

EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY

Minutes of Regular Meeting 14 December 2010

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 Gorrell stated that a draft was completed and e-mailed for Item 14 but he forgot to bring the hard copy. He would like to move Item 14 to after Item 9. He stated he wanted to add Item 18b for his parting comments. Motion to approve Agenda as amended was made by Director Sandoval; second by Director Kilfoy. Passed unanimously.
5. Introduction of Guests: Director Reyes introduced Orlando Lucero, Sandoval County Commission Chairman; Sandoval County Commissioner Don Leonard, Sandoval County, and Bill Sapien, former Chairman of ESCAFCA. Director Gorrell introduced his wife Terri Gorrell. A sign-in register is on file.
6. Approval of minutes:
 - a. Workshop meeting of November 9, 2010 [m/o]: Director Gorrell made a few suggestions on slightly changing the verbage in Item 7: ESCAFCA Project List – July 2008. He also asked to add “Wilson & Company was asked to develop a cost benefit analysis for an ESCAFCA project for consideration by the Board” to Item 8: ESCAFCA Project List – Current. (The minutes were so amended). Motion to approve minutes of Workshop meeting of November 9, 2010 as amended made by Director Gorrell; second by Director Torres. Passed unanimously.
 - b. Regular meeting of November 16, 2010 [m/o]: Director Gorrell asked to add “for other than channels, dams, and appurtenances useful or convenient for the interception and transportation of flood waters” to Item 7a: Minutes of September 14, 2010. Director Gorrell also asked to add “Counsel Cadigan clarified that the statute does not require the distribution (of Directors) stated by Director Kilfoy and Chairman Reyes” to Item 9a: Districting of ESCAFCA; Briefing on the Process. [The minutes were updated to read “Counsel Cadigan clarified that the statute does not require, nor does it prohibit the distribution stated by Director Kilfoy and Chairman Reyes” per the audio recording.] Director Gorrell also asked to add “Director Gorrell asked if it was a good idea to combine the public meetings on Prudent Line with the Pipe Line safety meetings. Mr. Blair stated maybe not and the presentation adjustments could be made if needed” to item 12b: Prudent Line Study. [The minutes were updated to reflect these changes.] Motion to approve Regular meeting of November 16, 2010 as amended made by Director Sandoval; second by Director Kilfoy.
 - c. Special Meeting of December 3, 2010 [m/o] Motion to approve Special Meeting of December 3, 2010 made by Director Kilfoy; second by Director Sandoval.
7. Finances discussion:
 - a. Audit update: Larry Blair reported that the audit was submitted to the State Auditor on December 1, 2010. He stated that the audit typically takes 4-8 weeks before it’s reviewed and sent back to the Board at which time the Board will examine the audit. He stated that both audits from 2009 and 2010 were submitted and there were no major findings. Treasurer Torres and Secretary Kilfoy were able to attend the exit conference with the Auditors before the report went in. Director Torres thanked Larry Blair and Gary Young for the work they put into the audit.
 - b. Financial Report [m/o]: Director Gorrell stated he spoke with Gary Young about per diem reimbursement and making timely payments. He stated that a good policy to follow is to have everything handed in within 45 days or you lose your right to it. He stated that this policy is a good way

to solve a difficult accounting problem. Chairman Reyes stated he felt it was a reasonable suggestion and it could be considered.

c. Notice of Contract Termination from Gary Young [m/o]: Larry Blair stated that when Gary Young's contract is up in March, that he does not want to renew it because of other commitments he has. He submitted the letter now to give ESCAFCA time to contract for a new accountant before March.

8. Action: Resolution 2010-11: Certification of Canvass of 2010 Board Election [m/o]: Motion to adopt Resolution 2010-11 made by Director Torres; second by Director Gorrell. Passed unanimously. A roll call vote was taken with the following results:

Director Gorrell – yes

Director Torres – yes

Director Sandoval – yes

Director Kilfoy – yes

Chairman Reyes – yes

9. Discussion/Action: Districting of ESCAFCA.

a. Discussion: Guest speakers Sandoval County Commissioners Orlando Lucero and Don Leonard addressed the Board regarding their thoughts on districting of ESCAFCA. They both were instrumental in the creation of ESCAFCA and gave insight on the intent and process. Don Leonard stated that neighbors need to work together and help each other out. Orlando Lucero stated that the intent of the Board was to have representation of 2 from Bernalillo, 2 from Placitas, and 1 from Algodones.

Director Gorrell stated that resources were a problem in that there are far more need than the tax base can support. He asked why County Resolution 2010-5-6-9B was not followed. Mr. Lucero stated that this item was discussed extensively. Director Gorrell stated that this was not a cost effective approach and that the constituents are paying 4 times the taxes of AMAFCA. He stated this was a scale problem. He asked if the County would recognize this problem. Mr. Leonard stated that the reason for a Flood Control Authority is to put things in place in case of a disaster. He stated that whether it was ESCAFCA or the County, the constituents would still have to pay taxes.

Gino Rinaldi asked if there was an incident, would the County show up to help.

Orlando Lucero stated that yes, everyone would show up to help.

b. Draft legislation [m/o]: Larry Blair stated that the draft legislation would allow ESCAFCA to move to single member districts. Director Gorrell stated that this was not fixing the problem which is that ESCAFCA is too small to work. He stated that he would abstain from voting. Director Torres asked that in terms of practical application and assuming ESCAFCA goes to districting, how does it work with ending someone's term? Counsel Cadigan stated that there is no requirement for all to resign and have a full new election. He stated that as the districts come up for election, the Board will have to decide which districts will be staggered and which will not. He stated that when AMAFCA districted, it was after they were sued in Federal Court and part of the settlement agreement was that everyone would resign and run for re-election but for ESCAFCA that there was no requirement that everyone resign. Director Torres asked if this was a Board decision. Counsel Cadigan stated that it would be a Board decision. Director Sandoval asked if language should be added to the Resolution to move forward with Districting because he doesn't want ESCAFCA to get sued. He asked if the same terms could be used. Counsel Cadigan stated that the Board could decide as long as it wasn't against the voting act. Motion to approve the draft legislation for the Districting of ESCAFCA made by Director Torres; second by Director Kilfoy. The motion carried with four in favor and Director Gorrell abstaining.

10. Action: ESCAFCA Procurement regulations [m/o]: Larry Blair highly recommended the approval of the ESCAFCA Procurement regulations. Director Gorrell suggested changes to the document. Counsel Cadigan stated that the state procurement code requires each entity to have regulations in place before it moves forward with procurement. He stated that under the level of scrutiny that ESCAFCA is under, it would be beneficial to adopt the regulation, then modify at a later date. Motion to approve ESCAFCA

Procurement regulations and have Mr. Cadigan modify the technical wording considering Director Gorrell's suggestions at the next meeting made by Director Kilfoy; second by Director Torres. Passed unanimously.

11. Action: Renewal of Professional Engineering Services Agreement with Larry Blair for 3rd year [m/o]: Larry Blair stated he is willing to renew his agreement, priority to get the new Executive Engineer up to speed, and finish up the Pipeline Grant. Director Gorrell suggested that a dollar amount be added to the agreement. Larry Blair stated that he was agreeable to \$49,999 as the limit of compensation for this renewal, but there was not a limit on the last contracts he had with ESCAFCA. Director Gorrell asked for the advice of Counsel regarding the compensation limit on the contracts without having to put out an RFP. Counsel Cadigan stated if the previous contracts were illegal there would have had to have been a challenge to the contract within the period provided in the procurement code. It was signed and approved by the prior Counsel to the Board. The procurement code, both the State law and the regulations that were just adopted, allow to procure additional services under an existing contract without going out to bid and the initial term for this agreement can be renegotiated and renewed annually by mutual consent for an additional 3 years; and ESCAFCA is still within the 3 years. He stated that contract does not have to be rebid at this point. Motion to approve the Renewal of Professional Engineering Services Agreement with Larry Blair for 3rd year made with the compensation limit of \$49,999 made by Director Kilfoy; second by Director Torres. Passed unanimously. Director Gorrell stated that he voted for this motion under the advice of Counsel but he did not feel comfortable with the advice Counsel had given.

Recess at 7:35 PM; reconvened at 7:43 PM.

12. Discussion/action: Executive Engineer position

a. Cancellation of RFP [m/o]: Motion of the cancellation of RFP made by Director Gorrell; second by Director Sandoval. Passed unanimously.

b. Approval of new RFP [m/o]: Larry Blair reviewed the new RFP. Director Gorrell asked for minor changes to the document which were acceptable with the Board. Motion to approve new RFP as amended made by Director Sandoval; second by Director Gorrell. Passed unanimously.

c. Review/comments on draft contract [m/o]: Larry Blair reviewed the draft contract. Director Gorrell asked for minor changes to the document which were acceptable by the Board. Motion to approve new RFP with changes made by Director Gorrell; second by Director Sandoval.

d. Proposed timeline [m/o]: Larry Blair reviewed the timeline for the new EE:

January 12 – proposals are due

January 13-17 – Directors score proposals

January 18 – Scores tallied

January 24-28 – Special meeting

Early February – Contract negotiated

February 15 – Contract approved and signed

13. Discussion: Engineering Report [m/o]: Larry Blair reviewed the Engineering 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.

LOMR for the combined Piedra Lisa, Agua Sarca, and South Arroyo submittal was made to Sandoval County on November 19, for their review and approval. Brad Stebleton's signature will be required prior to submittal to FEMA as he is the local Floodplain Administrator.

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 is awaiting a coordination meeting to discuss development options with the Town of Bernalillo. Wilson & Company will move forward with feasibility analysis for a collection system to convey runoff from adjacent neighborhoods to the 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 scheduled to be complete week of January 17, 2011. Flood data is being researched to complete the project information sheet.

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

A second Draft of the Channel Stability Analysis and Prudent Line Assessment was provided on October 15th for distribution to Board Directors. Wilson & Company to coordinate public meeting dates and times to gain public input on the draft document. Several requests have been made to include the existing FEMA effective floodplain limits to the mapping provided in the report. Wilson & Company to add that to the maps for public distribution.

Phase 2 of the task order, LOMR for Las Huertas, is scheduled to commence early January 2011.

Task Order 15 – Placitas Pipeline Safety Grant Administration Assistance

Wilson & Company is working with ESCAFCA in coordinating and preparing for public meetings to discuss the Prudent Line and Pipeline Safety in the Village of Placitas. First public information meeting will be held in Placitas on Thursday, December 16, 2010.

Director Gorrell complimented the project list and status report and asked about the status of the Bernalillo Levee. Larry Blair stated that at the annual Flood Control breakfast, the COE gave a report that by February or March, the President's budget should be acted on, and then they will know for sure if they have any money for the levee. Director Gorrell would like to get a copy of the bill in order to track and help lobby to get the levee approved.

14. Discussion: Drainage Task Group Final Report: Director Gorrell stated that he worked with the group on the drainage policies and tried to determine how to create an instrument that would work. He stated that the 24 page drainage policy was reduced to 8 pages with what the group came up with. He would like to see the document be sent to Fred Aguirre to see what the differences are and bring back to the Board to review. Chairman Reyes stated that it could be brought up in a future session with Director Gorrell present.

15. Action: Meeting schedule

- a. Special Board meeting, Monday January 3, 2011: Swearing in of new Directors
- b. 2011 meetings: Third Tuesday each month would better accommodate the ESCAFCA board meetings. Larry Blair stated that at the next meeting the Board will be given an Open Meetings Resolution that will outline all the meetings for the year.
- c. Regular meeting 6 PM, Tuesday 18 January, 2011 at Bernalillo Town Hall
- d. Exec Engr interviews: TBD [see Item 11d].

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: None

c. Other: Larry Blair stated the first informational briefing on the Prudent Line study and Pipeline safety issue will be at the Placitas Community on December 16. There will be more meetings in January and February.

17. Chairman's Report: None

18. Public Comment [limit to 3 minutes]

Karen Kenny asked if there was information about districting on the website. She stated that it would be very helpful for the public to be able to read about what the Board is reviewing during the meetings. Chairman Reyes stated that districting was discussed in the November 12 Board meeting and that the Board will try to comply with her request.

Gino Rinaldi asked if the Board would consider putting the public comment at the beginning of the meeting and that sometimes people have questions and can't stay for the whole meeting. He thanked the Board for putting the levee as a priority and he applauds the Board for their hard work.

18b. Parting Comments by Director Gorrell: Director Gorrell commented that he felt ESCAFCA is in trouble and that there was a scale problem. He stated that ESCAFCA has responsibilities that completely dwarf the resources to deal with the responsibilities. He stated that ESCAFCA could get help from the County if their priorities were reconfigured. He feels that with the way ESCAFCA is currently set up, it's too small to succeed. He stated that ESCAFCA was a "pig in a poke" and that it isn't as good as it appears. He commended the Board for their hard work and the public for participating in the meetings.

19. Adjourn at 8:27 PM. Motion to adjourn made by Director Kilfoy; second by Director Sandoval. Passed unanimously.

Regular meeting 6 PM, Tuesday 18 January 2012, at Bernalillo Town Hall

Submitted by Kristi Winters

Board Secretary

Audio recording is on file.

Chairman Reyes presented plaques to departing Directors Kilfoy and Gorrell, and expressed appreciation for all their contributions.