

EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY

Minutes of Regular Meeting 22 March 2011

1. Call to Order at 6:03 PM
2. Pledge of Allegiance led by Chairman Reyes
3. Roll Call: All present
4. Approval of Agenda [m/o] Motion to approve agenda made by Director Sandoval; second by Director Torres. Passed unanimously.
5. Introduction of Guests: None
6. Chair's Report: None
7. Approval of minutes: Regular meeting of 15 February 2011[m/o]: Motion to approve minutes of regular meeting of 15 February 2011 made by Director Torres; second by Director Sandoval. Passed unanimously.
8. Financial Report: [m/o]: Larry Blair reviewed the financial report. Director Faust asked what amount was budgeted for the Cadigan Law firm for legal services. Mr. Blair stated \$20,000. Director Faust asked if the Cadigan Law firm has gone over the \$20,000 and if so, how is ESCAFCA paying for it. Mr. Blair answered yes and the current amount spent is \$31,988.00. Mr. Blair stated that according to DFA, as long as ESCAFCA does not exceed the total operating budget, money could be moved around within that budget. Director Faust asked who Mr. Blair spoke with at DFA. He stated that Gary Young spoke with Roseann Romero. Director Torres suggested that ESCAFCA obtain procedures from DFA before the end of the fiscal year so ESCAFCA can make internal changes. Mr. Blair stated that it was his intent to get a "clean-up" copy of all three budgets, so that the fiscal year is ended with money in the right places. Director Torres asked Mr. Blair if the Board will take action on all three budgets at one time. Mr. Blair answered yes. Director Faust asked when the next debt service payment was due. Mr. Blair stated by August 1.
9. Action: Renewal of Agreement with 1st Community Bank/US Bank [m/o]: Mr. Blair stated that the date on the contract was corrected to read March 22, 2011, instead of March 15, 2011. Director Faust asked if there was a schedule of fees. Mr. Blair stated that there was a standard schedule of fees in the bank literature but that ESCAFCA is not charged any fees by the bank. Director Faust asked if that was contingent on a certain dollar amount in the bank. Mr. Blair stated there were no conditions applied to it. Motion to approve the renewal of agreement with 1st Community Bank/US Bank made by Director Sandoval; second by Director Torres. Passed unanimously.
10. Action: Approval of Accountant contract [m/o]: Mr. Blair stated that the date of the contract was corrected to read March 22, 2011. Director Sandoval asked if the contract was any different than Gary Young's contract. Mr. Blair stated that the new contract is more precise and more detailed. Director Faust asked if ESCAFCA was going to pay \$15,000 annually for accounting services. Mr. Blair stated that their estimate was based on the RFP and that ESCAFCA expected about 6 hours a week of time and that is what the proposal reflects. Mr. Blair stated that Gary Young's contract was \$70/hour and the new contract is \$50/hr. Motion to approve the Accountant contract made by Director Sandoval; second by Director English. Passed unanimously.
11. Discussion: Preliminary Budgets for FY 2012 [m/o]: Mr. Blair stated that the budgets presented are only preliminary budgets. Chairman Reyes asked if ESCAFCA was projected to be on budget. Mr. Blair stated that they are under budget right now. Director Faust asked if the budgets reflect House Bill 306 and the revised operating mil levy. Mr. Blair replied "no, and that the budgets reflect the current mil levy which is .66 for operations and 2.44 for debt service".

- a. Debt Service: Mr. Blair presented new budget format.
 - b. Projects: Mr. Blair presented new budget format.
 - c. Operating: Mr. Blair presented new budget format.
12. Discussion/Action: Approval of Resolution 2011-2 Investment of Authority Funds [m/o]: Mr. Blair reviewed the changes made to Resolution 2011-2. Chairman Reyes suggested the Board defer until the next meeting. Motion to defer Resolution 2011-2 made by Director Torres; second by Director Sandoval. Passed unanimously.
13. Discussion/Action: Resolution 2011-3 Request for Project Participation [m/o]: Mr. Blair reviewed the suggested changes made to Resolution 2011-3. Director Faust suggested that ESCAFCA have participation and commitments from other entities before a project begins. She expressed concern and cautioned the Board about entering into projects where the money is not lined up. Chairman Reyes stated that the projects have to be worked in phases and feels that conditions should not be set in the Resolution. Director Torres asked if he should recuse himself because the Town of Bernalillo might be a participant. Counsel Cadigan stated that he felt it wasn't necessary for Director Torres to recuse himself because he is not personally benefitting anymore than any other resident of Bernalillo. Counsel Cadigan stated that his status as Mayor is specifically sanctioned by the ESCAFCA Act. Chairman Reyes recommends the Board pass the Resolution. Motion to approve Resolution 2011-3 Request for Project Participation made by Director Torres; second by Director Sandoval. A roll call vote was taken with Chairman Reyes, Director Sandoval, and Director Torres, for; Director Faust and Director English, opposed. Three in favor; two opposed.
14. Discussion/Action: Resolution 2011-5 Phasing of ESCAFCA Projects [m/o]: Mr. Blair read portions of Resolution 2011-5. He explained that this resolution lays out a process and the conditions that should be attached to phasing of projects. Director Sandoval asked if there should be a section added to require holding public meetings. Mr. Blair stated that public meetings was explained in paragraph #5. Director Faust stated that she agreed with Director Sandoval and more information should be added regarding public meetings, especially on paragraph #4 regarding public notice. Counsel Cadigan stated that the Open Meetings Act Resolution requires that projects have to be approved in an open meeting and that he is not aware of any regulation that requires ESCAFCA to have to hold a separate public meeting out in the community for a particular project. Chairman Reyes stated that these items could be added as a standard operating procedure. Mr. Blair stated that typically public meetings are built into the contracts with Engineers. Director English asked why this needs to be a Resolution and opined that project phasing should be good engineering management practice. Mr. Blair stated that he feels this is a necessary action because ESCAFCA is questioned on every action, and rather than be questioned on how ESCAFCA moves ahead with phasing of projects, he felt it was prudent to put everything in writing so everyone understands the process including the Board. Director Faust asked that in paragraph #2 regarding the "escape" clause, seems largely to defeat everything else because it completely gives ESCAFCA an escape and she doesn't like escape clauses in a Resolution. She stated that Resolution 2011-3 and Resolution 2011-5 does not mention cost benefit analysis and that ESCAFCA needs to be concerned with putting money where it is effective. Mr. Blair stated that the wording is not meant to be an escape clause but is intended to be project specific and it allows the engineers some latitude in designing a phase of a project so that it is most effective. Director Faust stated that giving latitude in a resolution should provide some parameters. Director Torres expressed that he was a little frustrated and trying to stay patient but it seemed as if Director Faust will ask the same question repeatedly until she gets the answer she wants rather than letting the question be answered. Director Faust stated that she felt Director Torres was being rude and she was trying to get clarity on her questions. Chairman Reyes intervened to call for a vote. Motion to approve Resolution 2011-3 made by Director Torres; second by Director Sandoval. A roll call vote was taken with the following results: Chairman Reyes, yes;

Director Torres, yes; Director Sandoval, yes; Director English, no; Director Faust, no. Three in favor, two opposed.

15. Discussion: Project Timeline Gantt Chart [m/o]: Mr. Blair presented a draft of Gantt Chart developed by Mike Castillo and Wilson & Company, and stated that the Gantt Chart is a timeline for each phase of a project which helps predict the status of a project with a little more certainty. Director Faust asked if a cost benefit analysis could be looked at again. Mr. Blair stated that an analysis is being done and the first project to be presented will be the Mid-Bernalillo project hopefully by next month. Director Sandoval asked if the information would be provided before a project starts. Mr. Blair stated yes. Chairman Reyes asked if a graph of expenditures versus income could be added to the chart. Mr. Castillo stated that this document is a standard tool and information can be added.

16. Discussion: Engineering Report [m/o]: No discussion

17. Action: Approval of Task order No 14, Amendment One for additional \$15,000 for Miscellaneous Engineering Services [m/o]: Mr. Blair explained to the Board that \$30,000 was spent in Miscellaneous Engineering Services last year and the Board cut the budget to \$15,000. He stated that the budget needed to be amended to put \$15,000 back in the budget because the general engineering services has reached \$15,000. Chairman Reyes asked Mr. Blair to give examples of general engineering services. Mr. Blair gave examples such as preparation for the Board meeting, preparing charts and graphs, public records requests for maps and documents, and reviewing historical flood data. Chairman Reyes pointed out that ESCAFCA has no staff and that they have to rely on Wilson & Company to prepare this work. Director English asked how many hours does the \$15,000 cover and what requests was the public asking for. Mr. Blair stated that the hours vary to cover the \$15,000 and that maps had been requested from the public. Chairman Reyes stated that various Board members have also asked for information. Motion to approve Task Order No 14 made by Director Sandoval; second by Director Torres. Passed unanimously.

18. Discussion/Action: Public Relations Services.

a. Request for Proposals and legal Ad [m/o]: Mr. Blair explained that Griffin & Associates had a sole source contract and that an audit finding stated this was improper. He stated that in order to clear the audit findings, ESCAFCA has to go out for an RFP and start the process over. He stated that the RFP will be in the papers during the next few weeks and proposals will be due April 13. Director Faust asked if there was any other way to advertise other than in the newspaper. She suggested contacting PR organizations. Mr. Blair stated ESCAFCA has missed the deadline for the Signpost but information will be placed on the website and that many of the professional trade organizations watch the ads and websites and will notify people. Motion to approve Proposals and Legal Ad made by Director Sandoval; second by Director Torres. Passed unanimously.

b. Agreement [m/o]: Mr. Cadigan to review further.

c. Appointment of Selection Advisory Committee [m/o]: Chairman Reyes suggested the committee should consist of the Board and the Executive Engineer. Director Sandoval asked if the decision making process would be held in a public meeting. Mr. Blair answered yes. Motion to approve the appointment of the selection advisory committee made by Director Sandoval; second by Director Torres. Passed unanimously.

19. Discussion: Legislative Update: Counsel Cadigan stated that House Bill 306 as amended passed the House of Representatives unanimously, and passed the Senate with one no vote. He stated that ESCAFCA was waiting on the Governor's signature and that he met with the Chief of Staff with the Governor's office, and he seemed to be supportive of the bill. Counsel Cadigan stated that the salient features of House Bill 306, which is a combination of the original House Bill 306 and Senate Bill 121, provides that all territory East of I-25 will be excluded from ESCAFCA, and this land will be referred to as Excluded Lands. The Bill goes into effect immediately upon the signature of the Governor. The two Directors that were elected in 2010 will be deemed to have resigned and the number of Board members

will be reduced to three. The three remaining Directors will continue to serve out their terms before the next general election, the Board will create single member districts, and the levy for the \$6m approved by the voters of all of ESCAFCA in 2008 will continue to attach to all of the lands of ESCAFCA, including the excluded lands, until that particular series of bonds is paid off. With regards to the excluded lands, the operating mil levy will be levied at a rate no more than ½ of 1 mil through tax year 2011. Director Sandoval asked how he could continue to serve on the Board if he still lives in Placitas. Chairman Reyes explained that he was voted by an at large district and that he wasn't just representing Placitas. Counsel Cadigan stated that there would be no prohibition on Director Sandoval being a member there since the people of Placitas will continue to be taxed for the bonds that they approved in the 2008 election. Director Faust asked how the people from the excluded lands will continue to be able to monitor the expenditure of the original \$6M approved by the bond issue, and that it would be accounted for separately from any future bond issues. Mr. Castillo stated that safeguards would be in place to make sure there is no confusion.

20. Executive Engineer's Report

a. Office equipment proposal: Mike Castillo [m/o]: Mr. Castillo explained to the Board what type of equipment and software he felt was needed to help improve the quality of the Board meetings and his functioning. He stated he has received a quote from an individual on the cost. Chairman Reyes asked if there was room in the budget for these items. Mr. Blair stated yes there was still money in the budget that has never been used. Director English asked what type of software he needed. Mr. Castillo stated he needed Windows 7, Microsoft Office, and ArchView. Director Torres suggested Mr. Castillo get two other quotes. Director Faust asked if there had been any discussion with the Town of Bernalillo to cost share. Mr. Blair stated that he had asked the Mayor and the Town Clerk but hasn't received a reply. Director Faust asked if it was appropriate for the Mayor to make this type of decision. Mr. Blair asserted that he did not know who would make the decision but started with the two people he thought could give him an answer. Chairman Reyes stated that the Town of Bernalillo has been more than accommodating with ESCAFCA and has allowed the Board meetings to be held at no cost.

Recess at 7:43; resumed at 7:46.

b. Feb 28 response to AG letter of Feb 10-Open meetings Complaint- Michael Neas [m/o]: Provided for informational purposes.

c. Report on ABQ west levee project [m/o]: Mr. Blair provided a cost breakdown of the ABQ west levee project from Kurt Wagener with AMAFCA. Director Faust asked if the proposal for contributions to the Bernalillo levee was in line with the numbers Kurt Wagener provided. Mr. Blair stated that it was not because the Bernalillo levee is proposed to be a more even split with each entity providing \$2M. Director Faust asked if the Conservancy putting in less money in the Bernalillo project than it did in the ABQ west levee project was reasonable. Mr. Blair stated that a key part of ESCAFCA's proposal would be that the Conservancy take on the operation and maintenance of the facility, which would be a significant long-term cost. Chairman Reyes asked where the Conservancy came up with the money to contribute to the ABQ west levee project. Mr. Blair stated that all of their money is from the taxes they collect from their rate payers. They have no capital program and they do not sell bonds. In many cases, they have the Bureau of Reclamation fund their projects and then they are indebted to the Bureau. Mr. Cadigan pointed out that the ABQ west levee project had substantial government involvement, in that the Feds are to repay 75% of the cost.

d. Corps of Engineers update: Blair [late m/o]: Provided for information.

e. Pipeline report: Mr. Blair stated that HB306 does not affect the pipeline issue because it is a federal grant that ESCAFCA is going to proceed with. He stated the next public meeting will be a cooperative sponsorship with the Public Regulation Commission Pipeline Safety Bureau from the State. At this time,

they are hoping all the pipeline companies come in to set up displays in the Community Center in Placitas. The next meeting is April 7. Chairman Reyes asked what the response has been at the meetings. Mr. Blair stated the response has been very dismal. The first meeting had 11 people, the second meeting had 9 people and the last meeting no one showed up. The next meeting is to have the pipeline companies present to discuss where the pipelines are and the hazards of the pipelines. Chairman Reyes asked what the hopes were to accomplish through this study. Mr. Blair stated that he hopes to get the pipeline companies to agree that some protective measures are necessary and that they will allow ESCAFCA to analyze what type of projects are needed and do some preliminary designs for them or with them. This is an authorized expenditure from the grant.

f. Prudent line study: Mr. Blair stated that at the meetings and on the website, the deadline for any comments was March 15. He stated that there were very few comments. He stated he would present a Resolution to adopt the policy, and also to accept the Prudent line study. The study can be used as a management tool in addressing possible development along the arroyo. Chairman Reyes asked that since this is part of the excluded territory should ESCAFCA proceed with it. Mr. Blair responded that he felt ESCAFCA should carry it on to completion and that it will still be a management tool for somebody, even if it isn't ESCAFCA.

g. Prudent line policy: Blair – this item was addressed in item 20f.

h. Action: Extension of Gary Young's contract until 31 May 2011 [late m/o]: Motion to extend Gary Young's contract until 31 May 2011 made by Director English; second by Director Faust. Passed unanimously.

21. Public Comment [limit to 3 minutes]: None

22. Adjourn at 8:10 PM. Motion to adjourn made by Director Torres; second by Director Sandoval.

Regular meeting 6 PM, Tuesday 19 April 2011, at Bernalillo Town Hall

Submitted by Kristi Winters

Board Secretary

Audio recording is on file.