property, and as such they are not subject to public access. Therefore their dust permit exempts these areas in their air quality permit. AMAFCA, however, has always had their facilities open to the public, and as such, is subject to a programmatic air quality permit. The City of Albuquerque also has a programmatic permit. The City, like AMAFCA, is constantly paving and maintaining roadways, and is putting millings on alleyways to reduce dust emissions.

Using photographs taken in the field to illustrate his comments, Director Brown reported that he had met with Mr. Lovato and Kurt Wagener, AMAFCA Field Engineer, and had gone on a field trip with Mr. Wagener to view the problem areas which will be addressed by the pulverized millings, including areas adjacent to the Ladera Dam system. The access road there is in the middle of a powerline easement, and the dams are also located in the powerline easement, so there is limited ability to fence the maintenance road. The maintenance roads act as an access road to many different facilities, and are not primarily used for recreation.

Mr. Lovato noted that AMAFCA cannot control access to the road, but is responsible to maintain it and to control dust from the road. Responding to a question from Chairman Eichenberg, Mr. Lovato stated that PNM also has a programmatic permit for dust control for its access roads, and is working with AMAFCA to limit access to the road. He noted, however, that if dust from the road enters private property due to lack of maintenance, the New Mexico Administrative Code requires that damaged landscaping be replaced by the entity responsible for maintenance of the dust source.



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Using pictures of the area, Mr. Wagener explained that pulverized asphalt millings, mixed with local sand in the case of westside dams, and with gravel in the case of eastside dams, would be applied at the top of dams and on the access roads to cut down on dust and erosion from 4x4s. These roads are used often for maintenance and trash removal. Mixing in sand or gravel provides a better surface for walking, while still protecting the road. This will cut down on the necessity to constantly rebuild the crest of dams because they have been “beaten down” by horses and ATVs.

Director Brown opined that the pulverized millings mixed with sand or gravel may be more durable than straight millings. He expressed support for this approach, adding that on the west side, the roads become sand dunes if nothing is done to protect and maintain them.

Mr. Wagener noted that the dams themselves can have grassy, non-woody vegetation growing in them to control the sand, but that the access and maintenance roads cannot. The millings will stabilize the roads so that they require blading and rebuilding less often.

Responding to questions from Chairman Eichenberg, Mr. Lovato stated that AMAFCA has been fined twice by the Air Quality Board, with fines of \$10,000 for each violation, due to actions of AMAFCA contractors.

Director Lyon commented that nobody can prevent all sand from blowing in the wind when a windstorm comes through. People who live there know that sand will blow through when the wind blows.

Director Brown noted that the eastside dams are already more stable than those on the westside, due to the soils. The eastside dams also see more recreational use, although some of the westside dams also have potential as recreation sites. The roads themselves are torn up when used, and AMAFCA needs to do something to stabilize them, in order to maintain the roads.

Consensus of the Board was to support the use of pulverized millings, mixed with soil and compacted for eastside dams, and mixed millings for westside dams.

**15. Calabacillas Upper Watershed Drainage Management Plan – Briefing by Charles Thomas, Executive Engineer of Southern Sandoval County Arroyo Flood Control Authority**

Brad Bingham, AMAFCA Drainage Engineer, introduced Charles Thomas, Executive Engineer of the Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA).

Mr. Bingham noted that SSCAFCA plans a study of the Calabacillas Upper Watershed, to prepare a Drainage Management Plan (DMP) for the area, which covers approximately 78



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square miles. The watershed, a portion of which is in AMAFCA's jurisdiction, drains to AMAFCA's Swinburne Dam.

Mr. Bingham stated that AMAFCA needs a PMP analysis for the Emergency Action Plan for the Swinburne Dam, which is a step beyond the normal DMP. SSCAFCA is willing to expand the study to include this information, if AMAFCA participates in funding the DMP. SSCAFCA has requested a \$50,000 AMAFCA contribution toward the study, which is expected to cost about \$250,000.

Mr. Thomas stated that the Calabacillas Upper Watershed covers multiple jurisdictions, with many overlapping jurisdictions. As a portion of the watershed is within AMAFCA's jurisdiction, and the entire watershed drains to AMAFCA's Swinburne Dam, he suggested a partnership with AMAFCA to update the Drainage Management Plan. This will allow the sister agencies to plan the timing and flow of inputs into Swinburne Dam.

Mr. Thomas stated that he was bringing this idea before the AMAFCA Board for their input. The SSCAFCA Board had already expressed their support of the concept, and supported the combined efforts of the two agencies.

In response to a comment from Director Brown, Mr. Bingham stated that the Swinburne Dam passes storms a little larger than the 100-year storm via the principal spillway. The emergency spillway (the roadway) passes the 500-year storm. Responding to a followup comment about sediment, also from Director Brown, Mr. Bingham stated that the arroyo's grade control structures are an attempt to stabilize the arroyo and reduce the water's sediment load. The study is an opportunity to determine exactly what is coming into the dam, and fine-tune the arroyo's needs based upon the types of development that will be happening upstream.

Responding to a comment from Director Brown about retaining additional water and creating more cuts downstream, Mr. Bingham stated that grade control structures would be necessary to control the cuts, and additional sediment would need to be dealt with. Director Hernandez agreed.

Directors Thomson, Brown, Hernandez, and Thomson expressed their support of the partnership, stating it was beneficial to AMAFCA.

Responding to a question from Chairman Eichenberg, Mr. Thomas stated that the upper Calabacillas watershed is currently all pre-platted lots and 99% of it was zoned residential. He noted that other types of development would no doubt come into this area also, but it is currently zoned for single-family residences. Very few structures have been built. SSCAFCA will incorporate the County's plans for the area as they develop the DMP, planning where the facilities will go before it is developed.



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Discussion followed concerning the Quail Ranch portion of the study area. Mr. Bingham stated that Quail Ranch can harvest up to a 25-year storm, but cannot retain a 100-year storm.

In response to a question from Chairman Eichenberg, Mr. Lovato stated that a draft agreement would be brought before the Board next month. AMAFCA has allocated some funds for a Calabacillas watershed DMP in the project schedule for FY 2013.

Responding to a question from Director Lyon, Mr. Thomas stated that SSCAFCA's \$200,000 portion of the cost includes some in-kind services. Much of the project will be done through a consultant, but a portion of it will be done by SSCAFCA employees. They will start the hydrology portion of the study in-house, then move the remaining portions of the project to a consultant. Funding will be necessary on a cost-share basis for work to be done on the AMAFCA portion of the watershed.

In response to questions from Director Thomson, Mr. Thomas stated that SSCAFCA is interested in participating with AMAFCA and the other agencies regarding the Office of the State Engineer and the PMP event in the state. He also stated that SSCAFCA currently has four jurisdictional dams, but will have six within the next five to seven years, depending on funding.

Chairman Eichenberg stated that four out of five directors supported AMAFCA contributing \$50,000 towards the study. He noted that he was against contributing any money to SSCAFCA for this study.

**16. Piedras Marcadas Watershed**

**a. Chamisa Storm Drain Update – Briefing by Vince Carrica, Tierra West, LLC**

Mr. Lovato noted that AMAFCA has an interest in this diversion of the Piedras Marcadas Watershed because the Piedras Marcadas Dam, an AMAFCA facility, is a gated facility that serves a 2660 acre watershed. It drains into the Corrales Main Canal and has limited capacity for developed runoff from the watershed. This diversion is one of several planned diversions to drain storm water from out of the Piedras Marcadas basin into the Calabacillas Arroyo. It is a major facility that protects the Petroglyph National Monument from developed flows and provides a drainage outfall for publicly and privately owned properties.

Mr. Lovato stated that AMAFCA's Lyon Storm Drain was one of the diversions planned for the watershed. A 2005 cooperative funding agreement among AMAFCA, the City of Albuquerque, Bernalillo County, Albuquerque Public Schools, and private developers stated that AMAFCA would build the Lyon Storm Drain, the City and County would maintain their respective portions of that storm drain, the developers would contribute \$285,000 to upsize the Lyon Storm Drain (which was done), the developers would construct the Chamisa Storm Drain



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and Detention Pond System through a private cost-share agreement between themselves and APS, and the City and County would waive developer drainage improvements in Paradise.

He stated that the project is 80% complete and is providing limited protection to all parties, although temporary interim facilities have been built. There is a remaining reach of storm drain in Unser that has not been built. Mr. Lovato stated that without that piece of pipe, none of the water is diverted to the south. He noted that some of the property in the area has not yet been platted by the developer. If AMAFCA were to complete the storm drain work, it could request funding from the developer as a condition of platting. He asked the Board for direction.

Mr. Lovato commented that the next agenda item would cover obtaining an updated Drainage Management Plan for the watershed, to aid in planning. There is sufficient capacity in the Lyon Storm Drain to take the additional flows from the upper watershed, but the missing piece of storm drain needs to be built.

Director Brown opined it would be better to have the permanent facility completed, rather than a series of temporary facilities.

Mr. Lovato asked for guidance from the Board, stating he would like to bring an agreement to the Board that would allow AMAFCA to build the missing piece of pipe now, and be reimbursed later, in order to use the capacity in the Lyon Storm Drain to divert water to the Calabacillas watershed.

In response to a comment from Director Brown, Mr. Lovato confirmed that the storm drain has been stubbed in to the south side of Paradise Boulevard, ready for the connection to be made.

Director Lyon recalled that AMAFCA stubbed in the storm drain when the Lyon Storm Drain went in, to avoid traffic problems later. He also noted that Lyon Boulevard has now been renamed Unser Boulevard. Originally, AMAFCA paid for the Lyon Storm Drain as that area had already been developed. The balance of the diversion was to be paid for as additional development occurred south of Paradise Boulevard.

Responding to a question from Director Lyon, Mr. Lovato stated that the unplatted area south of Paradise Boulevard will pay their contribution toward the storm drain, as it has to tie into the drain. This can be made a condition of the platting action.

Using several maps, Mr. Lovato and Vince Carrica, of Tierra West, LLC, demonstrated what happens to the rain falling on the area now. Rain west of the Unser extension ponds or stays in place, very little of it flows anywhere. North of the ponds it runs approximately southeast to the Piedras Marcadas Arroyo. The area north of Volcano Heights, south of Paradise Boulevard, and west of Unser Boulevard currently ponds, or goes to temporary retention ponds or surge ponds. None of it flows to the Lyon Storm Drain.



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In response to a question from Chairman Eichenberg, Mr. Lovato stated that the cost to extend the storm drain from Paradise Boulevard, down Unser Boulevard, would cost AMAFCA about \$500,000. He confirmed that eventually, as development occurs, AMAFCA would recoup these funds from the developer. The previous funds from developers were used to upsize the Lyon Storm Drain in order to handle the flows from the area to the south, which would be collected via this missing piece of storm drain.

Mr. Carrica noted that the City slightly extended the stubout to the southwest when the Unser extension was put in, so as to get it out of the roadway right of way. The City also “shot” the rock in the area, at a cost of just under \$500,000, so that blasting and drilling would not need to be done adjacent to the roadway later. He stated that 1500 feet of 60” storm drain needs to be installed along the path of the shot rock, which he estimated would cost about \$500,000. Currently this water goes to temporary retention ponds. Everything upstream of that is retained onsite or goes to temporary retention ponds in the Boulders subdivision.

Following a comment from Director Thomson, Chairman Eichenberg suggested that staff come back before the Board with a definite proposal next month, regarding what AMAFCA would do, and how the funds would be recouped. The Board concurred.

The Board then briefly discussed what form the repayment plan could take.

Director Brown stated that the repayment plan could be based on the total amount of water discharged off the property, with the City to collect the funds at the time of platting. Or, the rate of flow, or quantity of flow, or some combination of these could be used to calculate the amount due. In this way, the project could get built now and be done right. He supported building the storm drain now and collecting the funds for it later, as retention ponds are a big mosquito problem for the community. Chairman Eichenberg and Director Lyon agreed.

Chairman Eichenberg directed staff to come back next month with the solution to this problem.

Mr. Carrica stated that the property owner of the commercial property at the corner of Paradise and Unser signed an agreement with the City for the \$500,000 that allowed the City to drill and blast the rock adjacent to the roadway, so that it would not need to be done later. He stated that the same property owner has also expressed an interest in entering into an agreement with AMAFCA to guarantee that when the site develops she would pay back that portion of the cost of the pipe, approximately \$500,000.

Director Thomson briefly left the meeting at 12:32 p.m.

**b. Piedras Marcadas Upper Watershed Drainage Management Plan Revision**

Mr. Lovato stated that the Piedras Marcadas Watershed covers nearly four square miles in the Taylor Ranch and Paradise Hills area. It drains to the Piedras Marcadas Dam, thence to the



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Corrales Main Canal. AMAFCA has a need to protect the dam by diversion of the flows from the Piedras Marcadas Watershed to the Calabacillas Watershed. Two diversions were recommended in a Molzen-Corbin study in 1993, in order to maximize the capacity of the Piedras Marcadas Dam. One of these has been built; the second, the Lyon Boulevard Storm Drain, is not yet complete.

He stated the area will be developing soon, and he would like a plan in place to cover what infrastructure is needed, where it is to be built, how it is to be built, and how AMAFCA will be reimbursed for the costs. It is best to do this before development goes in.

Director Thomson returned to the meeting at 12:35 p.m.

Mr. Lovato noted that when the City of Albuquerque proposed the first phases of the Paseo del Norte and Unser extensions through the Volcano Heights area, they prepared only a high-level Drainage Management Plan (DMP) to obtain plan approval. This DMP only delineated drainage basins, quantified runoff, and identified that major detention facilities are necessary for future development. As the City is now finalizing the sector development plan, and the road connections are now done, the area will likely see development in the very near future.

Mr. Lovato stated that staff feels the DMP needs to be updated and revised to ascertain right of way needs, facility costs, and water quality Best Management Practices (BMPs) ahead of development. The new DMP could include provisions for reimbursement of public infrastructure costs from all contributors as future development occurs. He asked for Board direction regarding this course of action.

After discussion, consensus of the Board was to support revision and updating of the DMP.

The Board recognized John Kelly in the audience, former AMAFCA Executive Engineer, and asked him about the Piedras Marcadas watershed. Mr. Kelly stated that he had not come prepared to speak on this topic, but the Piedras Marcadas DMP from years ago called for two diversions of the watershed. One was completed with the Ventana Dam. This is the second diversion that needs a small section completed. When the economy was booming, the existing agreement would have brought in this section of pipe when the land was developed. He was in concurrence with Mr. Lovato's proposal to get this section finished now and seek reimbursement later.

Mr. Kelly also noted that the Riverview development excavated the Piedras Marcadas Dam so the reservoir is as big as it can be at the present time. A study to see how much water actually gets there is important, as is completion of the second diversion to retain sufficient capacity in the dam. Much further down the list would be an upgrade of the outfall all the way to the Rio Grande.



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**17. Adoption of Resolution 2012-16, *General Obligation Bond Award Resolution***

Attorney Duane Brown, of the Modrall Law Firm, AMAFCA's Bond Counsel, briefed the Board on Resolution 2012-16, *General Obligation Bond Award Resolution*.

He stated that ten bids had been received in the bond sale, with the low bid of 0.843285% from Janney Montgomery Scott, LLC. He stated that George K. Baum, Inc. had checked the bid. The resolution had been completed by filing in the actual interest rates and the successful bidder's name. He requested a motion to accept the bid, and a motion to adopt the resolution.

Director Hernandez made a motion to accept the bid of Janney Montgomery Scott, LLC, for the General Obligation Bonds. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Director Hernandez made a motion to adopt Resolution 2012-16, *General Obligation Bond Award Resolution*. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Mr. Brown stated that closing documents would be ready for signature in late October, with closing on November 1, 2012.

Chairman Eichenberg called a recess at 12:39 p.m. The meeting resumed at 12:49 p.m.

**18. Field Highlights**

**a. Construction Report**

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

**b. Field Report**

Jeff Willis, AMAFCA Real Estate Manager, briefly reported on the Price's Dairy project. He stated that the property purchase had closed on September 21, 2012, and that the announcement of the Valle de Oro National Wildlife Refuge had taken place a few hours earlier. Secretary of the Interior Salazar, Senator Bingaman, Representative Heinrich, and Dr. Tuggle of the U.S. Fish and Wildlife all thanked AMAFCA for their support and participation in the project, and asked him to thank the Board on their behalf.

Mr. Wagener gave a report of various projects and events over the past month, answering questions from the Board during his presentation. The presentation included photos of the field trips with representatives of Moody's and Standard and Poor's, a visit to EXPO New Mexico,





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and of Director Lyon accepting AMAFCA's award from the Mid Region Council of Governments.

**19. AMAFCA Projects**

**a. Southwest Valley – Black Mesa Phase 1a Pipe Extension Project Update**

Lynn Mazur, AMAFCA Development Review Engineer, stated that in recent discussions with the Bureau of Reclamation (BOR) and the Middle Rio Grande Conservancy District (MRGCD), it was agreed that the BOR would give AMAFCA a License where it owns the Gun Club Lateral in fee simple north of Pajarito Road, and a Letter of Concurrence for the area of the Gun Club Lateral south of Pajarito Road that is owned in prescriptive easement.

She stated that it is undecided what to do in an area where the Gun Club Lateral is outside of the prescriptive easement. Adjacent land owners have gotten used to its location over the years, and moving the easement or the drain would cause one property owner to lose land and the one across the drain would gain land (either on paper, or on the ground).

Ms. Mazur stated that the MRGCD design requirements for the Black Mesa Phase 1a Project included putting the pipe on the west side of the lateral without moving the ditch. This will be difficult in some areas if the lateral remains in its current location, requiring a well-orchestrated construction process, trench boxes, and more manholes, as there is no room to access and construct the pipeline. MRGCD staff is very concerned about disturbing the lateral, as it is currently stable. Staff has reassured the MRGCD that the soil compaction reports indicate a relocated lateral can be compacted such that it also would be stable.

In response to a question from Director Brown about the prescriptive easement, Ms. Mazur stated that the prescriptive easement is based on use. The lateral has been in place for a number of years, and thus in a prescriptive easement. The BOR has indicated that AMAFCA is responsible to obtain permission from underlying property owners, and AMAFCA must also assure the BOR that the construction will not disturb their facility. Under those conditions, a Letter of Concurrence would be issued.

Mr. Lovato stated that there are a few places where the Gun Club Lateral is not completely within the MRGCD's easement. AMAFCA would like to put the pipe within the legal easement. MRGCD wants the pipe to be installed under the ditch's maintenance road, and in some cases, the road is outside the easement. MRGCD does not want the ditch moved unless it is then concrete lined.

Responding to a question from Director Thomson, Mr. Lovato stated that the MRGCD staff wants the pipe to be installed on the west side of the ditch, not the east side. The original design for the ditch had the pipe on the east side of the ditch, however, the MRGCD Board had directed AMAFCA to work with the MRGCD staff on the design.



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Being recognized in the audience, MRGCD Board member John Kelly stated that the MRGCD Board agreed in concept to the use of the ditch alignment of the pipe, subject to approval of the MRGCD staff and the BOR. The Board authorized Subhas Shah to sign a license for the pipeline construction. It is a challenging project due to the multiple property owners along the project.

Mr. Lovato stated that approximately 3 miles of the project are within the easement or land owned in fee interest; there is only an easement issue with approximately 1/2 mile of the Gun Club Lateral.

Mr. Lovato noted that this update was for information only and no Board action was required.

**b. Southwest Valley – Black Mesa Phase 1a – Consideration of Approval of Funding Agreement with Bureau of Reclamation to address Engineering Review Fees**

Ms. Mazur stated that the Bureau of Reclamation (BOR) charges a standard engineering review fee to review the plans, coordinate with AMAFCA and Middle Rio Grande Conservancy District (MRGCD), and execute the license and the letter of concurrence. The fee is \$30,740.00. The Corps of Engineers paid a review fee of approximately \$35,000 to the BOR for the Southwest Valley Flood Reduction Project. The agreement had been reviewed by Attorney Rael and had been sent back to BOR for final review. She recommended approval substantially as attached, as the BOR will not do any more review work until the agreement is signed and the fee is received.

Director Thomson made a motion that the Board approve the agreement, substantially as attached to the memo, and authorize the Executive Engineer to execute the Contributed Funds Agreement. Director Hernandez seconded the motion. Discussion followed.

Chairman Eichenberg opined that AMAFCA should hold off on the review fee, as the MRGCD was dragging its feet on the project. He stated that he did not really want to go forward with the agreement until the easement issue and the location of the lateral had been worked out. In response, Mr. Lovato indicated that the BOR has already reviewed some of the plans, this agreement would reimburse them for that effort and allow AMAFCA to get the License and Letter of Concurrence. This is an important outfall for three AMAFCA dams.

In response to a question from Director Thomson, Mr. Lovato stated that he would like to add language to the agreement to state that if there is anything that needs to be done to relocate the easement, a platting action of some sort to change the prescriptive easement to match the actual easement, there should be some consideration to AMAFCA for this expense.



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Director Brown noted that a prescriptive easement for a channel does not necessarily create a right of prescriptive easement for a pipe. AMAFCA needs to be certain its pipe is within the legal easement, not a prescriptive easement, and not outside the prescriptive easement.

Mr. Lovato stated that AMAFCA could move the ditch into its legal easement in that section, and concrete line that portion of the ditch.

Director Hernandez stated that the Gun Club Lateral easement may not include putting a pipe into the easement as well.

In response to a question from Chairman Eichenberg, Ms. Mazur stated it would cost about \$2.5 to \$3 million to concrete line almost 3 miles of the Gun Club Lateral. Chairman Eichenberg stated that he could not support lining the entire channel. Mr. Lovato noted that last year, the AMAFCA Board had made it very clear that they were not going to line the entire channel.

Responding to a question from Director Thomson, Mr. Lovato stated that, for the review fee, the BOR will be reviewing 3.5 miles of pipeline, pipe connections, and so on – the complete plans for the project along the Gun Club Lateral – anything affecting or close to irrigation facilities. He noted that this alignment is a lot easier and cheaper than going down Coors Boulevard.

Director Brown stated he would support the motion, with the caveat that it is risky for AMAFCA to install the pipe outside of the legal easement.

Director Brown made a motion to amend the motion to state that AMAFCA will need to keep the pipe within the legal easement. Director Hernandez seconded the amendment.

Further discussion followed. Director Lyon asked about the existing rights, questioning whether or not the easement is for irrigation only, or would a pipe be covered by the easement, and also wondering who granted the easement. Director Thomson asked if tabling the matter for a month or two would allow these questions to be resolved.

Mr. Lovato stated that the MRGCD had suggested a quiet title action. Another option is for AMAFCA to do a condemnation action, but that would void a lot of license agreements with the MRGCD and the BOR, including a few to AMAFCA, because they granted property rights that they don't have. The Letter of Concurrence was the BOR's solution to this problem.

Jeff Willis, AMAFCA Real Estate Manager, stated that the property had been platted to the perceived easement line, which was not necessarily the actual easement line. AMAFCA would have to go back to the original platting of the area, and trace it forward to the present, in order to do a quiet title action. Those with ownership interests include the BOR, MRGCD, and



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approximately 108 current individual property owners. A condemnation suit could name the adjacent owners, BOR, and MRGCD, and convey property to AMAFCA more easily.

Chairman Eichenberg noted this meant that there was no conveyance of ownership of the land within the easement. Director Brown stated that this meant that the ownership of the land within the easement is also in limbo. He opined it would be impossible to go back to the heirs of the landowners in the 1700s in order to clear title. Mr. Lovato stated this is why AMAFCA might consider a condemnation suit, and then give the MRGCD a license for their ditch.

The amendment to the motion passed (3-2), with Directors Lyon and Brown voting against it.

The amended motion failed unanimously (0-5).

Chairman Eichenberg stated that he would put this item on the next agenda when Mr. Lovato has further information.

Director Hernandez summarized that the Board wants to see this project go through, but right now there is not a way to do it with the current proposal.

**20. Real Estate**

**a. Notice of Issuance of Three Recreational Licenses**

Jeff Willis stated that three short term recreational licenses had been issued for cross country races at the Powerline Channel, the North Diversion Channel, and the Pino and South Domingo Baca Dams.

He also recalled for the Board that Interior Secretary Salazar, Senator Bingaman, Representative Heinrich, and Dr. Tuggle had thanked AMAFCA for participating in the Price's Dairy purchase.

**b. Memorandum of Understanding between AMAFCA and the City of Albuquerque for Financial Guarantees – Update**

Lynn Mazur presented the outline for a Memorandum of Understanding between AMAFCA and the City of Albuquerque for Financial Guarantees. She stated that the City would be willing to include AMAFCA's infrastructure on their lists for financial guarantees, and track the AMAFCA infrastructure guarantees. This infrastructure would then be financially guaranteed through the City's Subdivision Improvement Agreements. AMAFCA would still enter into a separate turnkey agreement with the owner for construction and maintenance of the facility. The City will not be a party to the turnkey agreement.



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She asked for Board review and comment, stating she would have a draft agreement to the Board at the October meeting.

Consensus of the Board was support of the terms as outlined.

**c. Consideration of Private Encroachment License Agreement for Sanitary Sewer Crossing to Serve Sunport Properties**

Ms. Mazur stated that the utility installation plan for the Sunport Properties development south of Woodward Road and East of the South Diversion Channel called for a waterline crossing, which was licensed by the Executive Engineer under authority of Resolution 1988-6, and a private 8" sanitary sewer stub-out. ABCWUA will not accept maintenance of the sewer line as it will serve only one or two properties. Since the line will be privately maintained, a private encroachment license was requested for the service line.

She noted that staff had reviewed and approved the plan. The line will not interfere with the function or maintenance of the South Diversion Channel.

Director Brown made a motion that the Board authorize the Executive Engineer to issue the *License Agreement for Sanitary Sewer Service Line in the South Diversion Channel to Serve Sunport Properties*, substantially the same as attached to the memo. Director Hernandez seconded the motion, which passed (4-1). Director Lyon voted against the motion.

**d. Consideration of Quitclaim/Release of Easement on Lot 26, Block 2, Tract 3, Unit 1, ZAP C-21, North Albuquerque Acres**

Ms. Mazur stated the subject lot had a Grading and Drainage Plan (G&D) approved in 1994, at which time a Drainage Easement was granted to AMAFCA for an arroyo across the rear of the lot. At the time, a flow avulsion from the La Cueva Arroyo had been identified. The upstream avulsion could have potentially sent 500 cfs through the property. In 2004, AMAFCA constructed a project called *Flood Control Structures at Avulsion No. 4* to control the avulsion and keep the stormwater flow in La Cueva Arroyo. The flow rate across the property is now 22 cfs, which is below the threshold requirement for a drainage easement.

She recommended that the Board approve a quitclaim/release of easement. Discussion followed.

Director Brown made a motion that the Board authorize the Board Chairman to execute the Quitclaim Deed/Release of Easement for Lot 26, Block 2, Tract 3, Unit 1, North Albuquerque Acres. Director Thomson seconded the motion.

In response to a question from Chairman Eichenberg, Ms. Mazur stated that Shawn and Sherri Smith had been the owners of the property in 1995 when the easement was granted. Shawn



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Smith subsequently became the sole owner. The property was under a real estate contract for a sale to Clay and Wendy Blair.

After a follow-up comment by Chairman Eichenberg, Director Brown added the phrase, “subject to verification of proper chain of title on the release of easement” to his motion. Director Thomson agreed to the addition to the motion.

The motion passed unanimously (5-0).

**21. Consideration of Resolution 2012-14, *Adoption of Mid-Valley Drainage and Water Quality Management Plan***

Brad Bingham, AMAFCA Drainage Engineer, stated that the resolution adopting the Mid-Valley Drainage and Water Quality Management Plan had been revised per Board comments at the August meeting. The revised resolution had been reviewed by Attorney Rael. He recommended approval of the Resolution.

Director Thomson made a motion that the Board adopt Resolution 2012-14, *Adoption of the Mid-Valley Drainage and Water Quality Management Plan*. Director Hernandez seconded the motion, which passed (3-2), on a roll call vote. Chairman Eichenberg and Director Lyon voted against the motion.

**22. Dam Safety – Briefing on EPAT**

Mr. Lovato stated that he, and Craig Hoover, the Chairman of the New Mexico Watershed and Dam Owners Coalition (NMWDOC) had met with several flood control agencies in the southern part of the state, including Elephant Butte Irrigation District (EBID), to discuss the Office of the State Engineer Dam Safety Bureau’s requirements concerning the PMP (Probable Maximum Precipitation) event and flooding events, and Emergency Action Plans.

He stated that Elephant Butte Irrigation District is interested in partnering to do a study regarding which standard would prevail, the EPAT tool or modifying HM55A. A meeting with the Office of the State Engineer (OSE) was scheduled for the following week to discuss this. An on-call engineer will start work on analysis of EPAT and the PMP, depending on what happens at the OSE.

Responding to a question from Director Thomson, Mr. Lovato stated that representatives of EBID would be attending the meeting to also hear in the discussion. They are also talking about helping to fund the study. Director Thomson stated that EBID owned approximately 22 jurisdictional dams.

As the former chair of NMWDOC, John Kelly was asked to speak. Mr. Kelly stated that he was speaking on Craig Hoover’s behalf. He stated that that he had spoken with Roland Penttila and



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Melissa Lozoya, who stated that the City of Albuquerque would be interested in participating in the study for approximately \$50,000, with funds from next year's budget. He also reported that Charles Thomas, SSCAFCA Executive Engineer, stated that SSCAFCA was also interested in participating in the study.

In response to a question from Director Hernandez, Mr. Lovato stated that the current estimate of the cost of the study had risen to about \$150,000. He opined that even if it ended up costing \$350,000, AMAFCA would save many times that amount on dam modifications. He would have a better idea of the cost once the scope was determined.

Director Thomson commented that the more allies there were, the better, when it came to selling the idea to the OSE.

**23. Unfinished Business**

Attorney Marcus Rael stated that he had provided each Board member with a copy of the Amicus brief filed in support of the Los Angeles County Flood Control District in their suit against the Natural Resources Defense Council, Inc., et al. in the Supreme Court. AMAFCA is supporting the Los Angeles County Flood Control District's position in this suit because the decision could set a precedent.

Mr. Lovato stated the document would also be added to the AMAFCA library.

**24. New Business**

None.

**25. Personnel Matters**

**a. Executive Engineer Contract, Performance, and Annual Review**

Chairman Eichenberg stated that the discussion of a personnel matter would be in a 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 "*The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*," seventh edition, 2010, to discuss a personnel matter. Chairman Eichenberg seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg closed the meeting at 1:56 p.m.



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At 2:51 p.m., Chairman Eichenberg stated that the Board would come out of closed session. No decisions had been made during the closed session, but the Board had discussed a personnel matter.

Director Hernandez made a motion that the meeting be re-opened. Director Brown seconded the motion, which passed (5-0), on a roll call vote.

Chairman Eichenberg reopened the meeting at 2:51 p.m., stating that the Board had deferred action on this agenda item until the October Board meeting. He gave direction to the Executive Engineer to update his contract to extend it another year. He requested that copies be provided to the Board.

In response to a question from Director Lyon, Mr. Lovato stated that no COLAs have been given for about four years. Merit increases last year averaged less than 1%.

Mr. Lovato reminded the Board that there would be a special Board meeting on October 3, 2012, at 2:00 p.m.

Pamela Woodruff, AMAFCA Executive Administrative Assistant, informed the Board of a change that will happen on the City's payroll system for the processing of Per Diem checks, changing to a completely paperless system. Further information was in the Board's folders. The deadline for making the change is November 1, 2012.

**26. Adjourn**

There being no further business to come before the Board, Chairman Eichenberg adjourned the meeting at 2:55 p.m.

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Bruce M. Thomson, Secretary-Treasurer, 10/25/12

Recorded by Pamela Woodruff, Executive Administrative Assistant