

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, FEBRUARY 26, 2014

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, February 26, 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
Buzz Burleson

DIRECTORS ABSENT: Frank Fowler

**STAFF, CONSULTANTS,
OTHERS PRESENT:** Bob Van Wyk, General Manager
Jerry Lakeman, District Engineer
Alan Hofmann, Assistant District Engineer/Design
Peter Sanchez, Operations Engineer
Norma Lopez, Staff Analyst
Paul Merrill, Finance Manager
Jarrod Takemoto, Interim Rural Streams Program Manager
Andrew Remus, Staff Analyst
Daniel Rourke, Environmental Resources Manager
Ramiro Perez, Engineer
Esther Schwandt, Clerk to the Board

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

Gene Qualls
Brian Qualls

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

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2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) he thanked the Board for the celebration of his 40th Anniversary with the District; (2) with respect to the Redevelopment Agencies winding down, the District has discovered that two pass through agreements with the City of Fresno and two pass through agreements with the City of Clovis provided that the first 10 years the District would receive 25% of its tax increment back, the next 10 years the District would receive 50% of its tax increment back, the next 10 years the District would receive 75% of its tax increment back, and then after that the tax increment would be 100%; He stated these signed agreements were executed years ago, he stated staff has found that the 25% tax increment had been continued to be paid to the District instead of increasing as previously identified; he stated there are therefore outstanding amounts owed to the District in the approximate amount of over \$1 million dollars; he stated staff has met with Rob Wooley and Tina Sumner of the City of Clovis and they concurred these items would be treated as a Recognized Obligation Payment (ROP) which will be started as part of the October 1, 2014 payments; he stated staff will be proposing at the next Board Meeting the Board take an action so that staff can engage a consultant to assist in this matter noting staff will have to work with the Department of Finance on getting that ROP approved; he stated with respect to the City of Fresno amounts, staff is scheduled to meet with Vicky Crow sometime next week to let them know this is coming; Director Williams suggested staff take steps to insure we have something in place to prevent this type of situation in the future; (3) he reported staff met with the development community today on the District's proposed Development Review Fee, noting 80 letters were sent out and 7 people attended the information meeting; he stated staff will meet one more time with the development community to address their questions and concerns, and relay how the District's process would be implemented; (4) he distributed an email the District received from Melinda Marks regarding "Support for AB 1506, San Joaquin River Conservancy Protection Act"; Director Goodwin stated she would address this item under her report, Agenda Item 11.a.(2) San Joaquin River Conservancy (SJRC), Director Goodwin; (5) he stated staff will be working with the Board on the Statement of Economic Interests to insure they will be filed in a timely basis, noting they are due on April 1, 2014; and (6) he expressed his congratulations to Baker, Manock & Jensen on their recent appointment as Legal Counsel to the Housing Authority.

3. APPROVAL OF MINUTES: None Submitted

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. **13. 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: 2)**, and stated she would therefore be recusing herself on the second item.

7. PUBLIC HEARING:

There were no Public Hearings scheduled.

8. CONSENT CALENDAR:

- a. Acceptance of Quarterly Investment Report for Period Ending December 31, 2013
- b. Authorization to Resubmit Economic Development Grant Application, Storm Drainage, Canal and Street Improvements, Drainage Areas “CQ” (Fig & North); “KK” (Cherry & Annadale); “AX” (Orange & Central)
- c. Ratification of Expenditures, Report of Fund Balances and Activity, January 2014
- d. This Item was Pulled
- e. Report of Pollutant Discharge Incidents, January 2014
- f. Report of Storm Water Quality Management Program Industrial and Construction Inspection Prioritization
- g. Report on Legislation and 2014 Legislative Calendar
- h. Report on Other Post Employment Benefit (OPEB) Investment Returns

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- i. Report of Department of Finance Office of State Audits and Evaluations February 20, 2014 Audit Findings

Approved as Recommended

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

9. **Adoption of Resolution Amending Resolution No. 2013-758 to Execute Agreement Accepting Proposition 1E, Round 2 Grant for Dry Creek Flood Control Improvement Project Inclusive of Basin “NN” (37 acres n/e corner of Church & Valentine), California Department of Water Resources**

Recommend the District Board of Directors adopt the Resolution attached to the Board Memorandum, amending Resolution No. 2013-758 to include Basin “NN” (37 acres n/e corner of Church & Valentine) as part of the project.

Approved as Recommended, Adopting Resolution No. 2014-785

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

10. **Authorization to Execute Agreement to Acquire and Excavate the Dry Creek Extension Basin (Brawley & Annadale)**

Recommend the Board of Directors authorize staff to execute an agreement with the Qualls to purchase the additional 25 acres at Brawley and Annadale for the expansion of the Dry Creek Extension Basin and provide the Qualls with exclusive excavation rights for six years with permit fees established at 75 cents per cubic yard of export.

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Mr. Brian Qualls, Mr. Gene Qualls' son addressed the Board requesting the Board extend the 60 cent rate to 60 or 90 days, noting that this item will close fairly soon and right now the Qualls can extract permits at 60 cents only until March 10th.

Mr. Lakeman noted the proposed 75 cents arrangement is a compromise between the 60 cents original number and the 90 cents that the District went to. He stated if the Board chooses it can reduce this to the 60 cents; however, he noted his belief that the market is moving up on March 10th and therefore he be believed the Qualls are going to be able to raise their prices after March 10th, then they should be able to cut the split with the District and therefore staff recommend the 75 cents.

Responding to Director Spina's question as to how many yards of material the Qualls were proposing to take, Mr. Gene Qualls stated approximately 40,000 yards, and hopefully another 40,000 yards in two more months; he stated that would run them into approximately 120,000 yards within a three month time frame. He stated if the District would consent to extend the rate for 60 to 90 days then he would not have to take the money out of his pocket, noting he has not sold the material as of yet. He stated they are restricted to do anything on the property until everything closes and they pull a permit. Mr. Lakeman noted the way the agreement is drafted, as soon as the Qualls execute the agreement and pull permits, the Qualls can begin work, and they do not have to wait for close of escrow; however, they would be subject to the fees.

Mr. Lakeman noted Mr. Qualls will be subcontracting to Cerutti & Sons as he is phasing out of the business.

Approved as Recommended with the one exception that the per cubic yard of export will be 60 cents until June 1, 2014, after that it will go up to 75 cents.

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

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

a. Report on Board of Directors Attendance at Various Meetings:

(1) Oversight Board for the Successor Agency of the Clovis Redevelopment Agency, Director Spina

Recommend Director Spina give a verbal report of the Oversight Board for the Successor Agency of the Clovis Redevelopment Agency Meeting held on February 18, 2014.

Director Spina gave a verbal report.

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

(2) San Joaquin River Conservancy (SJRC), Director Goodwin

Recommend Director Goodwin give a verbal report of the San Joaquin River Conservancy Board Meeting held on February 19, 2014.

Director Goodwin gave a verbal report. As was mentioned previously, the SJRC is seeking support for AB 1506, San Joaquin River Conservancy Protection Act. Director Goodwin noted the Act would allow California peace officers to cite violators of SJRC regulations. She noted the original legislation that established the SJRC did not include a way to penalize violators of SJRC regulations. Director Goodwin noted this proposed solution was crafted with both City and County peace officers. She stated that she suggested the Executive Officer of the SJRC, Melinda Marks, gather a coalition of the City and County peace officers when addressing the various Boards to ask for their support of AB 1506.

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Responding to Mr. Van Wyk's question as to whether Director Goodwin is recommending the District Board adopt a Resolution of Support for AB 1506, Director Goodwin stated while she believed that would be appropriate, she would only recommend the District Board take action if Ms. Marks brings a coalition of the City and County peace officers to a subsequent Board Meeting to explain the jurisdictional issues. Director Burleson stated before he would support a Resolution of Support, he would need to hear from either a County or City peace officer indicating that they will be willing to enforce the SJRC regulations.

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

(3) Association of Metropolitan Water Agencies (AMWA), Director Burleson

Recommend Director Burleson give a verbal report of the Association of Metropolitan Water Agencies Board Meeting held on February 20, 2014.

Director Burleson gave a verbal report.

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

REPORT OF GENERAL COUNSEL

Mr. Jensen reported on Legislative items of interest to the District.

CLOSED SESSION

The Board then convened in Closed Session at 7:00 pm to consider the following litigation:

13. 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)

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Director Goodwin recused herself from the proceedings due to a potential conflict of interest with the second item in Closed Session, and therefore left the dais at 7:39 pm. The Board recessed at 7:39 pm and reconvened in Closed Session at 7:43.

- 13. 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 7:47 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

ADJOURNMENT

Adjourned Board Meeting at 7:48 pm.

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



BOB VAN WYK
GENERAL MANAGER-SECRETARY



DATE