

EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY

Minutes of Regular Meeting 18 January 2011

1. Call to Order at 6:00 PM
2. Pledge of Allegiance led by Chairman Reyes.
3. Roll Call: All present
4. Approval of Agenda [m/o] Director Faust asked if the Board could discuss the letter from Senator Cravens. Mr. Blair stated he would discuss it under the Engineer's report. Motion to approve the agenda made by Director Sandoval; second by Director Faust. Passed unanimously.
5. Introduction of Guests: Larry Blair introduced Ron Schranz, Burt & Co.; Bill Smith with 1st Community Bank; Augustine Grace, EE applicant; Tim Simmons, EE applicant; Mike Castillo, EE applicant. Don Lopez, EE applicant. Others present were Susanne Dominguez; Ron Overley, Sundance Mesa; Orin Safier, self; Barbara Longeway, self; Jock Embry, self; Jesse Dickson, Dickson Hydraulics.
6. Chair's Report - none
7. Approval of minutes:
 - a. Special meeting of 03 January 2011 [m/o]: Director Faust stated that Director English had asked for information pertaining to how charges were processed on the two task orders that were approved. She stated that the question did not make it in the minutes of January 3, 2011, and asserted that when a Director requests information from staff, said request should be noted in the minutes. She stated this would be helpful to follow up on in future meetings. Director English stated that she spoke with Angela Valdez with Wilson & Company after the meeting. Director English stated that it would be helpful if the breakdown of charges could be presented at the same time a task order is presented, so they could see how the charges were derived. Director Faust requests that the minutes reflect Director English's request for a breakdown of charges on the task orders. Motion to approve Special meeting of 03 January 2011 as amended made by Director Faust; second by Director English. Passed unanimously.
8. Discussion/action: Approval of the 2008-2009 Audit : Ron Schranz, Burt & Co. [m/o] Mr. Blair recommended the Board to accept and approve the audit. He stated that the early part of each document contains an Overview of the Authority activity; a succinct history of the first two years of the Authority. Director Faust asked if a bonus payment of \$4,500 was paid to Joan Griffin after the bond election passed, and if it was part of the \$44,445 that is listed in the statement of activities. Mr. Blair stated that a bonus was paid to Griffin & Associates as part of a subcontract with Wilson & Company. He stated that the \$44,445 amount was related to the fee paid to RBC for the bond issue. Director Faust asked if the bonus shows up in any part of the report. Mr. Blair stated that it would be in payments made to the consultants. Director Faust asked if anyone had a sense of what percentage of the operating funds the \$4,500 payment was. Mr. Blair stated that he did not know. Motion to accept and approve the 2008-2009 Audit made by Director Torres; second by Director Sandoval. Passed unanimously.
9. Discussion/action: Approval of the 2009-2010 Audit : Ron Schranz, Burt & Co. [m/o] Mr. Blair recommended the Board accept and approve the audit. Director Faust asked what the construction in progress dollar amount meant because it was her understanding that funds had not been spent on construction yet. Ron Schranz stated that under the accounting rules when expenditures are made leading to construction, such as planning and engineering that expenditure might be expensed or capitalized against that project. In this case, ESCAFCA has had certain studies done on projects that will most likely end up being an infrastructure project. When that is the case, the expenditure gets capitalized because the rest of the project will be a capital improvement project. Director Faust asked since it is capitalized, it doesn't mean that \$93,000 has been spent to date on construction. Mr. Schranz responded that this is correct, but it means that money has been spent which will be charged against

that project. Director Faust asked if Mr. Schranz had any advice on the audit findings and the brief recommendations. Mr. Schranz stated that the financial statements have been prepared under the governmental auditing standards. Under these standards they prepare a financial statement audit and an internal control report. Under the internal control report, they will look at any instances that they found during their test work that may need some future improvements for internal controls. In the governmental financial statement those are included within the report and those are included as finding 2010-1 Revenue Recognition and 2009-3 Improper Administration of Procurement Code. Both of these items have been listed for future action and the agency has a response detailing its response to these findings. In both 2009 and 2010, the authority received an unqualified opinion, which means it is a clean report. Director Faust asked Mr. Schranz to elaborate on the finding regarding the procurement code. Mr. Schranz stated that it is an audit finding and the finding related to certain contracts that the authority entered into was a misunderstanding on what a sole source contract related to. Mr. Schranz stated that there were contracts that were labeled as sole source but were not. Director Faust thanked Mr. Schranz for all of the work that was put into the audit and asked if it was going to be posted on the website. Joan Griffin stated that the audit was going to be placed on the website by the end of the week. Larry Blair stated that the link for the State Auditors website would be provided on the ESCAFCA website and the report can be viewed from the State Auditors website. Director Torres thanked Larry Blair for all his hard work on the audit and stated that he was impressed with the prior year's audit findings which were resolved. Even though there were two new findings, he feels the responses are reasonable and will be resolved as well in the upcoming audit. Director Torres stated that the purpose of an audit should be used as a tool to improve an organization. He stated he knows everyone wants to see a perfect audit but in light of the limited resources ESCAFCA has, he is impressed and thankful for Larry's hard work. Chairman Reyes thanked Larry for all his hard work. Mr. Blair stated that the credit was to be given to Gary Young. Motion to accept and approve 2009-2010 Audit made by Director Sandoval; second by Director Faust. Passed unanimously. Larry Blair stated that the Audit is now public record. Mr. Schranz thanked the Board for allowing his company to perform the work and for all of their cooperation. He stated Governmental audits are a significant piece of work and both reports had unqualified opinions, which is good. Unqualified opinions means the balances are materially and correctly stated. He stated he feels the financial statement presents well what the organization is attempting to do and that management spent a lot of time and energy.

10. Finances:

a. Discussion: Financial Report: Gary Young [late m/o] Gary Young stated that in order to download the audit report from the Office of the State Auditors website, you have to type in the word "Eastern" and it will pull up all organizations with that name. Gary Young reviewed the financial report with the Board.

b. Action: Approval of Accountant agreement [late m/o] Larry Blair stated that an agreement was drafted for the accountant position. He stated it was based on the contract that ESCAFCA had with Gary Young. This is a proposed agreement and can be negotiated when an accountant is hired. Mr. Blair stated that this document was for the Board to review and if they had comments, they could contact him.

c. Action: Approval of Accountant RFP [late m/o] Mr. Blair stated that approval is needed on this item so it can be put in the newspaper this week. The RFP calls for the submittals to be made by Wednesday, February 9, 2011. It contains factors as required by the procurement code. Director English expressed concern about the price being weighed at 30 points. She feels this is way too high. Chairman Reyes asked Director English what she suggested. Director English suggested to take out price completely or put it down to 10 points. Director Torres stated he agreed that 30 points was too high but there needs to be some sort of criteria. Mr. Cadigan cautioned the Board to have price as part of the proposal. He stated that if someone were to challenge the Boards selection, the Board would have to show that the selection was rational based on factors and price is one factor that ESCAFCA should use. After further

discussion, the weighing was changed to 40 points for Education and Training; 40 points for advise and assist ability; and 20 points for price.

d. Action: Approval to move ESCAFCA funds to non-interest bearing accounts: William Smith, 1st Community Bank [m/o]: Mr. Blair requested a motion to move all ESCAFCA funds to non-interest bearing accounts (NIB) because the NIB accounts would provide full FDIC coverage and maximum accessibility. The current accounts are FDIC insured up to \$250,000, with the remainder being 100% collateralized. Although relatively secure, the collateralized funds could be difficult to recover if needed. Bill Smith gave a synopsis on the bank and its customer base and explained that regulations effective January 1, 2011, removed full FDIC insurance on interest bearing accounts, so the bank had collateralized funds over \$250,000. He presented a handout displaying some other options, such as "laddered" Certificates of Deposit (CD), which would earn some interest. Mr. Steve Barro presented information asserting that ESCAFCA is paying 4.5% interest, but earning virtually nothing; thus wasting money. He recommends CDs or other investments to minimize the losses. Doris Faust asked about the State Investment Pool (SIP). Mr. Blair and Counsel Cadigan cautioned that the SIP has sustained losses in the recent past, and that CDs available to the regular customers may not be appropriate or allowable to government, because of risk. Mr. Blair and Chairman Reyes suggested that funds should be moved to NIB accounts now, while the Board considers other options. After further discussion, no motion was made on Mr. Blair's recommendation, and Counsel Cadigan clarified for the record that no action was taken. More information will be presented at the next meeting.

11. Discussion/Action: Resolution 2011-1 Open Meetings Standards [m/o]: Larry Blair stated that there would be no extra cost to e-mail anyone who wanted updates on the meetings. Mr. Blair recommended that the Board not add in e-mailing as a requirement in the Resolution but take the opportunity of utilizing the website and have sign up information for e-mails available on the website. Chairman Reyes agrees with Mr. Blair and feels this should be an operating order and not a part of the Resolution. Director Faust stated that she has been on this e-mailing list for awhile and has received one agenda. She stated that her request to put this in the standards was to put some pressure on ESCAFCA and the website and actually make it work for the constituents. Joan Griffin suggested that an e-mail be sent to everyone on the database. Director Torres asked how to get in the database. Ms. Griffin stated that when someone signs up the e-newsletter, it puts them in the database. Director Torres stated that clear direction had not been given to Ms. Griffin regarding what should be sent out by e-mail. Director Faust stated that it was a simple and free process, and it provides constituents with notices of meetings. She asked why ESCAFCA doesn't follow these guidelines and make it a rule. Chairman Reyes stated to make it apart of the operating procedure rather than part of the open meetings standards. Director Torres stated that he disagreed with e-mails being added to the Resolution. He stated his concern was if someone claimed that they didn't get e-mail notification, they would allege a violation of the resolution. He recommended passage of the resolution as written with one year trial period using the website. Ms. Griffin said the website can be set up to distribute the agenda. Director Torres moved to adopt Resolution 2011-1 as written and direct staff to send updates to the data base; second made by Director Sandoval. The motion passed with 4 in favor, Director Faust opposed.

12. Action: ESCAFCA Procurement regulations [m/o]: Mr. Blair recommended the Board approve the ESCAFCA Procurement regulations. Director Faust stated that concerns were raised on the definition of immediate family to include "persons who substantially share living expenses". Director Torres presented a hypothetical situation of a married couple versus a couple living together and asked if they should be treated differently. During further discussion a motion was made by Director Torres to adopt ESCAFCA Procurement regulations; second by Director Sandoval. Director Faust moved to amend the motion to delete "or person who substantially shares living expenses"; second by Director English. The vote on the amendment was Director Faust and Director English, for; Chairman Reyes, Director Sandoval, and Director Torres, opposed. A vote on the original motion to adopt as written was Chairman Reyes, Director Sandoval, and Director Torres, for; Director Faust and Director English, opposed.

13. Discussion/action: Executive Engineer position

a. Tabulation of Proposal Scores [handout]: Mr. Blair presented. Motion to interview Mike Castillo, Don Lopez, Augustine Grace, Paul Brasher made by Director Sandoval; second by Director Faust. Passed unanimously.

b. Interview date [optional]: Special meeting on Tuesday, January 25, 2011 at 6:00 pm. Counsel Cadigan reminded the Board that the interviews had to be held in a public meeting.

14. Action: Renewal of Wilson and Company agreement for 4th [and final] year: Dan Aguirre [m/o]: Larry Blair stated he recommended approval of Wilson & Company for 4th and final year. Motion to approve Renewal of Wilson & Company agreement for 4th [and final] year made by Director Sandoval; second by Director Torres. Passed unanimously.

15. Discussion: Engineering Report [m/o]: Larry Blair stated that there was progress on all. Director English requested a copy of the Algodones report. Mr. Blair stated that each Board member will be receiving a copy of the report.

TASK ORDER 5 – Placitas Floodplain Mapping and Delineation

Wilson & Company is awaiting review comments on the Arroyo Del Ojo Del Orno re-submittal made to FEMA on August 24th.

Approval for the combined Piedra Lisa, Agua Sarca, and South Arroyo LOMR submittal was received from Sandoval County in December 2010. LOMR was mailed to FEMA on January 12, 2011, along with the \$5,300 submittal review fee required by FEMA.

The Board has requested that Wilson & Company provide property lines, based on Sandoval County GIS, to clarify properties impacted by the proposed changes to the floodplain. Wilson is coordinating with Sandoval County to provide an exhibit for the February Board Meeting.

A third submittal to FEMA for Las Huertas Creek will be made as soon as the Prudent Line Assessment modeling is complete. The LOMR application for Las Huertas Creek was negotiated as part of Task Order 11.

TASK ORDER 6 – Placitas Tecolote Roadway Drainage Structures

Wilson & Company to complete final modifications to the construction plans, develop a contract book and specifications for bidding.

TASK ORDER 7 – Bernalillo Athena Avenue Detention Facility and Drainage Outfall Feasibility Study

Wilson & Company has made attempts with internal staff and the Town of Bernalillo to locate previous plans containing survey information near Athena Avenue. We have been unsuccessful finding that information. Wilson has coordinated with MRCOG (Mid-Region Council of Governments) to obtain topographic data from the Aerial mapping performed for the Rio Grande. Additional information to be provided by MRCOG as it becomes available. Once the topographic data is compiled it will be used to establish grades adjacent to the proposed Athena Pond.

TASK ORDER 9 – Algodones Conveyance Facility Feasibility Study

Report is complete. Final copies are available. Flood and related damage data are being researched to complete the project information sheet.

TASK ORDER 10 – Mid-Bernalillo Conveyance Feasibility Study

Wilson & Company is moving forward with completion of the study. Final draft of the report re-scheduled to be complete week of January 31, 2011. Flood data is being researched to complete the project information sheet.

Task Order 11 – Las Huertas Creek Prudent Line Assessment and LOMR

A public meeting was held on January 11, 2011 to provide information on the Prudent Line Assessment and to gain public input on the draft document. Based on several requests to include the existing FEMA effective floodplain limits to the mapping, this has been completed.

Phase 2 of the task order, LOMR for Las Huertas, is on-going.

Task Order 15 – Placitas Pipeline Safety Grant Administration Assistance

A public meeting was held on January 11, 2011, in conjunction with the Prudent Line Public Meeting to discuss Pipeline Safety Issues in the Village of Placitas.

16. Executive Engineer's Report

- a. Board photos: Contact Carla Salazar, Town of Bernalillo at 867-3311 to make appointment
- b. EPA MS4 permit update [m/o]: Mr. Blair reviewed mailout with the Board.
- c. MRCOG membership update: Mr. Blair stated that the membership fee for MRCOG was paid but MRCOG deferred the request for membership pending an internal review of membership criteria and dues. ESCAFCA's check was returned.
- d. AG letter: inspection of Public records Act complaint-ESCAFCA, Jan 10, 2011 [m/o]: Mr. Blair stated the AG letter was a summary of the complaint filed. Director English asked how the original complaint was handled. Mr. Blair stated that the requests would come to him since he was the custodian of the records. He stated he was able to provide information for the requests. Director English requested that whenever there is an inquiry of this nature, to let the Board know. Mr. Blair stated that he will forward all such requests to the Board. Director Faust expressed concerns about receiving letters from the Attorney General. Director Torres stated that he is astounded regarding how many requests have been received and the tone of the requests received. He stated that Larry Blair has bent over backwards to make sure all of these requests have been answered. Chairman Reyes stated that at the next meeting a spreadsheet could be provided to show the Board how much it is costing ESCAFCA for these types of requests. Director Sandoval stated it would be a good idea for the public to see how much it is costing ESCAFCA. Director Faust asserted that the public has a right to know how their money is spent and that ESCAFCA has to comply with the IPRA law.
- e. Letter from Senator Kent Cravens [late handout]: Mr. Blair handed out a letter from Senator Kent Cravens and stated that ESCAFCA will be responding to the letter. Director English read the letter in its entirety to everyone.

17. Public Comment [limit to 3 minutes]: Orin Safier stated that his main complaint was transparency and letter from Senator Kent Cravens proves the non-transparency. He stated that this was not just a lack of transparency but also misrepresentation and that this has been everyone's complaint all along. He stated that not only was there no attempt to tell the voters the correct tax amount but there was an actual cost in the campaign to mislead the voters and legislature. He stated that the public is very interested in seeing the progress of projects and to post on the website and would like to see more public access to information.

Susanne Dominguez mentioned that Director English and Director Faust are a wonderful asset to the Board. She stated the Board should have considered a special session regarding the banking issue and feels some of the Board members should take a basic class on banking.

Barbara Longeway stated that there was deception in the bond issue and didn't realize they were paying someone to campaign against them. She stated that ESCAFCA works for the taxpayers regardless of how many inquiries there are.

18. Adjourn at 8:48 PM. Motion to adjourn made by Director Faust; second by Director Sandoval.

Next regular meeting 6 PM, Tuesday 15 February 2011, at Bernalillo Town Hall

Submitted by Kristi Winters

Doris Faust, Board Secretary

Audio recording is on file.