

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, SEPTEMBER 22, 2010

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, September 22, 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
David Pomaville, Administrative Services Manager
Paul Merrill, Finance Manager
Carol Gerking, Accountant
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel

Jeff Roberts, Tree Fresno
Terri Recchio, Bank of the West
Ed Reimer, Bank of the West

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

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2. REPORT OF THE GENERAL MANAGER

Mr. Van Wyk reported on the following: (1) he distributed a copy of an "All Staff" Memo dated September 17, 2010 regarding Provisions of Legal Services, noting the staff's intent to create better efficiency and coordination with District Legal Counsel; (2) he distributed a copy of an article which appeared in the Fresno Bee entitled, "FUSD Chooses Site for Middle School"; he stated the article related to the District's Basin "II," at Church e/o Fig Avenue; he stated the release of the article was ahead of where the item was with staff, noting Mr. Lakeman has been working with the School District on this item with a number of options, and staff would be bringing back the item to the Board; he stated the article states that a deal has been made, which is absolutely not the case; Mr. Lakeman then reviewed the proposed project and plans to expand the school; he stated he would bring a report to the Board on this item at the next Board Meeting (3) the State of the County breakfast will be held tomorrow morning, and the Clerk to the Board has distributed the tickets to those Board Members who have indicated they will be attending; (4) the Ad Hoc Committee will hold their final meeting tomorrow afternoon, and staff will then prepare a report from the Committee to the Board of Directors; and (5) he distributed a copy of the NAFSMA Flood & Stormwater Management Update which includes an article entitled "NAFSMA Awards First Doug Harrison and Scott Tucker Honors at 2010 Annual Meeting"; Mr. Van Wyk stated this is a newly-established perpetual award which will be given annually to NAFSMA members for outstanding service; the article goes on to list the many accomplishments of Mr. Harrison (the District's former General Manager) and Mr. Tucker.

3. APPROVAL OF MINUTES: Minutes of September 8, 2010

Due to his absence at the September 8, 2010 Board Meeting, Director Welton abstained.

Approved as Recommended

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

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4. BUSINESS AND PRESENTATIONS FROM THE FLOOR:

There was no Business or Presentations from the Floor.

5. ADDITIONS TO THE AGENDA:

Recommend the Board add the following:

- 1. Adoption of Resolution of Appreciation Recognizing the 25th Anniversary of Tree Fresno**
- 2. Ratify Opening Replacement Checking Account:**
 - a. Adopt Resolution Authorizing Bank of the West to Use Facsimile Signature on District Checks**
 - b. Approve Implementation of Positive Pay**
- 3. Approve Proposed Pipeline in Basin "3G"**

Mr. Jensen noted these items came up after the preparation and distribution of the Agenda, therefore it would require Board action to add them to the Agenda, and determination that there was need for immediate action on these matters, and the need came to the attention of the District subsequent to the Agenda being posted.

Approved as Recommended adding as Agenda Item No. 5a, 5b, & 5c respectively.

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

- a. Adoption of Resolution of Appreciation Recognizing the 25th Anniversary of Tree Fresno**

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum, Resolution of Appreciation recognizing the 25th anniversary of Tree Fresno.

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Mr. Jeff Roberts of Tree Fresno addressed the Board noting the positive relationship between the District and Tree Fresno.

Approved as Recommended, adopting Resolution No. 2010-672

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

b. Ratify Opening Replacement Checking Account:

- a. Adopt Resolution Authorizing Bank of the West to Use Facsimile Signature on District Checks**
- b. Approve Implementation of Positive Pay**

Recommend the Board of Directors ratify opening replacement Checking Account and: a. Adopt Resolution Authorizing Bank of the West to use facsimile signature on District checks, and; b. approve the implementation of Positive Pay.

Approved as Recommended, adopting Resolution No. 2010-673

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

c. Approve Proposed Pipeline in Basin "3G"

Mr. Hofmann explained there was a very large excavation permit which came in recently, and which, was not anticipated in the Capital Program. He stated as this has recently come up, staff has just finished the design for the proposed pipeline, and noted there is PPDA funding available, but staff needs Board authorization to move forward with the project. He stated the amount is estimated at \$25,000 and the project can be done through the Uniform Cost Accounting, the accelerated informal bidding process. He stated at the next Board Meeting, staff will bring back an authorization for a special transfer of PPDA funds to fund the project.

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Recommend approval of the proposed low flow pipeline in Basin "3G" (Barstow & Locan)

Approved as Recommended

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

6. POTENTIAL CONFLICTS OF INTEREST:

Director Rastegar noted a potential Conflict of Interest with Agenda Item No. 9. **Authorization to Apply for Environmental Enhancement and Mitigation Grant Funds for Basin Landscaping**, and stated he would therefore be abstaining on this item.

Director Franco noted a potential Conflict of Interest with Agenda Items No. 14. **Authorization to Execute Conflict of Interest Waiver; Baker, Manock & Jensen as to Eric Kozlowski, Central Valley Presort, and Enviro Fuels Enterprises, LLC; No. 15. Report on Negotiations to Obtain Permanent Pipeline Easement and Temporary Construction Easement, Contract "ZZ-28" (Marks, Whitesbridge, Kearney, Tielman);** and Closed Session No. 17.a. **Report on Negotiations to Obtain Pipeline Easement and Temporary Construction Easement, Contract "ZZ-28" (Marks, Whitesbridge, Kearney, Tielman)**, and stated he would therefore be abstaining on this items.

7. PUBLIC HEARING:

There were no Public Hearings scheduled.

8. CONSENT CALENDAR:

- a. Approval of Revision to Landscaping, Basin "EG" (Spruce w/o Hayes)
- b. Approval to Submittal Letter of Map Revision of Fancher Creek Floodplain Map to FEMA
- c. Authorization to Schedule Public Hearing on Resolution of Necessity, Basin "AE" (San Jose & Marty) Expansion

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- d. Award of Contract "BD-21", Pipeline Project (Helm & Jensen Avenues) and Adoption of Resolution of Special Transfer of PPDA Funds
- e. Report of Pollutant Discharge Incidents, August 2010
- f. Report on Real Estate Activity, August 2010

Approved as Recommended

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

9. Authorization to Apply for Environmental Enhancement and Mitigation Grant Funds for Basin Landscaping

Director Rastegar recused himself from the proceedings due to a potential conflict of interest and left the dais at 6:26 pm.

Recommend the Board of Directors authorize the General Manager-Secretary to submit EEMP grant applications to fund landscaping for two basins.

Approved as Recommended

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

Director Rastegar returned to the dais at 6:29 pm.

10. Report on American Recovery Reinvestment Act (ARRA) Construction Funds

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.

- 11. Authorization to Enter into Time Payment Agreement as Resolution to Drainage Fee Payment, CUP 2010-102, Drainage Area "KK", Kirkus Burks (Elm n/o Annadale)**

Recommend the Board of Directors authorize the Alternate Payment Plan provisions for collection of the Drainage Fee violation as described in the Board Memorandum.

Approved as Recommended

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

- 12. Board Reports, Workshops, Correspondence and Requests for Future Agenda Items:**

- a. Authorization to Schedule Special Board Meeting, Joint Workshop with City of Clovis Council Members, and Determination of Potential Agenda Items**

Recommend the Board of Directors authorize staff to schedule the Special Joint Board Meeting Workshop with the City of Clovis Council Members for Monday, October 11, 2010. The Board is also asked to make any recommendations as to other items they would desire to add to the Workshop Agenda.

Approved as Recommended

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

b. Report on Board of Directors Attendance at Various Meetings, Director Groom, San Joaquin River Conservancy (SJRC)

Recommend Director Groom give a verbal report of the SJRC meeting held September 8, 2010.

Director Groom 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.

13. Allocation of National Deferred Compensation Distributions

Recommend the Board of Directors direct the Trustees to allocate the \$750.41:

- a. Equally to the plan's 93 participants to their ICMA 457 plan Accounts;
or,
- b. To the District to cover indirect administrative costs of the plan; or,
- c. To the District's Employee Activities Fund

Approved Directing the Trustees to allocate the \$750.41 to the District's Employee Activities Fund (choosing option c.)

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

Director Franco recused himself from the proceedings due to potential conflict of interest with the remaining items, and left the dais and Board Meeting at 6:44 pm.

14. Authorization to Execute Conflict of Interest Waiver; Baker, Manock & Jensen as to Eric Kozlowski, Central Valley Presort, and Enviro Fuels Enterprises, LLC

Recommend the Board of Directors authorize execution of a Waiver of Conflict of Interest, permitting the law firm of Baker, Manock & Jensen to represent the District in the acquisition of an easement from WHD-LLC.

Director Spina recommended the Chairman execute the Waiver of Conflict of Interest.

Approved as Recommended, with the Chairman executing the Waiver of Conflict of Interest.

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

15. Report on Negotiations to Obtain Permanent Pipeline Easement and Temporary Construction Easement, Contract "ZZ-28" (Marks, Whitesbridge, Kearney, Tielman)

Recommend the Board of Directors receive a report from staff on the status of the acquisition, and provide direction regarding future negotiations.

Item to be further discussed in closed session, no further action was taken.

REPORT OF GENERAL COUNSEL

No items were submitted

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CLOSED SESSION

The Board then convened in Closed Session at 6:47 pm to consider the following litigation:

- a. **Report on Negotiations to Obtain Pipeline Easement and Temporary Construction Easement, Contract "ZZ-28" (Marks, Whitesbridge, Kearney, Tielman**

The Board then convened in regular session at 7:06 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

ADJOURNMENT

Adjourned Board Meeting at 7:07 pm

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE