

EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY

Minutes of Regular Meeting 15 February 2011

1. Call to Order at 6:01 PM
2. Pledge of Allegiance led by Chairman Reyes
3. Roll Call: All present; Director Faust arrived at 6:07 PM
4. Approval of Agenda [m/o]: Director English stated Item 7a should be Regular meeting of 18 January 2011 instead of Special meeting. Director English asked for an HB293 update under Item 17. Mr. Blair stated he was going to add Item 20e regarding another AG letter dated February 10, 2011. Motion to approve agenda as amended made by Director Sandoval; second by Director English. Passed unanimously.
5. Introduction of Guests: Mr. Blair introduced Bill Smith, 1st Community/US Bank; Eamon Cargo and Spencer Wright, State Treasurer's Office; Mike Castillo, EE designate. Others present were Orin Safier, self; Debbie Kilfoy, self; Vern Kilfoy, self; Dale Burch, self; Cynthia Snowden, Placitas resident; James Rogers, Placitas resident; Scott Armstrong, Bohannon Huston; Jesse Dickson, Dickson Hydraulics. Others present not signed in.
6. Chair's Report
 - a. Revised procedure for public comment: Chairman Reyes briefed the Board on the revised procedure for public comment. He stated that the public would have a chance to comment on certain items after it had been discussed by the Board. He stated the Executive Engineer will introduce the topic, give a quick briefing, and ask for a motion and a 2nd, if appropriate. The person with the motion will lead off with discussion and each Board member will have a chance to comment. The floor will then be open for public comment, limited to 3 minutes per person. After all comments have been heard, the Board may vote. Public comment will also be allowed at the end of the session but cannot be a repeat comment from earlier in the meeting. Director Torres asked if the Board had to take action to change the procedures. Counsel Cadigan stated that the Chair is authorized to change the procedure but if the Board wishes to have a formal procedure written, it would need to be drafted. He stated the Chair person is authorized to set these parameters unless his ruling is overruled by a motion passed by the majority.
 - b. Other – none
7. Approval of minutes:
 - a. Regular meeting of 18 January 2011 [m/o]: Director English wanted clarification on Item 16e (letter from Senator Cravens) that indicated Larry Blair would respond to the letter. Counsel Cadigan stated that the response to Senator Cravens was made by providing a copy of the January 24, 2011 response to the Secretary of State letter of January 4, 2011. Motion to approve minutes of Regular meeting of 18 January 2011 made by Director Faust; second by Director Sandoval. Passed unanimously. Director Faust asked if a copy of the minutes could be sent to everyone sooner than the Board packet was mailed out. Mr. Blair stated that a copy of the draft minutes has to be completed within 10 days of the meeting and the minutes could be sent at that time. Chairman Reyes stated that Kristi Winters would send a draft copy of the minutes to all Board members when completed.
 - b. Special meeting of 25 January 2011 [m/o]: Motion to approve minutes of Special meeting of 25 January 2011 made by Director Torres; second by Director Faust. Passed unanimously.
8. Finances:
 - a. Discussion: Financial Report: [m/o]: Larry Blair reviewed the financial report. Director Sandoval asked if the check to Fred Aguirre was a final payment. Mr. Blair responded that the check to Fred Aguirre was for the review of Bob Gorrell's comments, and that Mr. Aguirre is still under contract with ESCAFCA. Director Faust asked if the \$4,116.38 check to the Cadigan Law firm was a one month payment and if it included lobbying. Mr. Blair stated that it was a one month payment but couldn't remember if it included lobbying. Director Faust stated that Mr. and Mrs. Cadigan signed on as lobbyists with the Secretary of State effective January 19 and that the \$4,116.38 didn't appear to include lobbying

since it was paid on January 16. She requested that a separate entry be made on the financial report so the cost of lobbying is separate than general legal services. Director Torres asked Director Faust to clarify lobbying. Director Faust stated that there was no clarity in the legal services contract regarding lobbying and that there is no clear answer. Counsel Cadigan stated that each invoice from Cadigan & Park, submitted to Mr. Blair, has an itemized summary explaining the charges. He stated that any time spent by people other than himself, specifically Traci Cadigan, would be government relations. He indicated that it would be difficult to separate the invoices but if the Board wanted two separate invoices to be paid on two separate checks, he would be willing to do so. Director Faust asked if a drive to Santa Fe to talk to legislators would be qualified as lobbying. Chairman Reyes clarified that speaking to legislators is clearly government relations, which falls under Counsel Cadigan's contract. Counsel Cadigan asserted that some of what happens in Santa Fe is government relations and that he does not bill for the drive to and from Santa Fe. Director Faust requested copies for Counsel Cadigan's billing statements from Mr. Blair.

b. Briefing and discussion: Security of ESCAFCA funds: [William Smith, US Bank; Rob Burpo, First American Financial Advisors, LPL--invited] [m/o] Larry Blair stated that Rob Burpo with First American Financial Advisors was unable to make the meeting. He explained to the Board that in March 2009, ESCAFCA chose 1st Community Bank on a competitive basis. The Board desired to stay with local banks, which was 1st Community Bank and Wells Fargo Bank. 1st Community Bank was selected by the Board, partially on the basis of no fees being charged on the services received. Recently there have been some assertions about lost revenue in that ESCAFCA pays 4.5% on the bonds but was collecting less than 1% interest on the deposits in the bank. Mr. Blair stated that he and Gary Young looked at some investments a year ago, primarily CD's that were 6 months to a year, and the best they could find was about .4% and as high as 1.5% if they went for a fairly long term with \$2-\$3m in them. He stated that ESCAFCA will never get interest from any place that is going to equal 4.5% interest that is paid on the bonds. He stated that ESCAFCA earned \$8,000 in interest in the last fiscal year and if the next 6 months is added in, ESCAFCA has collected \$11,500 in interest. Bill Smith presented the Board with an informational handout and discussed the changes with the transition of 1st Community Bank becoming US Bank. Director Faust asked if Mr. Smith could give any specific information and give any recommendations on what would give ESCAFCA a better rate of return. Chairman Reyes stated that ESCAFCA needs to give Mr. Smith specific guidance as to what ESCAFCA wants. Chairman Reyes stated that ESCAFCA has chosen the least cumbersome ways of doing business, and that was to put the money in a bank account. ESCAFCA's primary concerns were security, liquidity, and return. Director Faust asked Mr. Smith what a competitive product would be for the best rate of return and to have the money secure and liquid. Mr. Smith stated that he felt a Money Market Deposit Account would be the best allowing 6 withdrawals per month, with a rate of return of .45% and collateralized to 102% of value. Director Faust asked Mr. Smith if this would be secure. Mr. Smith responded that it would be secure and liquid. Director Faust asked how much was in the debt service reserve. Mr. Blair stated \$600,000. She asked what the rate of return would be a year on the \$600,000. Spencer Wright and Eamon Cargo introduced themselves and handed out informational handouts to the Board. Eamon Cargo briefed the Board on the Local Government Investment Pool (LGIP), with a handout showing a current yield of 0.28%. Director Sandoval asked what the minimum amount ESCAFCA has to invest. Mr. Cargo stated \$7,500. Director Faust asked if AMAFCA invested their funds in the LGIP and Mr. Cargo stated he did not know and could not reveal that information due to confidentiality. Mr. Blair asked if there were any fees. Mr. Cargo stated .05% based on average balances. Mr. Blair asked if these fees paid their salaries and their services. Mr. Cargo stated that the majority of the money goes to the general fund and a small portion goes to his office. Director Torres asked if money could be lost in the LGIP fund. Mr. Cargo stated yes. Chairman Reyes asked what the advantage was for putting their money in the LGIP over what ESCAFCA is currently doing. Mr. Cargo stated that based on Mr. Smith's presentation, he doesn't think there would be an advantage because the bank instruments are collateralized at 102% and the Money Market Account gives a .45% rate of return. He stated he would go with the Money Market Account. There was no public comment.

9. Discussion/Action: Investment of Authority Funds

a. Approval of Resolution 2011-2 Investment of Authority Funds [m/o]: Mr. Blair recommends adoption of Resolution 2011-2 Investment of Authority Funds. Motion to approve Resolution 2011-2 Investment of Authority Funds made by Director Torres; second by Chairman Reyes. Director Faust recommended putting a committee together to review the documents. After discussion, the Board decided to defer the item. Motion to defer Resolution 2011-2 Investment of Authority Funds made by Director Torres; second by Chairman Reyes. Passed unanimously.

b. Approval to temporarily move ESCAFCA funds to non-interest bearing accounts [m/o]: After discussion by the Board, there was no motion on approval to temporarily move ESCAFCA funds to non-interest bearing accounts.

10. Action: Executive Engineer Agreement; Authorization for Chair to sign [m/o]: Mr. Blair stated that Mike Castillo is requesting an hourly rate of \$95. The fee for Error and Omissions and Liability Insurance is \$2,500. Mr. Blair recommends the Chair sign the contract. Motion to approve Executive Engineer Agreement; Authorization for Chair to sign made by Director Faust; second by Director English. Passed unanimously. Mr. Cadigan stated that on page 2, the last sentence should state "Contractor is advised that as an independent Contractor he may not be subject to the protections of the New Mexico Tort Claims Act." Mike Castillo thanked the Board for the opportunity.

11. Action: Accountant contract

a. Approval of Selection Committee recommendation for Accountant [late m/o or handout]: Motion to request approval of Selection Committee recommendation for Accountant made by Director English; second by Director Torres. Passed unanimously. Director English stated she trusted the selection committee's judgment. Director Faust asked if Mr. Blair could describe what was looked at during the interviews. He stated that the selection was based on proposals and Mr. Tapia with A&A Firm was priced significantly lower than Gary Gaylord. Director Faust asked if either firm provided references. Mr. Blair stated that both firms listed clients they had previously done business with.

b. Authorization to negotiate a contract for approval at the 8 March 2011 regular meeting [m/o]: The Board voted and agreed to allow Mr. Blair to negotiate a contract for approval at the 8 March 2011 regular meeting.

12. Discussion/Action: Resolution 2011-3 Request for Project Participation [m/o]: Mr. Blair stated this resolution is asking other agencies for participation. Motion to approve Resolution 2011-3 made by Director Sandoval; second by Director Torres. Director Sandoval asked what would happen if ESCAFCA doesn't get any participation. Mr. Blair stated that the plan was to send out a letter to other entities if the resolution was passed and to offer brief other entities at their Board meetings. If no one wanted to participate, ESCAFCA would have to reexamine its options. He stated that all of the numbers are subject to negotiation. Director Faust asked how the dollar amounts were derived. Mr. Blair stated the total costs came off of the project schedule and may be a little high. Director Faust suggested that the Board present a spreadsheet to other entities with no dollar amounts and see what others would agree to, and that ESCAFCA should not expend any funds without a contract with other contributors. Director Faust expressed concern about how the dollar amounts were arrived and if it's good policy for the Board to agree to these dollar amounts from the get go. She expressed that the other entities should help with funding before ESCAFCA uses tax payers money for the projects. She stated that no ESCAFCA fund should be expended on projects until agreements were made.

Director English agrees with Director Faust and that numbers should not be presented to other entities. She asked a hypothetical question that if she was a taxpayer in Algodones, what chance would she stand to benefit from having the flood control authority because there is nothing for Algodones and she feels that is a problem. She stated she didn't feel ESCAFCA had enough weight behind them to sell the idea of cost sharing to other entities. She stated that she felt Director Torres had some conflict with the numbers due to his position with the Town of Bernalillo, and therefore feels they should be taken out and negotiated. Director Torres stated that he felt the numbers should be included because the first question most entities are going to ask is how much ESCAFCA is asking them to pitch in. He stated that it was a cooperative relationship, ESCAFCA is trying to get a broader community perspective to improve the regions, and it comes down to the numbers.

Chairman Reyes stated that the purpose of the spreadsheet was to give other potential partners estimates and that ESCAFCA is not making any commitments at this point. He stated that this letter was just to give others a heads up and allow them to plan their budgets.

Director Sandoval agrees to move forward but is having trouble with the numbers because he thinks they are a little high. He stated that he felt it was premature to add numbers at this time.

Director Faust added that the ESCAFCA contributions on the list are over what ESCAFCA has bond authority for. She expressed concern that ESCAFCA would be making false impressions and could be confusing.

Director Torres proposed eliminating the breakdown but have total estimated cost. He expressed concern that potential partners will ask how much they are being asked to pitch in.

Mr. Blair stated that he had only presented to the Bernalillo Town Counsel and the Sandoval Planning and Zoning Board. Each time he presented, he was asked how much ESCAFCA was asking expecting them to contribute. He suggested making a proposal to other entities because everything is negotiable and that ESCAFCA cannot do this alone.

Steve Barro commented that the numbers that the Board is discussing has already been made public because they appear on the website. He thinks the Board needs to be briefing other entities on what the benefit to them would be. He expressed concern about potential partners, like Sandoval County, not wanting to participate because the whole reason ESCAFCA was formed was because Sandoval County didn't want the responsibility of flood control and why would they want to pitch in money if they never wanted the responsibility to begin with.

Director Faust asked what MRGCD had contributed to the Albuquerque West Levee project.

Scott Armstrong from Bohannon Huston informed the Board that he was the project manager for the Albuquerque West Levee project and as his memory serves, there was a cost sharing agreement with the Corps of Engineers. MRGCD was in for \$4m, AMAFCA was in for \$1m, and Bernalillo County was in for \$1m and all of these funds were to be repaid by the Corps of Engineers at 75%.

Mr. Blair stated that the repayment from the Corps of Engineers has not occurred and is very much in question.

Ken Longeway stated he was confused because a few weeks ago the Board was asked what their mission was in terms of budgeting. The answer back was that ESCAFCA was tasked with doing studies, doing engineering estimates, and making recommendations. He asked the Board why they needed \$3m-\$6m to do studies.

Chairman Reyes stated that he didn't feel the Board was prepared to vote. He tasked Mr. Castillo with new ideas. Mr. Castillo stated that he felt this would take time and needs to be well thought out with more discussion.

Motion to defer Resolution 2011-3 Request for Project Participation made by Chairman Reyes; second by Director Sandoval. Passed unanimously.

13. Discussion/Action: Resolution 2011-4 Real Property Acquisition Policy [m/o]: Mr. Blair presented to the board Resolution 2011-4 Real Property Acquisition Policy. He recommends the Board adopt Resolution 2011-4 Real Property Acquisition Policy. Currently there is not a policy in place on how ESCAFCA is going to acquire real property. Motion to start the discussion on Resolution 2011-4 Real Property Acquisition Policy made by Chairman Reyes; second by Director Sandoval. All approved.

Chairman Reyes recommends the Board to approve because several projects are at a point to start acquiring property.

Director Faust asked which projects were ready to advance to acquiring property. Mr. Blair stated the principal project would be the Mid-Bernalillo Conveyance project. Director Faust expressed concern about acquiring property with little money in the bank and with no commitment from anyone else.

Director English stated that ESCAFCA should not be in the real estate business at this point. Mr. Blair pointed out that this is not a policy specific to the Bernalillo properties, but is a general guideline on how to acquire real property. He stated that there are still several steps to go through to acquire property.

Director Torres feels the policy needs to be in place and that it should be decided on now so in the future, there won't be claims of anyone blaming the Board for not being up front and transparent.

Director Faust stated that eminent domain should be used as a last resort.

Director Sandoval asked if there was a state statute that could be added to item 7a in the policy regarding eminent domain.

Counsel Cadigan cited state statute 42-2-1, which states everything that happens until the decision is made to proceed with eminent domain code and then the rules are set by the statute. The Board could pass rules about eminent domain but they would have to be the same as the state statute.

Motion to approve Resolution 2011-4 Real Property Acquisition Policy made by Director Sandoval; second by Director Torres. Motion to approve Resolution 2011-4 Real Property Acquisition Policy to include state statute 42-2-1 made by Director Torres; second by Director Sandoval. Motion passed with 3 in favor and Director English and Director Faust opposing. Director Faust stated that she opposed because she feels that there isn't enough explanation. A roll call vote was taken to pass Resolution 2011-4 Real Property Acquisition Policy:

Chairman Reyes – yes

Director Sandoval – yes

Director Faust – No

Director Torres – yes

Director English – no

Motion passed with 3 in favor and 2 opposed.

14. Discussion/Action: Algodones N.M. Area Stormwater Detention and Conveyance Alternatives Study.

Motion to receive report. [m/o]: Mr. Blair stated that this project could become viable in the future and this report presented engineering studies to show there is a solution to the problem but with a price tag of \$6 million this was not something we could fund or justify at this time. He asked for the Board to acknowledge receipt of the study. Chairman Reyes stated this project would be a major expenditure with significant cost to acquire the ROW. He stated this could be a very viable project if property were donated, something he considered was possible. Director English asked the Engineers to show the Board where the water is coming from that affects this area. Angela Valdez showed the Board on the map where the water was flowing from. Director English then asked if they could explain as far as the upstream basins, what the impact of the development upstream is on the downstream. Angela Valdez stated that the majority of the area in the watershed is undeveloped and that most of it might be owned by BLM and Forest Service. Director English stated that in the report, it states that everything west of I-25 has been cut off from its natural flow to the river. Mr. Aguirre agreed that this was correct. Director English stated that what they were looking at was a fairly significant detention basis upstream. She asked Mr. Aguirre if he had ever seen anything that says that downstream properties do not have to accommodate the historic undeveloped flows. She stated she was asking because several times in the report it states that ESCAFCA is minimizing impact to developable lands. She stated she felt this was a land development project, not a flood control project. Mr. Aguirre asserted that it was a property protected project and the reason for the study was to protect the properties that are already there that have flooding today. He stated that it happens all the time where people build in a flood zone and disrupt the flows. She asked why it was considered a flood control issue. Counsel Cadigan interrupted to ask the Engineers to stand by the podium, so it didn't appear there was an executive session happening and to remain transparent. Director English stated she had heard from the public a number of different times that the flooding in Algodones area is due to the development upstream and they have clarified that was not the case. Mr. Aguirre stated that it's minimal from the development because of the mining and all the things that maybe have changed things but there is a significant flow that comes through there. She stated that we can establish that the developed flows are not significantly greater than the historic flows. Director English asked Mr. Aguirre if the blue area known as the "Placitas Watershed" was causing the flooding in Algodones. Mr. Aguirre answered no, and it was not causing the flooding in Bernalillo. For clarification purposes, Mr. Torres asked why the Piedra Liza Dam was built. Mr. Aguirre stated that it depends on what they were considering Placitas and without the map in his hands, he shouldn't comment. Chairman Reyes asked that everyone stick to the topic at hand, which is the Algodones study. Motion to accept Algodones N.M. Area Stormwater Detention and Conveyance Alternatives Study made by Director Faust; second by Director Sandoval. Passed unanimously.

15. Briefing/Discussion: Mid- Bernalillo Conveyance [handout]: Angela Valdez briefed the Board on the handout. Chairman Reyes asked for the Board to review the report and at a future meeting, bring up for discussion.

16. Discussion: Engineering Report [m/o]: Mr. Blair stated that Angela Valdez has a revised Placitas FEMA map with the properties shown, which is what had been requested in previous meetings to identify property lines. Director English asked if the map could be posted on the website. Mr. Aguirre said he did not want to post them until it was approved by FEMA.

A constituent asked if there was a count on the number of properties. Mr. Aguirre stated that 219 buildings are in the floodplain; 112 are houses and 80 of them will be removed from the FEMA flood map once all the work is completed.

Director Faust asked Mr. Blair to brief the Board on task 15 (pipeline safety). Mr. Blair stated that the January 26 meeting was to primarily allow questions of the experts. Mr. Mussetter who was the primary author of the prudent line study was present and answered a few questions. None of the pipeline companies or regulators showed up and he has sent them a letter informing them of the next meeting. He has received on phone call saying they might be there. Chairman Reyes asked how many participants were in the last meeting. Mr. Blair answered 9.

17. Discussion: Legislative Update: Cadigan

- a. SB 121[m/o] – Counsel Cadigan stated it had not been heard.
- b. HB306 [m/o] – Counsel Cadigan stated it was heard but had not been voted on.
- c. HB293 – Counsel Cadigan stated it had not been heard.

Director Faust stated that the Chair and Executive Engineer had made a determination as to what ESCAFCA stands for and what to support and oppose. Chairman Reyes stated that was not true. She went on to say that it seems more appropriate that it should have been a Board decision on what ESCAFCA was going to support and oppose. She objects to the fact that this was not a Board decision because in November at the time that whatever motion was made, which was a motion to support districting, it was not a motion describing the other bill and that one can't conclude Board approval or disapproval without an actual Board vote. She asserted that decisions were made inappropriately and should have been made by the entire Board. She registered her unhappiness with what has been done.

18. Discussion/Action: Termination of Legal Services contract.

Motion to terminate legal services contract made by Director English; second by Director Faust.

Director English stated that she didn't feel that the Management Team that was never heard of a month ago is usurping the authority of the Board. She feels that the Chairman as president is taking on more authority, per Counsel's guidance, on daily activities that are growing in scope. Her concern is that information is being kept from the two women Board members, herself and Director Faust. She stated that there has been no budget made for lobbying and no discussion as to why some bills are being lobbied for and some are being lobbied against. She stated that the responses to the Secretary of State continue to be a concern, there has been two more since the last Board meeting and this should be a concern of the Board. She asserted that the tone of the letters are bad and that the letters are coming from Counsel and that it makes it appear that the Board is trying to hide something. Telling the Secretary of State that their office has no authority is not going to make the angry citizens go away. She feels Mr. Cadigan has taken over the Board and she opposes to it. She thinks ESCAFCA should go out for an RFP for new legal Counsel.

Chairman Reyes stated that the use of the term "Management Team" was a term he loosely used and for the record he has explained that by e-mail. He stated there is nothing formal as a management team and that the Executive Engineer is the primary manager. He stated that the EE relies on Counsel for legal opinions. He stated that he participates as Chairman on matters that pertain to Board decisions. He stated that he trusted that Director English was not harboring any personal resentment due to rulings that Counselor Cadigan had made.

Director Sandoval asked Director English to clarify what she meant by minority Board members. She answered that there were 2 women and 3 men. Director Sandoval made the comment that he didn't understand why she felt she was a minority because there are 3 Hispanics on the Board. He stated that the two women were voted for by Placitas and didn't understand why she was using this. Director

English clarified that they had been voted for in an area wide election. Director English stated that she felt two of the Board members were having information withheld from them and asked to have her comment regarding the minority members to be stricken from the record. Director Sandoval stated that the Board is to follow the letter of the law and he doesn't believe Counsel Cadigan has done anything to violate the law and if he had done something to violate the law, he wanted to know about it. Director English stated she wasn't implying he had done anything illegal.

Director Faust stated she supports this motion for a number of reasons. She stated Mr. Cadigan's selection was made in a closed meeting but the Executive Engineer was selected in an open meeting at the advice of Counsel. She questioned whether the original selection of Mr. Cadigan was done according to law and to avoid any suggestion of impropriety or that ESCAFCA is carrying on something that may have been done illegally. She stated she would support going out for an RFP and doing it right this time. She feels that her number one reason and that she thinks the entire process may have been illegal based on what we now know should have been done in an open meeting and that there shouldn't have been a closed door meeting. She stated that it was clear to everyone that there is a lot of controversy surrounding ESCAFCA and that in many instances Counsel heated up the controversy and that ESCAFCA doesn't need a lightning rod as one of the main two employees that ESCAFCA has. She stated that since there is a new Board, they should have the opportunity to select someone that they can all feel comfortable with and relying on their advice and that didn't happen to be the case with some of the Board members.

Director English stated that this was nothing personal and that she did not know what ruling was referred to and did not feel she had been ruled against.

Director Torres stated his support of Counsel Cadigan and that he is surprised that Director Faust would say that he was heating up controversy. He pointed out that ESCAFCA has been in the hornets' nest for a long time. He feels one of the challenges that Counsel has had to deal with is all of the issues, the accusations, and innuendos. He stated the role of ESCAFCA was not to micromanage everything he does. He directed his attention to Director English and her comments regarding the role of the Chair and that it has nothing to do with Counsel. He stated that ESCAFCA has a very challenging atmosphere to work in and wanted to state he votes for Counsel. He stated that he has sat on some contentious Boards in the past and they don't even come close to what ESCAFCA deals with. He asserted that he's never seen such rude and obnoxious requests for information. He feels that Counsel's advice has been solid and that is why Counsel was hired to provide ESCAFCA with the appropriate legal guidance, direction, and advice in very difficult times and feels that this is what ESCAFCA has received from Counsel Cadigan. He reiterated his support to continue Counsel Cadigan's contract.

Director Faust stated she didn't want to get personal but stated that Director Torres should not be surprised that Mr. Cadigan is accused of creating ill will or hostility. She stated it was unfortunate that former Director Gorrell wasn't in the room because at the last Board meeting Mr. Gorrell had a question for Mr. Cadigan, and Mr. Cadigan told him "I'm not talking to you." She stated that there was a lot of ill will and that she has received quite a few nasty e-mails from people on the Board.

Counsel Cadigan stated that he did not want to respond to any of the personal matters. He stated that the selection of Cadigan Park, which is the law firm for general Counsel, was done at a properly noticed open meeting. The vote was taken in an open meeting. The interviews were done privately but the vote was taken in public. He stated that his advice going forward has been the more cautious path when hiring contractors and to do interviews in the open. He stated that if there was a legal problem with it, the procurement code would have required a challenge by a non-successful bidder within 30 days. He stated that the selection was in accordance with the open meetings act and that the better more cautious ways to do things in the future is to do interviews in the public.

A vote was taken to determine terminating Counsel Cadigan's contract. Director English and Director Faust were in favor, Director Torres, Director Sandoval, Chairman Reyes opposed.

Director Sandoval excused himself at 9:28 P.M.

19. Action: Request to contribute to flood fighting workshop: motion to contribute \$300. [m/o] Mr. Blair explained to the Board what the flood fighting workshop was about. Motion to contribute \$300 to the flood fighting workshop made by Director English; second by Director Torres. Passed unanimously.

20. Executive Engineer's Report

a. Stationery and Business cards [m/o]: Mr. Blair reviewed what the stationery and business cards looked like. He stated he would change the Board Director's names on the stationery and add the e-mail addresses. Director Faust and Director English both decided that they did not need business cards.

b. Corps of Engineers update: Mr. Blair stated that the federal government is now operating on a continuing resolution. The 2011 budget has never been acted upon but has funds in it for the Corps of Engineers to start the Bernalillo Levee project under section 205 program. The continuing resolution that they are operating on now expires March 4. The 2012 budget proposed by the president has no new starts. The Corps of Engineers is hoping that the 2011 budget will be passed before March 4. Mr. Blair stated that the Bernalillo Levee may or may not start due to the budgets or it may get delayed for a few more years.

c. AG letter of January 27, 2011 [Neas]: Mr. Blair stated that the AG letter of January 27, 2011 was provided in the Board by e-mail.

d. Bond Claim-Hartford Insurance [Neas]: Mr. Blair commented that the letter from the Hartford Insurance was e-mailed and letters provided to 3 of the Board members. Chairman Reyes asked if the new directors had the bond policy in place for them. Mr. Blair stated that the application has been made and the bill has been sent.

e. AG letter of February 20, 2011: For informational purposes, Mr. Blair provided the Board with a copy of an AG letter dated February 20, 2011 with Mike Neas' complaint attached to it.

21. Public Comment [limit to 3 minutes] – none

22. Adjourn at 9:39 PM. Motion to adjourn made by Director Faust; second by Director English. Passed unanimously.

Next regular meeting 6 PM, Tuesday 8 March 2011, at Bernalillo Town Hall

Submitted by Kristi Winters

Doris Faust, Board Secretary

Audio recording is on file.