

**ACTION SUMMARY MINUTES**  
**MINUTES OF THE REGULAR MEETING OF**  
**THE BOARD OF DIRECTORS OF THE**  
**FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**  
**HELD WEDNESDAY, FEBRUARY 12, 2014**

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Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, February 12, 2014 at 6:00 p.m. in the Board Chambers of the Fresno Metropolitan Flood Control District at 5469 East Olive Avenue; Fresno, California.

**DIRECTORS PRESENT:** Jennette Williams, Chairman  
Mike Rastegar, Vice-Chairman  
Roy Spina  
Kendall Groom  
Barbara Goodwin  
Frank Fowler  
Buzz Burleson

**DIRECTORS ABSENT:** None

**STAFF, CONSULTANTS,  
OTHERS PRESENT:**

Bob Van Wyk, General Manager  
Jerry Lakeman, District Engineer  
Alan Hofmann, Assistant District Engineer/Design  
Peter Sanchez, Operations Engineer  
Frances Lopez, Office Manager  
Karyn Kruser, Staff Analyst  
Paul Merrill, Finance Manager  
Daniel Rourke, Environmental Resources Manager  
Paul Allen, Facilities Manager  
Debbie Campbell, Development Services Manager  
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel; Baker, Manock & Jensen  
Ken Price, Assistant General Counsel;  
Baker, Manock & Jensen

Jim Barr, Leash Free Dog Park Proponent  
Camille Fisher, Leash Free Dog Park Proponent  
Charles Hebner, Leash Free Dog Park Proponent  
Karen Elliot, representing FIDO  
Bob Hutchins, Leash Free Dog Park Proponent  
Paul Orloff, Leash Free Dog Park Proponent  
Mr. & Mrs. Lane, Leash Free Dog Park Proponent  
Carol Sebolt, Leash Free Dog Park Proponent

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Steve Francisco, Leash Free Dog Park Proponent  
Mario Fox, Leash Free Dog Park Proponent  
Eleanor Garabedian, Leash Free Dog Park Proponent

**PRESIDING:** Director Williams, presiding as Chairman called the meeting to order at 6:00 p.m. and Director Rastegar led the Pledge of Allegiance.

**2. REPORT OF THE GENERAL MANAGER:**

Mr. Van Wyk reported on the following: (1) staff has completed the field audit with the Department of Water Resources on the Proposition 1E Grant; he stated while the “exit conference” has not been completed as of yet, the Auditors did mention they believe everything was in order and anticipate the Audit being completed within the next few weeks; (2) a letter inviting the development community to comment regarding the District’s proposed Development Review Fee had been sent out today; he stated the letter also invites the development community to a meeting at the District Offices on February 26, 2014 at 1:30 pm to review the proposed fee; (3) he distributed an email dated September 13, 2013 from Jason Marechal of Kimley-Horn & Associates, Inc. acknowledging the work of District employee Gary Chapman; (4) he distributed an article featured in The Fresno Bee dated February 3, 2014 entitled “Senator working to ease drought – New legislation would stress stormwater reuse”; he stated staff would be following this item very closely; and (5) he distributed several letters pertaining to Agenda Item No. 9. Request by Jim Barr to Address the Board Regarding Converting Basin “DD<sub>1</sub>” (Holland & Thorne) into a Leash Free Dog Park; said letters are described in detail under Agenda Item No. 9

**3. APPROVAL OF MINUTES: Minutes of January 22, 2014**

**Approved as Recommended**

**Motion by:** Goodwin    **Second by:** Rastegar  
**Ayes:** Williams, Rastegar, Spina, Groom, Goodwin, Fowler, Burleson  
**Noes:** None  
**Abstentions:** None  
**Absentees:** None

**4. BUSINESS AND PRESENTATIONS FROM THE FLOOR:**

There was no Business or Presentations from the Floor

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**5. ADDITIONS TO THE AGENDA:**

There were no Additions to the Agenda.

**6. POTENTIAL CONFLICTS OF INTEREST:**

Director Goodwin noted a potential Conflict of Interest with Agenda Item No. **14. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to sub-division (b) of Gov. Code Section 54956.9: (Number of Potential Cases: 1)**, and stated she would therefore be recusing herself on this item.

**7. PUBLIC HEARING:**

There were no Public Hearings scheduled.

**8. CONSENT CALENDAR:**

- a. Acceptance of Audit Engagement Notification, Money Purchase Pension Plan
- b. Acceptance of Quarterly Investment Report for Period Ending December 31, 2013  
  
This item was pulled by staff
- c. Acceptance of Report of External Auditor, Brown Armstrong Accountancy Corporation, Fiscal Year 2012-2013, Financial Statements
- d. Report of District Auditor, Brown Armstrong Accountancy Corporation, June 30, 2013 Audit Findings
- e. Award of Contract “D-65”, Removal of Play Surface Material and Play Equipment, Oso de Oro Lake Park, Basin “D” (Forkner & Barstow)
- f. Engineer’s Report of Construction, January 2014
- g. Quarterly Real Estate Report, January 2014
- h. Second Quarter 2014 Grant Expenditure and Reimbursement Report

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- i. Report of Public Concerns, January 2014
- j. Report on Storm Water Management Program, Storm Drain Inlet Marker Project

Mr. Van Wyk requested Agenda Item 8b be pulled as incorrect information was included in the Board Memorandum; he stated staff will be resubmitting this item at a subsequent Board Meeting.

**Approved as Recommended with the exception of Agenda Item 8b which was pulled.**

**Motion by: Spina                      Second by: Burleson**  
**Ayes: Williams, Rastegar, Spina, Groom, Goodwin, Fowler, Burleson**  
**Noes: None**  
**Abstentions: None**  
**Absentees: None**

**9. Request by Jim Barr to Address the Board Regarding Converting Basin “DD<sub>1</sub>” (Holland & Thorne) into a Leash Free Dog Park**

It is recommended the Board of Directors authorize:

1. With the assistance of Liberty Animal Control and the SPCA, District Staff continue to monitor and enforce the Fresno Metropolitan Flood Control District, City of Fresno and County of Fresno “leash laws” at District basins.
2. Staff to inquire if the City of Fresno or some other responsible party is interested in sponsoring additional Leash Free Dog Parks.

The following letters/articles were distributed to the Board: (1) letter from Jim Barr received by the District on January 28, 2014 requesting people contact the District as to allowing for leash free dog parks at District basins; (2) Opinion Page from The Fresno Bee dated February 1, 2014 entitled “Ponding basin leash law” written by Jim Barr inviting supporters of leash free dog parks to the District’s Board Meeting this evening; (3) letter from Evany Zirul received February 10, 2014 expressing her support for leash free dog parks at the District’s Basin “DD<sub>1</sub>”; and (4) letter from Carole Laval dated February 11, 2014 expressing her opposition to District Basin “I” being a leash free dog park.

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Mr. Jim Barr residing at 6084 N. Gentry Avenue, Fresno CA 93711 addressed the Board questioning whether or not Basin "DD<sub>1</sub>" was under the City or the County and what the requirement was as to leashed dogs, noting some ordinances allow dogs off leash so long as they are under the owner's voice control. He also requested that there be a public outreach to the pet owners noting he understands the homeowners' concerns. However, he stated that pet owners are concerned that pictures are being taken of vehicles, the Sherriff's Department is cruising the basin, and stated his belief that the public would be better served by informing the pet owners that the leash laws are being enforced, and explaining whether the enforcement is long term or only short term due to a few unruly dog owners whose dogs have caused problems.

Responding to Mr. Barr's question, Mr. Allen responded the District's Ordinance requires all dogs must be on a leash; the County Ordinance requires all dogs to be under immediate control (at heel under immediate voice command). He stated the County and the District are on the same page, noting they do not want to have to issue citations and would prefer educating the public. However, he stated at some point Liberty Animal Control will have to begin issuing citations to repeat offenders who are not willing to comply with the Ordinances. He stated for the City of Fresno, the first citation is a written warning; the second citation is \$100.00; third and subsequent citations are \$200.00; upon a third or subsequent citation the owner of the dog shall be issued and order to spay or neuter all dogs possessed by that person and provide proof of compliance to the pound master within sixty (60) days and/or implant a microchip identification device in all dogs possessed by that person. With the County of Fresno, first citation is \$100.00; second citation is \$200.00; and third and subsequent citations are \$500.00 per dog. He stated with respect to someone taking pictures, Mr. Allen stated he is not aware of anyone taking pictures at the site, but stated he would follow-up with his staff.

Ms. Camille Fisher residing at 5458 N. Del Mar, Fresno, CA 93704, addressed the Board expressing her support for Basin "DD<sub>1</sub>" as a leash free dog park as she noted it is a great community event.

Mr. Charles Hebner residing at 4622 N. Safford Avenue, addressed the Board with respect to his support for Basin "DD<sub>1</sub>" as a leash free dog park noting he provides "neighborhood watch" of the basin and school; the leash free dog park provides those on a fixed income a close proximity dog park as the other dog parks are too far away; the peer pressure by the participants at the dog park help enforce the rules; the dog park participants clean up the basin; it is family friendly; and he has not seen one negative reason for this site to not be a leash free dog park.

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Ms. Karen Elliot representing FIDO, residing at 1461 W. Stuart, Fresno CA 93711; addressed the Board with respect to her belief the neighbors of Basin "DD<sub>1</sub>" are resistant to the fact that the dog park is even there. She also noted the last time the FIDO group met with the District Board, the District suggested making the Pinedale basin into a dog park; she stated FIDO was supportive of this idea, and in fact had met with the business owners adjacent to the Pinedale basin, and only one business owners was opposed to the idea. She stated the FIDO group presented that information to staff; however, nothing ever materialized from that proposal. She would like to know why the Pinedale basin did not become a leash free dog park. She stated responsible dog owners are far more likely to help a neighborhood rather than hinder a neighborhood. She expressed her support for Basin "DD<sub>1</sub>" to be a leash free dog park. She stated the excuse that the basin smells is not true, and if there are smells it is coming from the garbage cans at the nearby school.

Mr. Bob Hutchins, 1321 E. Swift, Fresno CA 93704; expressed his support for the Basin "DD<sub>1</sub>" to be a leash free dog park as he has a large dog with a small back yard, and the basin has been a lifesaver for he and his dog, noting it is the only place he can throw a ball and get his dog to run. He stated he demands that the District respect the fact that there are people in the community who are not breaking the law on purpose for any mischievous reason, but rather are simply trying to exercise their dogs. He stated going to the El Capital basin would be extremely expensive for him as a retired person on a fixed income.

Mr. Charles Hebner re-addressed the Board with respect to the two District employees who have been bitten by dogs at Basin "DD<sub>1</sub>" noting that was a relatively small amount given the length of time the basin is being used as a leash free dog park.

Mr. Paul Orloff residing at 564 W. San Jose 93704; expressed his support for Basin "T" as a leash free dog park as he noted it is a wonderful community event and a good place to exercise their dogs. He also noted the dog owners clean up after themselves.

Mr. Allen responding to Ms. Elliot's question regarding the Pinedale Basin "AH<sub>1</sub>" stated the FIDO group was short on the fundraising by \$180,000 which was needed to complete the basin landscaping at this site.

Director Burleson noting a letter the Board had received from a resident at Basin "T" who was opposed to this basin being a leash free dog park, questioned whether there was anyone else in the audience who was representing any other District basins other than Basin "DD<sub>1</sub>".

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Several members in the audience stated they were neighbors of Basin "F" (Barstow & Del Mar) and Basin "I" (Bullard & Teilman) and were in support of all these basins being used as leash free dog parks. Mr. Allen stated the basins being leash free dog parks has been an ongoing debate for many years where some residents want it and others do not, and it involves several of the District's Basins such as "I"; DD<sub>1</sub>"; "F"; "H" (Del Mar & Mesa); and "C" (Ashlan & Barton).

Mr. and Mrs. Lane residing on Celeste Avenue adjacent to Basin "I" addressed the Board with respect to their thanks for the District addressing the soccer issues they have had at this basin. They expressed their support for this basin to be a leash free dog park noting the community benefits as had been stated previously. Mrs. Lane however, stated they do not want this Basin turned into an official dog park, noting it is currently a social place and those that currently participate at the basin are responsible dog owners. She also stated dogs on leashes do not get to socialize and exercise as they are able to do right now off leash; and she questioned why the District locks up the basin at the beginning of winter and keeps it locked until April/May. She stated currently it is not locked and they appreciate that. She stated they do not want the basin to change but rather continue to enjoy it as they have for years. Mr. Lane stated the current dog park participants are an extension of the District staff as they police the site.

Mr. Orloff stated they want Basin "I" to remain as is, but suggested the District assign "civilian monitors" to the park to insure the park rules are followed and monitor the dog owners' use of the basin so it can remain an official leash free dog park. He stated he would be willing to become one of the "civilian monitors".

Ms. Carol Sebolt, residing at 147 W. Dubway, Fresno addressed the Board expressing her support for Basin "DD<sub>1</sub>" being a leash free dog park as she and her grandchildren enjoy spending time at the park with their dog and they enjoy the other dogs. She stated she has never has had an issue with the other dogs at the dog park.

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Director Burleson questioned whether Basin "I" is currently being used as a soccer field and how that would work with the basin being used as a leash free dog park. Also, the letter that was sent in objection to Basin "I" being used as a leash free dog park states that there is no gate access from Bullard Avenue, and he questioned whether there is a gate or not. Mr. Van Wyk stated Basin "I" has bike lanes going on both sides of the street and so the District does not make that a public access point to come into the basin site off of Bullard Avenue as that is a safety concern. Mr. Orloff stated that the gate facing Bullard has been locked opened, which he believes is a safety issue. As to the kids playing soccer, he stated the dogs do not go down where the kids are playing, but rather the dogs remain on the top end of the basin. He stated the only problem the soccer players have is occasionally when a dog has left a "mess" the kids slip on it.

Responding to Director Goodwin's question as to liability of a District basin that is not an official dog park, Mr. Jensen stated as of January 1, a Bill went into effect which does not assign the liability to the owner of the property which in this case is the District with regards to the actions of the dogs; however since the dogs are the unlikely defendants the action of people would be involved in a dispute. Mr. Jensen noted the District's basins are in the City and the County and as such, the District cannot change the City or County's Ordinance as to dogs off leash. He stated his belief this is the wrong venue for a change to the Ordinance.

Mr. Steve Francisco, 5661 N. First Street Fresno addressed the Board questioning why the basins' gates are chained open noting they are not able to close the gates and let their dogs run free. Mr. Van Wyk stated the reasons the gates are chained open is that the District's staff has been directed to follow the Ordinances. He stated if the District were to allow the public to close the gates then the dogs would be confined, in that they are chained open, the dogs are not confined. He stated it is a means to comply with the Board's direction. Mr. Francisco questioned whether that direction to chain the gates open could be changed and who they need to go to, to get that changed. Mr. Allen stated the gates have been chained opened by his staff on the direction of the General Manager to enforce the Ordinances that all dogs must be on a leash, he stated when the gates are closed this also makes it inconvenient for other park users besides the dog park participants. Mr. Allen stated his staff has tried to politely inform the dog owners that the basins are not leash free dog parks and that the Ordinances require the dogs to be on a leash, he stated his staff has encountered upset dog owners who simply refuse to comply with the Ordinances. He stated his staff deals with this issue every single day, noting this is the reason the County of Fresno staff and Liberty Animal Control staff are brought into the matter to help educate the public that the District basins are not exempt of the Ordinances and dogs are required on leash.



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Responding to Director Williams' question as to who determines whether the basins can become leash free dog parks, Mr. Van Wyk stated Legal Counsel has advised that the City and the County Ordinances have to apply to District basins. As to whether the District can ask for exemption to that Ordinance, Mr. Van Wyk stated staff has not explored that possibility.

Mr. Hebner re-addressed the Board with respect to Basin "DD<sub>1</sub>" questioning if Wawona Jr. High had ever complained about the dog park being there. Mr. Van Wyk stated to his knowledge he has not received a complaint from the school. Mr. Hebner stated the participants at this dog park do not care whether or not it is made an official dog park, but rather they would prefer to have it continue as it is, having their dogs off leash. He requested that the District Board just say they would not enforce the Ordinance to require dogs on leash. Also if the District Board cannot allow that, then to let them know who they need to go to in order to have this basin exempted from the Ordinance.

Director Fowler noted while the District Board could possibly make this a leash free dog park, if the neighbors who are opposed to the idea complain to the County of Fresno, Liberty Animal Control would have to enforce the Ordinance. Director Fowler stated he is opposed to the District being in conflict with the County's Ordinances. Also, he noted he has concerns with respect to the liability and cost of a leash free dog park to the District. He stated before he would even consider changing the District's Ordinance, he would want all property owners invited to a noticed Public Hearing.

Responding to Director Williams' question, Mr. Van Wyk stated the District would not be issuing citations. Mr. Van Wyk also stated that he was given specific direction by the Board to uphold the Ordinance due to previous complaints from property owners. That is the reason he directed the gates be chained open.

Ms. Camille Fisher re-addressed the Board noting that if neighbors are complaining about dogs barking at the dog park, she questioned why nobody responded to her complaints about neighboring dogs barking in the middle of the night. Also, she stated the neighbors' complaints about the dog park are probably in the minority when compared to those who enjoy the basin as a leash free dog park on a regular basis. She also stated that she is not interested in Basin "DD<sub>1</sub>" becoming an official leash free dog park so long as they are allowed to run their dogs off leash, and that they be allowed to close the gates to the basin.

Director Williams expressed her belief that she did not see the need to chain lock the gates open, unless there was a serious complaint at a specific basin site.

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Mr. Mario Fox residing at 3318 W. Magill, Fresno questioned why the neighbors in this particular area have more rights than they do, Director Fowler stated the neighbors all have equal rights and the District has to hear all sides before making a decision.

Mr. Hebner stated his belief that if all the neighbors of Basin "DD<sub>1</sub>" were notified of a Public Hearing to determine if this basin should become a leash free dog park, then he believed the leash free dog park proponents would be in the majority. Director Fowler noted it may be more than just the immediate neighbors, and then it would be the District Board needing to vote, but it would still come to the County of Fresno enforcing their Ordinance.

Ms. Eleanor Garabedian residing at 603 W. Barstow, Fresno addressed the Board with respect to who owns the basin land, noting her belief that if the District owns the property then the dogs are not on public property. Director Fowler noted District ponding basins are public lands and therefore subject to County and City Ordinances.

Director Goodwin noted her belief that before the District could do something against the City or County Ordinances, the District would have to have discussions with the other entities. She then suggested the leash free dog park proponents talk to their City and County representatives, and she noted that should the basins become leash free dog parks they would not be exclusive to the neighborhood, but rather would be open to the general public.

Director Fowler requested staff come back with an Agenda Item at a subsequent Board Meeting to discuss the issue of closing the gates and not locking the gates open. Director Spina concurred, noting the District is not in a position to tell the County that we are not going to comply with their Ordinance, noting if the District were to consider making the basins leash free dog parks, then they would have to do an official notification.

Director Burlison suggested as is stated in the staff recommendation, the Board authorize staff to inquire if the City of Fresno or some other responsible party is interested in sponsoring additional Leash Free Dog Parks, noting he would like to know if the City and/or the County would even support the idea of a leash free dog park.

Director Williams requested the issue of discussing the basins not being locked opened be placed on the March 12, 2014 Board Meeting Agenda.

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**The Board of Directors directed staff: (1) to inquire if the City of Fresno, City of Clovis, the County of Fresno, or some other responsible party is interested in sponsoring additional Leash Free Dog Parks; and (2) to bring an Agenda Item to the March 12, 2014 Board Meeting discussing the issue of closing the gates at District basins, and not locking them open.**

**Motion by: Burleson      Second by: Fowler  
Ayes:            Williams, Rastegar, Spina, Groom, Goodwin, Fowler, Burleson  
Noes:            None  
Abstentions:    None  
Absentees:      None**

The Board recessed at 7:21 pm and reconvened in regular session at 7:30 pm.

**10.    Authorization to Appraise and Negotiate for Pipeline Easements in Drainage Area "DD", Contract "DD-53" (Shaw & Del Mar)**

**It is recommended the Board of Directors authorize staff to obtain an appraisal for the subject pipeline easements if initial negotiations with the property owners are unsuccessful.**

**Approved as Recommended**

**Motion by: Groom            Second by: Burleson  
Ayes:            Williams, Rastegar, Spina, Groom, Goodwin, Fowler, Burleson  
Noes:            None  
Abstentions:    None  
Absentees:      None**

**11.    Report of Downtown Drainage Study Within Freeway 41, 99, and 180 Triangle**

Report submitted for informational purposes only, no action is required by the Board unless specific direction is to be given to staff.

**As the report was submitted for informational purposes only, no further action was taken.**

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**12. Board Reports, Workshops, Correspondence and Requests for Future Agenda Items:**

No items were reported.

**REPORT OF GENERAL COUNSEL**

No items were reported.

The Board recessed at 7:52 pm and reconvened in regular session at 7:59 pm.

Director Goodwin recused herself from the proceedings due to a potential conflict of interest and left the dais at 7:59 pm.

**CLOSED SESSION**

The Board then convened in Closed Session at 8:00 pm to consider the following litigation:

**14. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
Significant exposure to litigation pursuant to sub-division (b) of Gov. Code Section 54956.9:

(Number of Potential Cases: 1)

The Board then convened in regular session at 8:41 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

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**ADJOURNMENT**

**Adjourned Board Meeting at 8:42 pm.**

**Motion by: Rastegar      Second by: Spina**  
**Ayes: Williams, Rastegar, Spina, Groom, Fowler, Burleson**  
**Noes: None**  
**Abstentions: None**  
**Absentees: Goodwin**

  
\_\_\_\_\_  
BOB VAN WYK  
GENERAL MANAGER-SECRETARY

  
\_\_\_\_\_  
DATE