

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, APRIL 14, 2010

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, April 14, 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
Frank Franco
George Marcus
Jennette Williams
Mike Rastegar

DIRECTORS ABSENT: None

**STAFF, CONSULTANTS,
OTHERS PRESENT:**

Bob Van Wyk, General Manager-Secretary
Jerry Lakeman, District Engineer
Alan Hofmann, Design/Assistant Engineer
David Pomaville, Administrative Services Manager
Peter Sanchez, Operations Engineer
Verlyn Neufeld, Construction Manager
Jason Clarke, Senior Engineer
David Macias, Construction Technician
Dwayne Farrow, Construction Technician
Phu Duong, Engineer
Andrew Remus, Staff Analyst
Larry Kalpakoff, Information System Coordinator
Cecil Leonardo, Engineer (Temporary/Part-Time)
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel
John Smith, Assistant General Counsel

Mr. William Cowin, Attorney representing Lakhwinder Brar,
Brar Construction and Development, Inc.
Lakhwinder Brar, Brar Construction Development, Inc.
Robert Pokorny

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

2. REPORT OF THE GENERAL MANAGER

Mr. Van Wyk reported on the following: (1) distributed a flyer which listed a number of training classes being conducted by the JPIA here at the District office; (2) distributed the pictures that were taken of the presentation of a Board Resolution to Roger Palomino; and (3) he requested Mr. Sanchez give a brief report on the storm event that occurred earlier during the week.

Mr. Sanchez distributed pictures of a palm tree located near the District's Operations Center, which had caught fire due to lightning. He noted that when the lightning struck it caused the District's telemetry system to go down, and the District lost a couple of data processors; however staff was able to restore the data and replace the data processors. He stated during the event on Monday, April 12th, the District's Operations Center remained open until 8:00 pm to take emergency calls and field personnel worked until midnight resolving issues. He stated the data shows the rainfall was pretty spread out and was between a 2 and 5 year return frequency. However, he stated the media reports and first hand observations indicated it was well above those levels of storm activity. He stated the District was not aware of any structural damage from this event; however two manhole incidents did occur and one of the manhole incidents did cause a car accident.

3. APPROVAL OF MINUTES: Minutes of March 18, 2010 and March 24, 2010

Approved as Recommended, Minutes of March 18, 2010

Motion by: Franco **Second by:** Rastegar
Ayes: Groom, Spina, Franco, Welton, Williams, Rastegar
Noes: None
Abstentions: Due to his absence at the March 18, 2010 Board Meeting, Director Marcus abstained on the Minutes of March 18, 2010
Absentees: None

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Approved as Recommended, Minutes of March 24, 2010

Motion by: Franco Second by: Rastegar
Ayes: Groom, Franco, Marcus, Welton, Rastegar
Noes: None
Abstentions: Due to their absence at the March 24, 2010 Board Meeting, Directors
Spina and Williams abstained on the Minutes of March 24, 2010
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:

Director Williams noted a potential Conflict of Interest with Agenda Item No. **8.a. Authorization to Amend Agreement No. 1494(D)-1E-29/1G-35, Bratton and Agreement No. 1573(D)-1G-38/39 City of Clovis**, and stated she would therefore be abstaining on this item.

7. PUBLIC HEARING:

There were no Public Hearings scheduled.

8. CONSENT CALENDAR:

- a. Authorization to Amend Agreement No. 1494(D)-1E-29/1G-35, Bratton and Agreement No. 1573(D)-1G-38/39, City of Clovis

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- b. Authorization to Enter into Lease Agreement, Basin "DM" (Peach & Copper), Bruce Negri
- c. Authorization to Execute Standard Developer Agreement, SPR 2009-122, Drainage Area "LL", Mike Pati, Pape Group
- d. Award of Contracts and Adoption of Resolutions of Special Transfer of PPDA Funds:
 - (1) Contract "CZ-51", Basin Landscape (Alluvial & Chestnut)
 - (2) Contract "AK-42", Storm Drainage Pipeline (Brawley & 99)
- e. Ratification of Expenditures, March 2010
- g. Report on American Recovery Reinvestment Act (ARRA) Construction Funds
- h. Report on Award of Uniform Cost Accounting Contract "EM-16" (Barstow & Grantland), Pipeline and Adoption of Resolution of Special Transfer of PPDA Funds
- i. Report on Submittal of Letter of Intent to Apply for Grant for Replacement of Play Equipment, Basin "D" (Forkner & Barstow)
- j. Status Report on Roof Replacement of Administrative Building (Building No. 1)

Approved as Recommended

Motion by: Welton Second by: Franco
Ayes: Groom, Spina, Franco, Marcus, Welton, Rastegar
Noes: None
Abstentions: Director Williams abstained on item 8a.
Absentees: None

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f. Report of Public Concerns, March 2010

Director Welton questioned the item with respect to Drainage Area AH, noting there was no location given and the information did not provide a conclusion. Mr. Lakeman stated the area was on Jennifer near Grand Occasions and was due to short duration intensity.

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

9. Consideration of Claim, Brar Construction and Development, Inc., Contract "RR-61"

Recommend the Board of Directors reject the claim because the totality of the evidence does not support the Contractor's claim for the additional sum sought, or any lesser sum.

Mr. William Cowin, an Attorney residing in Kingsburg, and representing Lakhwinder Brar, of Brar Construction and Development, Inc. addressed the Board with respect to his client and their claim against the District and the City of Fresno as attached to the Board Memorandum. Mr. Robert Pokorny and Mr. Lakhwinder Brar of Brar Construction and Development, Inc., also addressed the Board with respect to the claim.

District staff then addressed the Board with respect to their recommendation that the claim be rejected as outlined in the Board Memorandum.

The Board recessed at 7:20 pm and reconvened in regular session at 7:29 pm.

District staff continued addressing the Board with respect to their recommendation that the claim be rejected as outlined in the Board Memorandum.

CLOSED SESSION

The Board then convened in Closed Session at 8:26 pm to consider the following litigation:

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12. CONFERENCE WITH LEGAL COUNSEL

**Significant exposure to litigation – subdivision (b) of Section 54956.9:
Claim for Damages, Contract “RR-61”, Brar Construction and Development, Inc.**

The Board then convened in regular session at 8:42 pm. Mr. Smith stated no reportable action was taken in Closed Session.

**Claim for Damages, Contract “RR-61”, Brar Construction and Development, Inc.
Denied by the Board of Directors**

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

10. 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. In particular, Mr. Jensen requested the Board authorize the Chairman to sign a letter of support for SB 1070 which confirms the initial understanding and clarifies the issue with respect to the boundary of the Tulare Lake Basin.

Authorized Chairman to sign a letter of Support for SB 1070

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

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ADJOURNMENT

Adjourned Board Meeting at 8:44 pm.

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE