

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, MAY 28, 2014

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, May 28, 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
Paul Merrill, Finance Manager
Debbie Campbell, Development Services Manager
Karyn Kruser, Staff Analyst
Gary Newmark, Staff Analyst
Daniel Rourke, Environmental Resources Manager
Esther Schwandt, Clerk to the Board

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

Mike Prandini, Building Industry Association
Doug Harrison
Mitch Barker, PARS
Andrew Brown, Vice President & Senior Investment Manager,
HighMark Capital Investment
Brenda Budke, Sierra HR Partners, Inc.

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) staff met with field representatives of Assembly Member Patterson's office regarding the District and current legislation, he stated he believed the process the Board has put in place as far as trying to influence legislation that has positive impacts on the District, and working with our legislators is working; (2) he reminded the Board of the upcoming Budget Workshop (June 4th) and Hearing (June 25th), noting the Board Administrative Committee and the Priorities & Programming Committee have reviewed their portions of the Budget and their recommendations would be included in the proposed Budget; (3) he distributed a flyer regarding Mr. Lakeman's retirement dinner, which is scheduled for June 19, 2014; and (4) he distributed an email dated May 21, 2014 from a constituent who works with the District's Environmental Department; the email states that the efforts the District has taken with respect to public information on the geese/ducks issue in the basin sites appears to be working.

3. APPROVAL OF MINUTES: Meeting of May 14, 2014

Approved as Recommended

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

4. BUSINESS AND PRESENTATIONS FROM THE FLOOR:

There was no Business or Presentations from the Floor

5. ADDITIONS TO THE AGENDA:

There were no Additions to the Agenda.

6. POTENTIAL CONFLICTS OF INTEREST:

There were no Conflicts of Interest.

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7. PUBLIC HEARING:

- a. (Continuation of Public Hearing of May 14, 2014) Public Hearing to Consider Cost Recovery of Development Review Expenses, Adoption of Development Review Fee Policy and Adoption of Resolution Amending Schedule of Service Charges, Master Fee Ordinance**

Recommend the Board of Directors continue discussions on the Building Industry Association (BIA) comments and questions and the staff response. If satisfied with the procedures and computation of the fees, it is further recommended the Board of Directors adopt (i) the Development Review Fee Policy and then (ii) the necessary findings through adoption of the Resolution attached to the Board Memorandum that amends the District's Schedule of Service Charges of the Master Fee Ordinance. The Development Review Fee will take effect no sooner than July 28, 2014.

Mr. Hofmann noted a change to the proposed Resolution, specifically the date for the Master Schedule of Service Charges to become effective would be July 28, 2014.

Director Williams opened the Hearing for Public Comment at 6:10 pm.

Mr. Mike Prandini representing the Building Industry Association (BIA) thanked the Board for deferring the item to this evening to address their concerns. He stated the staff did address their questions and answered them completely; however, he stated the BIA is still concerned about the District establishing this new fee.

There being no further comment, Director Williams closed the Public Comment portion of the Hearing at 6:11 pm.

Approved as Recommended as to item (i)

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

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Approved as Recommended as to item (ii), Adopting Resolution No. 2014-789

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

b. Consider Adoption of Resolution of Public Necessity, Permanent Pipeline Easement and Temporary Construction Easements, Contract "CC-18", Drainage Area "CC" (Howard & Pine Avenues):

- (1) Benjamin and Daniela Sanchez**
- (2) Silver Cortez and Sylvia Nino**

Recommend the Board of Directors conduct the Public Hearing to consider the proposed Resolution of Public Necessity for the subject properties. Further, staff recommends that the Board of Directors, after receiving public comment and closing the Public Hearing, adopt Resolutions of Public Necessity as shown on Attachments No. 1 and 2 attached to the Board Memorandum.

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:21 pm.

Approved as Recommended for (1), Adopting Resolution No. 2014-790

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

Approved as Recommended for (2), Adopting Resolution No. 2014-791

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

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8. CONSENT CALENDAR:

- a. Authorization to Schedule 2014-2015 Budget Workshop and Budget Hearing, and Cancel Regular Board Meeting
- b. Authorization to Sign Basin Use Soccer Agreement, Central Valley Soccer Alliance, Basins "F" (Barstow & Del Mar; "H" (Del Mar & Mesa); "I" (Bullard & Teilman); and "M" (San Jose e/o First)
- c. Ratification of Expenditures, Report of Fund Balances and Activity, April 2014
- d. Report of Pollutant Discharge Incidents, April 2014
- e. Report on Association of California Water Agencies/Joint Powers Insurance Authority (ACWA/JPIA) Commitment to Excellence Award
- f. Report on Other Post Employment Benefit (OPEB) Investment Returns
- g. Submittal of Third Quarter Budget Report, Fiscal Year 2013-2014

Approved as Recommended

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

9. Presentation by HighMark Capital Investment of Investment Strategy for FMFCD Other Post Employment Benefit Trust (OPEB), and:

a. Select Investment Strategy for Moderate or Balanced Investment and Adopt Investment Guidelines Document

Recommend the Board:

- a. Select the Investment Guideline for Balance or Moderate Investment Strategy and adopt the Investment Guideline document as attached to the Board Memorandum;

Mr. Mitch Barker, representing PARS, addressed the Board providing an overview of how PARS administers the District's funds.

Mr. Andrew Brown, Vice President & Senior Investment Manager with HighMark Capital Investment, addressed the Board with respect to the proposed investment strategy, recommending the District change from a Moderate Investment Objective to the Balanced Investment Objective.

Responding to Director Groom's question as to what the District's rate of return is, Mr. Brown stated 8.3 is for the pool the District is invested in, the net, net of return would be somewhere in the ballpark of 7.6 annualized. Responding to Director Groom's subsequent question as to splitting the investment, part in Moderate and part in Balanced, Mr. Brown stated splitting the funds is not allowed, as the District is required to pick one or the other.

Responding to Director Spina's question as to how frequently the Board could look at the investment strategy, Mr. Brown stated there are no limitations on how often a client can change their investment objective. However, he stated if they (PARS & HighMark) are doing their job, and unless the parameters change drastically that might necessitate some change in the investment objective, he did not foresee a reason for the Board to make a change in less than three years.

Director Rastegar initiated discussion with respect to the comparisons of PARS versus PERS and their respective administrative expenses.

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Discussion was initiated by Director Fowler among the Board Members and Mr. Brown as to the various strategy options. Director Burleson noted his belief the Board should not change the investment strategy for at least 3 to 5 years as it is a long-term investment strategy.

Approved as Recommended, item a. Authorizing Changing from a Moderate Investment Objective to the Balanced Investment Objective

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

- b. Adopt the Resolution Authorizing the Chairman and General Manager to Sign the “HighMark Capital Management Investment Guidelines Document” for the Investment Strategy Selected by the Board**

Recommend the Board:

- b. Approve the Resolution allowing the Chairman and General Manager to Sign the “HighMark Capital Management Investment Guidelines Document” for the investment strategy selected by the Board**

Approved as Recommended, item b. Adopting Resolution No. 2014-792

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

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- 10. Authorization to Execute an Agreement with the City of Fresno Regarding Overflow of T-4 Water Storage Tank, Drainage Area “II₁” (“H” Street & Monterey Avenue)**

Recommend the Board of Directors authorize staff to enter into an agreement with the City of Fresno regarding overflow from the T-4 Tank system into Drainage Area “II₁”.

Director Goodwin left the dais at 7:00 pm and returned at 7:05 pm.

Approved as Recommended

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

- 11. Authorization to Appraise and Negotiate Purchase of Basin “NN” (Valentine & Church)**

Recommend the Board of Directors authorize staff to appraise and negotiate the acquisition of Basin “NN”.

Approved as Recommended

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

- 12. Authorization to Execute Agreement to Provide Stormwater from Basin “BO” (Sunnyside & Fancher Creek) for Lake in Fancher Creek Town Center Development, Ed Kashian & Tom Richards (Clovis & Tulare)**

Recommend the Board of Directors authorize staff to execute an agreement with the Developer of FCTC to provide stormwater from Basin “BO” for lake and irrigation purposes.

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Director Fowler expressed his concern that staff insures the Agreement covers the District as to issues with respect to the potential of no stormwater available for the Lake; also with respect to the District operating a pipeline that is going into a shopping center and public area, and insuring the District is not responsible for any future health controls. Mr. Lakeman stated Legal Counsel would review the agreement to insure Director Fowler's concerns are addressed. Mr. Price stated the agreement has no warranties, and has complete indemnity of the District. He stated he also believes the agreement makes a representation that there are no guarantees. Mr. Lakeman concurred, noting the agreement contains language regarding the priority for use of stormwater is to irrigate the District's landscaping of the basin; if there is excess stormwater, only then will the District provide it to the Fancher Creek Town Center.

Director Spina expressed his concern as to what would happen if the Developer refuses to pay his proportionate share of the District's costs including the wear and tear and replacement of the irrigation pump. Mr. Price stated he would insure the Agreement under the remedy section of the contract includes a provision for shutting off the water should the Developer be in breach of contract.

Approved as Recommended, with the Above-Mentioned Provisions

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

13. Adoption of Resolution of Appreciation, Jerry Lakeman, District Engineer

Recommend the Board of Directors adopt the Resolution of Appreciation honoring Jerry Lakeman for over 37 years of public service to the District as attached to the Board Memorandum.

Mr. Van Wyk expressed his pleasure in having worked with Mr. Lakeman for the past 37 years, noting his ability to create solutions for very difficult issues with Developers, and the respect Mr. Lakeman has from the staff, Board and the community. Mr. Van Wyk stated Mr. Lakeman deserves the thanks of the community for the development of a very good urban drainage system.

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Mr. Lakeman stated it has been a good 37 years with the District, and he noted his belief that there is a very good staff capable of carrying on in his absence. He thanked the Board for the opportunity to have the experience as District Engineer, noting he has enjoyed the position in particular because you have both the design and operation sides. He also thanked the Board for the opportunity to have a retirement dinner as well.

Director Williams stated in her plus ten years' experience with Mr. Lakeman, he has always been very generous with his time, expertise and knowledge. She stated she has enjoyed working with Mr. Lakeman very much.

Director Rastegar stated he has worked with Mr. Lakeman since he started working with CalTrans, which he believed was in 1989. He stated he believed the District has been successful in part due to Mr. Lakeman's knowledge and his ability to negotiate. He stated he has always enjoyed working with Mr. Lakeman and believed a lot of the strength of the District was because Mr. Lakeman was here.

Mr. Harrison addressed the Board with respect to his fondest memories of working with Mr. Lakeman, and Mr. Lakeman's ability to negotiate settlements and at the same time saving a lot of money for the District. He acknowledged the remarkable knowledge and dedication Mr. Lakeman had for the District's entire drainage system. He expressed his personal appreciation to Mr. Lakeman.

Director Fowler noted he started with the County in 1977, at the same time Mr. Lakeman started with the District. He expressed his appreciation for Mr. Lakeman.

Director Goodwin noted it has been obvious that Mr. Lakeman has the respect of his staff, and that he has earned that respect as well as that of the Board. She expressed her thanks for Mr. Lakeman's service.

Mr. Hofmann stated he was the first engineer on staff when Mr. Lakeman took over as District Engineer 37 years ago. He stated it was going to be very big shoes to fill with the retirement of Mr. Lakeman, but he realizes that he has had the opportunity of a mentor who has helped shape who he is as a person in this organization, and a person in this community. He expressed his thanks to Mr. Lakeman for helping him immensely in many areas of his life.

Mr. Price stated he has worked very closely with Mr. Lakeman as had many people at Baker, Manock & Jensen and stated it has been an absolute honor to work with Mr. Lakeman. He stated Mr. Lakeman in many ways makes them better attorneys, wordsmiths and thinkers.

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Director Spina stated Mr. Lakeman deserves this retirement, and he told Mr. Lakeman to enjoy himself for the rest of his life noting he has earned it.

Director Burleson stated it had been a pleasure working with Mr. Lakeman, and wished him the very best.

Director Groom noted he admired Mr. Lakeman's skills, and wished him well.

Approved as Recommended, Adopting Resolution No. 2014-788

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

14. This item was Pulled

As this item was pulled, no action was taken.

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

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

- (1) Association of California Water Agencies/Joint Powers Insurance Authority (ACWA/JPIA) 2014 Spring Conference, Monterey, California, Director Groom**

Recommend Director Groom give a verbal report of the Association of California Water Agencies/Joint Powers Insurance Authority (ACWA/JPIA) 2014 Spring Board of Directors Meeting held on May 5-6, 2014 in Monterey, California.

Director Groom gave a verbal report.

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Responding to Director Groom's question as to the District's contracts regarding indemnification, Mr. Price stated the contracts are designed to provide for one-sided indemnification and requirements. He stated whether they specifically defend an unrelated claim by a contractor would be something they would need to look at. Mr. Price stated the District also carries various insurances to defend the District from these types of claims as well. Mr. Van Wyk stated the District relies on JPIA to insure the District has as good of a risk transfer as possible.

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.

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

Recommend Director Goodwin give a verbal report of the San Joaquin River Conservancy (SJRC) Board Meeting held on May 21, 2014.

Director Goodwin gave a verbal report.

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.

REPORT OF GENERAL COUNSEL

Mr. Price stated there was no General Counsel report.

CLOSED SESSION

The Board then convened in Closed Session at 7:38 pm to consider the following:

- 17. PUBLIC EMPLOYMENT**
Title: General Manager-Secretary
Pursuant to Government Code §54954.5

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The Board then convened in regular session at 8:27 pm. Mr. Price stated no reportable action was taken in Closed Session.

ADJOURNMENT

Adjourned Board Meeting at 8:27 pm

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



ALAN HOFMANN
GENERAL MANAGER-SECRETARY

7/17/14
DATE