

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

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, July 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, Assistant District Engineer/Design
Peter Sanchez, Operations Engineer
John Santos, Engineer
Andrew Remus, Staff Analyst
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel
John Smith, Assistant General Counsel

Scott Anderson, Fancher Creek Development
Gary Giannetta, Giannetta Engineering
Ellie Marcus, wife of Director Marcus

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

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, JULY 14, 2010
PAGE 2 OF 6**

2. REPORT OF THE GENERAL MANAGER

Mr. Van Wyk reported on the following: (1) AB 2184 Uniform Cost Accounting Legislation has been adopted by the Legislature and now has been signed by the Governor; (2) he distributed a copy of a letter from the General Manager to staff indicating that while he is on vacation, July 16 – 26, 2010, Mr. Lakeman would be responsible for day-to-day decision making at the District; (3) he would be participating in a panel, meeting with the Mayor of Santa Rosa to review Kathy Millison's teamwork approach for the position she is being considered for in Santa Rosa; and (4) he requested Mr. Lakeman review the software that gives staff instant information with respect to PPDA posting, noting this is a byproduct from the Ad Hoc Committee meetings; Mr. Lakeman reviewed the program and noted Mr. Merrill had developed this information which assists staff in reviewing the accounts by each drainage zone.

3. APPROVAL OF MINUTES: Minutes of June 16, 2010 and June 23, 2010

Approved as Recommended

Motion by: Franco Second by: Rastegar
Ayes: Groom, Spina, Franco, Marcus, Welton, Williams, Rastegar
Noes: None
Abstentions: Director Williams abstained on the Minutes of June 16, 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:

There were no Conflicts of Interest.

7. PUBLIC HEARING:

There were no Public Hearings scheduled.

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, JULY 14, 2010
PAGE 3 OF 6**

8. CONSENT CALENDAR:

- a. Authorization to Proceed with Site Modifications, Basin "J" (Bullard & Forkner), Crown Castle to Replace Existing Cellular Communications Tower
- b. Award of Contract, "FCB-43", Fancher Creek Detention Basin, Landscape Improvements
- c. Ratification of Expenditures, June 2010
- d. Report of Public Concerns, June 2010
- e. Report on Award of Uniform Cost Accounting Contract "EM-18" (Barstow & Grantland), Basin Fence and Adoption of Resolution of Special Transfer of PPDA Funds

Approved as Recommended

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

9. Authorization to Amend Standard Developer Agreement No. 1464(D)-"BQ-10"/"BO-16", Fancher Creek Properties (Belmont Avenue e/o Fowler)

Recommended the Board of Directors (1) authorize the total engineering credit for Agreement No. 1464(D)-"BQ-10"/"BO-16" at 7% of construction cost or a total of \$67,900 (rounded to nearest \$100); (2) authorize the amendment of this agreement to reimburse the developer the eligible costs in the total amount of \$1,037,683, provided fee revenue in excess of this amount is paid to the District by the community facilities district; and (3) authorize no administrative charges be applied to the reimbursement, or if required by the Board, then authorize the community facilities district to include the amount of charges in its levies.

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, JULY 14, 2010
PAGE 4 OF 6**

Mr. Scott Anderson, representing Fancher Creek Development, addressed the Board with respect to the item, noting they have severed ties with the engineering firm who submitted the reimbursement costs to the District. He noted they were never shown those submitted costs prior to them being submitted to the District. He stated they saw the agreement after the fact, noting the engineering firm submitted engineering costs in the amount of \$14,413 for a \$1 million dollar storm drain project which he believed was incorrect, extremely low, and was submitted in error. Mr. Anderson stated he has attempted to contact the engineering firm but to no avail, and questioned how he could move this matter forward without the back-up information that would be presented under normal circumstances. He stated this was the reason Mr. Lakeman offered to bring it to the Board, and noted they desire a favorable response. Mr. Anderson stated Mr. Gary Giannetta of Giannetta Engineering was in attendance to attest to what the costs for a million dollar storm drain project should be.

Responding to questions from the Board, Mr. Anderson stated he could provide to the District as documentation, the times and materials invoicing from the engineering firm, researching their accounting to break out specifically what they believe was applied to the storm drain project.

Approved no administrative charges be applied to the reimbursement; defer the 7% construction cost credit approval until the Board receives verification of the documentation of engineering expense for the storm drain work.

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

10. Adoption of Resolution Approving Payment of Drainage Fees through a Mello Roos Community Facilities District, Fancher Creek Development, Drainage Areas "BO" and "BQ" (Belmont Avenue e/o Fowler)

Recommend the Board of Directors adopt the attached resolution supporting the financing of drainage fees and District administrative charges through the Fancher Creek Community Facilities District.

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, JULY 14, 2010
PAGE 5 OF 6**

Approved as Recommended, adoption Resolution 2010-669

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

- 11. Board Reports, Workshops, Correspondence and Requests for Future Agenda Items:**
- a. Recommendation from Administrative Committee Regarding Legal Counsel's Request for Fee Amendment**

The Administrative Committee recommends a \$5.00 per hour rate increase for legal services fees for Baker, Manock & Jensen effective July 1, 2010.

Mr. Jensen addressed the Board with respect to the proposed rate increase, noting the matter is to be discussed with the Board as the firm of Baker, Manock & Jensen answers to the Board of Directors. He stated he was not able to address the Administrative Committee as he was inadvertently not made aware of the meeting. He then reviewed the firm's reason for the proposed increase, and corrected some of the information provided in the Administrative Committee Memorandum and the Board Memorandum, as he believed it gave the wrong impression. In particular, the firm had not received or requested an increase in 2009, and in fact the last increase requested and granted, was in September 2008.

Not Approved as Recommended, the Board of Directors authorized the proposed rate increase as requested by Baker, Manock & Jensen beginning July 1, 2010 as follows:

Senior Partner	\$230
Junior Partner	\$215
Senior Associate	\$185
Junior Associate	\$170
Paralegal	\$100

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, JULY 14, 2010
PAGE 6 OF 6**

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

REPORT OF GENERAL COUNSEL

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

CLOSED SESSION

A Closed Session was not convened.

ADJOURNMENT

Adjourned Board Meeting at 7:08 pm.

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE