

**ACTION SUMMARY MINUTES**  
**MINUTES OF THE REGULAR MEETING OF**  
**THE BOARD OF DIRECTORS OF THE**  
**FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**  
**HELD WEDNESDAY, JANUARY 13, 2010**

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, January 13, 2010 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:** Kendall Groom, Chairman  
Roy Spina, Vice-Chairman  
Richard Welton  
George Marcus  
Jennette Williams  
Mike Rastegar

**DIRECTORS ABSENT:** Frank Franco

**STAFF, CONSULTANTS,**  
**OTHERS PRESENT:** Bob Van Wyk, General Manager-Secretary  
Jerry Lakeman, District Engineer  
Alan Hofmann, Design/Assistant Engineer  
David Pomaville, Administrative Services Manager  
Paul Merrill, Finance Manager  
Peter Sanchez, Operations Engineer  
Verlyn Neufeld, Construction Manager  
Andrew Remus, Staff Analyst  
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel  
John Smith, Assistant General Counsel  
Ken Price, Assistant General Counsel

Henry Cerutti, Cerutti & Sons  
Andy and Vera Neufeld, Parents of Verlyn Neufeld  
John Downing, County of Fresno

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

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**2. REPORT OF THE GENERAL MANAGER**

Mr. Van Wyk reported on the following: (1) the City of Fresno has scheduled the Figarden Loop Park Grand Opening for Saturday, January 16<sup>th</sup> at 1:00 pm, the location is 4265 W. Figarden Drive, he noted Board Members and staff are invited; (2) he distributed the weather forecast provided by Western Weather which was reporting several storms through the valley next week which will come fast and furious; (3) Staff and ICMA-RC has completed the transfer for the District's 401a program, the 457 program transfer will be completed in early February; (4) staff has completed the new carpeting of Building 1; and (5) he distributed an email from Maria Franco, wife of Director Franco as to his health status and contact information.

**3. APPROVAL OF MINUTES: Minutes of December 16, 2009**

**Approved as Recommended**

**Motion by: Williams Second by: Rastegar**  
**Ayes: Groom, Spina, Marcus, Williams, Rastegar**  
**Noes: None**  
**Abstentions: Welton**  
**Absentees: Franco**

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

Mr. Henry Cerutti addressed the Board with his request for the District to allow a no fee permit for 1000 yards of material to be used for the Community Hospital's "Terry's House", similar to the Ronald McDonald House at Valley Children's Hospital. He noted "Terry's House" is a community project which is being built entirely through donations.

**5. ADDITIONS TO THE AGENDA:**

Mr. Jensen noted as this item came up after the preparation and distribution of the Agenda, it would require Board action to add it to the Agenda, and determination that there was need for immediate action on this matter.

Request the Board add Authorization to Allow a "no fee" Permit for 1000 Yards of Material to be used for the Community Hospital's Terry's House to the Agenda.

**Approved as Requested added as Agenda Item No. 5a**

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**Motion by: Williams      Second by: Welton  
Ayes:            Groom, Spina, Marcus, Welton, Williams, Rastegar  
Noes:            None  
Abstentions:    None  
Absentees:       Franco**

**5.a.    Authorization to Allow a “no fee” Permit for 1000 Yards of Material to be used for the Community Hospital’s Terry’s House**

Request from Mr. Cerutti the Board of Directors allow a “no fee” permit for 1000 yards of Material to be used for the Community Hospital’s Terry’s House.

**Approved as Requested**

**Motion by: Williams      Second by: Welton  
Ayes:            Groom, Spina, Marcus, Welton, Williams, Rastegar  
Noes:            None  
Abstentions:    None  
Absentees:       Franco**

**6.    POTENTIAL CONFLICTS OF INTEREST:**

There were no Conflicts of Interest.

**7.    PUBLIC HEARING:**

There were no Public Hearings scheduled.

**8.    CONSENT CALENDAR:**

- a.    Acceptance of Quarterly Investment Report, Third Quarter
- c.    Annual PPDA Transfer:
  - (1)    Adoption of Resolution Transferring PPDA Fund Reimbursement to General Fund
  - (2)    Authorization to Loan Funds to PPDA Trust Fund for Developer Reimbursement

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- d. Authorization to Allocate Funding, Design and Advertise for Bids, Storm Drain Pipeline, Clovis & Belmont Avenues, Drainage Area “W”
- g. Authorization to Enter Into Agreements, Reimbursement of Improvements, City of Fresno, Contract “AW<sub>1</sub>-13” (Cedar & North Avenues)
- h. Authorization to Extend Developed Basin Maintenance Contract for 3 Months, ARC Fresno
- i. Ratification of Expenditures, December 2009
- j. Report of Grand Opening of the City of Fresno’s Figarden Loop Park and Trail, Basin “AC” (w/o Brawley, n/o Bullard)
- k. Report of Public Concerns, December 2009

**Approved as Recommended**

**Motion by: Spina                      Second by: Rastegar**  
**Ayes:                      Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes:                      None**  
**Abstentions:                      None**  
**Absentees:                      Franco**

**b. Adoption of Resolution Declaring Excess Property and Authorizing Potential Sale, Portion of Basin “CL” (Willow & Escalon)**

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum declaring the subject property as excess property. Also recommend the Board of Directors authorize staff to pursue sale of the property following the completion of all statutory notice requirements.

The Board did not approve staff recommendation. The Board directed staff to contact the property owner and have the property owner make an offer for consideration by the Board and staff, weighing whether it would be better for the District to hold onto the property for a better market climate and/or subsequent needs of the District.

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- e. Authorization to Enter Into Time Payment Agreement, NorthPointe Community Church, Drainage Areas “EG” and “AC”, City CUP 2005-148 (s/e/c Palo Alto & Milburn)**

Directors Spina and Williams recommended staff review the District’s Drainage Fee Policy for consideration by the Policy Committee of including a penalty fee for developments which have not paid their fees in similar situations as this one.

Recommend the Board of Directors authorize the use of the time payment provisions of the District Ordinance Code for the subject development.

**Approved as Recommended with the addition that staff review the District’s Drainage Fee Policy for consideration by the Policy Committee of including a penalty fee for developments which have not paid their fees in similar situations as this one.**

**Motion by: Williams      Second by: Spina  
Ayes:                      Groom, Spina, Marcus, Welton, Williams, Rastegar  
Noes:                        None  
Abstentions:              None  
Absentees:                Franco**

- f. Authorization to Design and Advertise for Bids and Allocation of PPDA Funding, Storm Drain Pipeline in Mitchell Avenue, Drainage Area “3A”, (Shaw, Willow, Barstow, Peach)**

Recommend the Board of Directors authorize the design and advertising for bids of the Mitchell project as shown on Exhibit No. 1 as attached to the Board Memorandum with funding provided by the Drainage Area “3A” PPDA Trust Account.

**Approved as Recommended**

**Motion by: Spina                      Second by: Williams  
Ayes:                              Groom, Spina, Marcus, Welton, Williams, Rastegar  
Noes:                                None  
Abstentions:                      None  
Absentees:                        Franco**

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**9. Adoption of Resolution Honoring Verlyn Neufeld's Twenty Years of District Service**

Recommend the Board of Directors adopt Resolution of Appreciation as attached to the Board Memorandum honoring Verlyn Neufeld for 20 years of public service to the District.

**Approved as Recommended, adopting Resolution No. 2009-634**

**Motion by: Spina                      Second by: Welton**  
**Ayes: Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes: None**  
**Abstentions: None**  
**Absentees: Franco**

Chairman Groom and Mr. Van Wyk then presented the framed Resolution to Mr. Verlyn Neufeld. Mr. Van Wyk presented a bouquet of flowers to Mr. Neufeld's mother Mrs. Vera Neufeld. Mr. Neufeld then thanked the Board Members and his supervisors for the opportunity to progress and grow within the organization, noting he feels very fortunate.

**10. Adoption of Resolution Authorizing the General Manager to Make Adjustments to Property Tax Assessments**

Recommend the Board of Directors adopt the resolution authorizing the General Manager-Secretary to process assessment tax adjustments during the 2009-2010 fiscal year.

**Approved as Recommended, adopting Resolution No. 2010-637**

**Motion by: Williams                      Second by: Rastegar**  
**Ayes: Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes: None**  
**Abstentions: None**  
**Absentees: Franco**

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**11. Authorization of Advance Engineering Design and Easement Acquisition, Main Trunkline, Drainage Area "CQ" (Fruit, Annadale, Clara, Muscat)**

Recommend the Board of Directors authorize the design of the subject project and negotiation of an easement within Drainage Area "CQ" with funding provided from the Drainage Area "CQ" PPDA Account.

**Approved as Recommended**

**Motion by: Spina                      Second by: Rastegar**  
**Ayes:                      Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes:                      None**  
**Abstentions:                      None**  
**Absentees:                      Franco**

**12. Authorization to Place Additional Antennae on the District's Communication Tower to Enhance Fresno County Communications**

Recommend the Board of Directors authorize the General Manager-Secretary to execute an amendment to the existing tower lease with the County of Fresno.

Mr. John Downing representing the County of Fresno was in attendance to address any questions or comments the Board of Directors may have.

**Approved as Recommended**

**Motion by: Williams                      Second by: Spina**  
**Ayes:                      Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes:                      None**  
**Abstentions:                      None**  
**Absentees:                      Franco**

**13. Report on EPA's Proposed Rule Making for Reducing Stormwater Runoff from Developed Areas**

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

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

**14. Authorization to Execute Agreement for Exchange of Easements and Improvements to Basin "T" (Peach-Shields Connector), City of Fresno**

Recommend the Board of Directors authorize staff to execute an agreement with the City of Fresno with the provisions identified in the Board Memorandum for the changes to the boundary of Drainage Area "T" and for the relocation/expansion of Basin "T", including the quitclaim to the northwest corner of the Basin as described in the Board Memorandum.

**Approved as Recommended**

**Motion by: Spina                      Second by: Williams**  
**Ayes: Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes: None**  
**Abstentions: None**  
**Absentees: Franco**

**15. Adoption of Resolution to Amend the Second Restated Cafeteria Plan and the Summary Plan Description to Include 2009 Legislative Changes**

Mr. Pomaville distributed an amended Resolution (Exhibit A) and an amended Summary of Material Modifications for the Second Restated Fresno Metropolitan Flood Control District Cafeteria Plan (Exhibit B) as attached to the Board Packet.

Recommend the Board of Directors adopt a Resolution (Exhibit A as distributed at the Board Meeting) incorporating the 2009 Cafeteria Plan Amendments and approve the Summary of Material Modifications for the Second Restated Fresno Metropolitan Flood Control District Cafeteria Plan (Exhibit B as distributed at the Board Meeting).

**Approved as Recommended, adopting Resolution No. 2010-638**

**Motion by: Williams                      Second by: Welton**  
**Ayes: Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes: None**  
**Abstentions: None**  
**Absentees: Franco**



**16. Authorization to Modify the ICMA Retirement Corporation Money Purchase Plan and Trust Agreement Regarding Mandatory Participant Contributions**

Recommend authorizing General Manager-Secretary to amend the ICMA-RC Money Purchase Plan Trust Adoption Agreement to allow additional mandatory participant contributions in whole percentage increments of 0% to 10%, 15% or 20%.

**Approved as Recommended**

**Motion by: Spina                      Second by: Williams**  
**Ayes:                      Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes:                      None**  
**Abstentions:                      None**  
**Absentees:                      Franco**

**17. Adoption of Resolution Withdrawing from Uniform Public Construction Cost Accounting Procedures and Authorization to Amend District Act Increasing Limits for Issuance of Contracts Without Formal Bidding**

Recommend the Board of Directors authorize the amendment of the District's Act providing increased limits for issuance of contracts without formal bidding as identified in the Board Memorandum. Further recommend the Board of Directors adopt the Resolution attached to the Board Memorandum withdrawing from the California Uniform Public Construction Cost Accounting Procedures, effective upon amendment of the District Act establishing a public bidding limit equal to the informal limit established under Public Contract Code Section 22032(a).

Mr. Price noted the Board Memorandum states, "Staff will initiate the amendment of the District Act immediately, pending the Board's approval, as the deadline for submittal of legislation in an Omnibus Bill is January 22, 2010." However, he noted that they may be able to proceed with a separate stand-alone Bill from the California Assembly, and therefore would request flexibility with respect to the vehicle to proceed with the legislative change.

It was the consensus of the Board that staff and Legal Counsel proceed as appropriate, and in order to address some of the concerns expressed by the Board with respect to the short time frame for bids, staff was instructed to report back to the Board the specific time frame used for the advertisement of a bid.

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**Approved as Recommended, adopting Resolution No. 2010-639**

**Motion by: Spina                      Second by: Williams**  
**Ayes: Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes: None**  
**Abstentions: None**  
**Absentees: Franco**

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

No items were submitted.

**REPORT OF GENERAL COUNSEL**

Mr. Jensen reported on Legislative items of interest to the District and Mr. Lakeman reviewed the status of the Flood Bill issue.

**CLOSED SESSION**

**20. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
Section 54956.9(a): Avila vs. FMFCD**

Mr. Van Wyk reported the matter with the Avila's had been settled.

A Closed Session was not convened.

**ADJOURNMENT**

**Adjourned Board Meeting at 7:40 pm**

**Motion by: Spina                      Second by: Rastegar**  
**Ayes: Groom, Spina, Marcus, Welton, Williams, Rastegar**  
**Noes: None**  
**Abstentions: None**  
**Absentees: Franco**

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*Bob Van Wyk*  
BOB VAN WYK  
GENERAL MANAGER/SECRETARY

*January 21, 2010*  
DATE