

**ACTION SUMMARY MINUTES**  
**MINUTES OF THE REGULAR MEETING OF**  
**THE BOARD OF DIRECTORS OF THE**  
**FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**  
**HELD WEDNESDAY, APRIL 13, 2011**

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, April 13, 2011 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:** Roy Spina, Chairman  
Jennette Williams, Vice-Chairman  
Kendall Groom  
Mike Rastegar  
Barbara Goodwin  
Buzz Burleson

**DIRECTORS ABSENT:** Frank Fowler

**STAFF, CONSULTANTS,**

**OTHERS PRESENT:** Bob Van Wyk, General Manager-Secretary  
Jerry Lakeman, District Engineer  
Alan Hofmann, Assistant District Engineer/Design  
David Pomaville, Administrative Services Manager  
Peter Sanchez, Operations Engineer  
Frances Lopez, Office Manager  
Karyn Kruser, Staff Analyst  
Larry Kalpakoff, Information Systems Coordinator  
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel  
Ken Price, Assistant General Counsel

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

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**2. REPORT OF THE GENERAL MANAGER:**

Mr. Van Wyk reported on the following: (1) staff is in the process of preparing a tour for the Board Members to tour District facilities, he stated staff has also extended an invitation to the Fresno Irrigation District Board Members to participate in this tour as well; Mr. Van Wyk noted that the majority of the tour would be to look at the District's rural streams program; Mr. Pomaville then reviewed the proposed tour route; Mr. Van Wyk stated the Clerk to the Board would be working with the Board to schedule a date in the very near future; (2) he distributed a copy of the Clovis Roundup dated March 17, 2011 noting it contained an article entitled "Keep Me Wild" in which it discussed some of the District's basins sites and District efforts with other agencies in protecting wildlife; and (3) he distributed a thank-you memo from the Fresno Japanese American Citizens League, for the District's donation of coloring books for their Annual Shinzen Run at Woodward Park.

**3. APPROVAL OF MINUTES: Minutes of March 23, 2011**

With respect to item 9, page 6 of the Minutes, the request that the staff bring back a report regarding District active parks, Director Goodwin stated she did not have an objection to the way the Minutes were written, other than she wanted to insure that staff was not preparing a "huge" report or expending a "huge" amount of staff time. Mr. Van Wyk stated staff understood the request and plans on giving the Board just a little bit of background, identifying how the active parks were driven, and identifying that staff does not have any active parks on the table, either in the District's five year plan or anything that goes beyond that.

**Approved as Recommended**

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

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

There was no Business or Presentations from the Floor

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**5. ADDITIONS TO THE AGENDA:**

Mr. Van Wyk stated Staff had one item for Closed Session and recommended the Board add to the Closed Session Agenda, a Discussion Regarding Property Retained by the District located between DeWolfe and Leonard, and east of McKinley and Shields in Response to a letter sent to the District by the Department of Water Resources. Mr. Van Wyk stated in addition to adding this item to Closed Session, he would also recommend that the Board designate the General Manager as the Real Property Negotiator.

Mr. Jensen noted this item came up after the preparation and distribution of the Agenda, therefore pursuant to Government Code Section 54954.2(b)(2) it would require Board action to add it to the Agenda, and determination that there was need for immediate action on this matter, and the need came to the attention of the District subsequent to the Agenda being posted.

**Approved as Recommended added as Agenda Item No. 17a for Closed Session**

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

**6. POTENTIAL CONFLICTS OF INTEREST:**

There were no Conflicts of Interest.

**7. PUBLIC HEARING:**

There were no Public Hearings scheduled.

**8. CONSENT CALENDAR:**

- a. Adoption of Resolution Declaring Excess Property (One ¾ Ton Truck and One Ten-Inch Portable Pump), Disposal Venue to be EBay, and Authorization to Purchase Replacement Vehicle (One ¾ Ton Truck)
- b. Adoption of Resolution of Appreciation, Daniel N. Klaff on the Occasion of his Retirement from the Association of California Water Agencies/Joint Powers Insurance Authority

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- c. Authorization of Soccer Leases:
  - (1) Renew Soccer Use Agreement, Argentina Fresno Soccer Club, Basin "C" (Ashlan & Barton)
  - (2) New Soccer Use Agreement, Central Valley Soccer Alliance, Basins "F" (Barstow & Del Mar), "H" (Del Mar & Mesa), "I" (Bullard & Teilman) and "M" (San Jose e/o First)
- d. Ratification of Expenditures, March 2011
- e. Report of Public Concerns, March 2011

**Approved as Recommended**

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

**9. Adoption of Resolution Adopting the Trust Account for Other Post-Employment Benefits (OPEB) Liability**

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum establishing the Retirement Health Care Trust and appoint the General Manager-Secretary as the Plan Administrator.

**Approved as Recommended adopting Resolution No. 2011-692.**

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

**10. Adoption of Resolution of Support of Fancher Creek Flood Control Improvement Project, Proposition 1E Grant, Fancher Creek and Drainage Area “BO” (Belmont, Sunnyside, Tulare, Temperance), City of Fresno**

Mr. Lakeman distributed an amended draft Resolution to replace the one that had been attached to the Board Memorandum.

Recommend the Board of Directors adopt the Resolution as distributed this evening, supporting the City of Fresno’s application for a Proposition 1E Stormwater Flood Management grant and authorize staff to pursue State of California Proposition 1E grant funds in partnership with the City of Fresno as the applicant agency and a member of Upper Kings Basin Integrated Regional Water Management Authority, and the District as the individual project sponsor.

**Approved as Recommended, Adopting Resolution No. 2011-693**

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

**11. Authorization to Allow Temporary Use of Site Pending Determination of Applicable Drainage Fee, County SPR 7760, John Lovejoy and Curtis Contracting (s/o Dudley, e/o Marks)**

Recommend the Board of Directors (i) authorize the temporary use of County SPR 7760 pending adoption of a Late Fee Payment policy and determination of the applicable drainage fee amount, and (ii) payment of the fee with time payment provisions subject to interest and administrative fees.

Director Williams left the dais at 6:46 pm and returned to the dais at 6:48 pm.

Responding to Director Burlleson’s request for a recommended timeline as to a resolution on the Proposed Policy, Drainage Fees General – Late Payment of Fees, Mr. Van Wyk stated he anticipated this item going back to the Policy Committee after the completion of the Budget, and stated he would commit to having it done by the first quarter of the fiscal year.

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**Approved as Recommended**

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

**12. Award of Contract "II<sub>1</sub>-123", "G" Street from Ventura Street to Monterey Street Alignment, Rejection of Bid Due to Bid Form Irregularities**

Recommend the Board of Directors (1) reject West Valley's bid due to the irregularity; and (2) award Contract "II<sub>1</sub>-123" to Dawson-Mauldin Construction Company in the amount of \$454,075.

**Approved as Recommended**

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

**13. Discussion on Feeding Wildlife at District Basin Sites**

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

Director Spina suggested the flyer should be simplified as he believed it was too long and possibly having a caption with a line through it emphasizing "Please Don't Feed the Wildlife". Director Goodwin concurred with Director Spina and also suggested possibly emphasizing helping the wildlife by rewriting the title "We Need Your Help!" to say the "Wildlife Needs Your Help!" to put the emphasis on the wildlife rather than the District.

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

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**14. Discussion on the Approach and Process to be Used to Review Executive, Technical, and Administrative Compensation**

Recommend the Board of Directors discuss the approach for evaluating the Executive, Technical and Administrative staff compensation.

Director Rastegar stated the Board's Policy states at least annually the Board of Directors shall conduct a written evaluation of the General Manager's performance and establish his/her compensation, which he stated has not been done adequately in the past. He noted his hope that this would now be done as directed by the Board's Policy. He also noted there are currently several means to compensate the employees through market adjustments, promotions, step increases, 10% gapping, COLAs, etc. He also noted the predictions made through the Five Year Budget Forecast. He stated his belief that given the above information, and since there is a stable workforce and no sign of attrition at the District at this time, he did not believe there was a need to do a salary survey.

Director Williams concurred and stated that it was not the right time to do the salary survey, and at some point in the future when we do need to look at that, we can then look at what criteria we need to include in those surveys. Also, she noted her belief that the job of the Board is to look at policy, Budget and to deal with the General Manager's evaluation and compensation. Also, she stated it is her opinion it is the General Manager's job to take care of staff compensation, noting there are salary ranges and policies in place to take care of that. Director Williams stated it is her understanding that if the General Manager wants to go outside of those ranges and policies then he would need to bring that to the Board.

Director Spina stated he concurred that it is the Board's job by policy to evaluate and compensate the General Manager. He also stated there is a document that states that the General Manager is to be compensated 10% above the next highest paid employee and noted that the current General Manager has never been compensated at that amount. He stated he concurred with Director Williams' comment regarding the General Manager's responsibility to determine compensation for the employees, and that when the General Manager requested additional compensation for Executive Staff in the past, it was rejected, which is the reason we are at this point. Director Spina stated his belief that you pay employees what they are worth, noting the loyalty you receive for this.

Director Goodwin concurred and stated that she did not believe it was the right time to do a salary survey.

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Responding to Director Spina's question, Mr. Van Wyk stated the policy states the General Manager's evaluation and compensation review is to be done right after the completion of the Budget, and that the process is specific as to how the evaluation and compensation is to be done. He stated staff will get the paperwork to the Board in adequate time for review.

Director Williams suggested that the Administrative Committee, with respect to the General Manager's Evaluation, set criteria and priorities for review by the full Board and for ratification and/or any specific changes.

Director Rastegar stated his opinion that the Five Year Budget Forecast would actually be a good document to use in evaluating the General Manager's performance.

Mr. Van Wyk stated to assist the Board in preparing to evaluate the General Manager this year, he would distribute distilled out bullet points of Goals and Objectives set by the Board from last year's Evaluation of the General Manager, and the Goals and Objectives as set by the Annual Executive Staff Retreat.

Director Burleson noted as a new Board Member, any and all information that would assist him in a future decision would be appreciated.

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

**a. Recommendation from Board Policy Committee:**

**(1) Recommend Amendments to District's Employee Handbook and Policies and Procedures**

Recommend the Board of Directors approve the proposed revisions to the District's Employee Handbook and Human Resources Policies and Procedures as recommended by the Policy Committee.

Director Burleson initiated discussion with respect to HR-708, specifically as to item 6. "corrective action" noting his belief that if the Supervisor has to bring every item to the General Manager before he takes corrective action, then he believes the corrective action would not happen. Mr. Van Wyk noted his intent was to be sure he is in the loop should corrective action be taken against an employee as he is ultimately responsible. It was determined that the "Coaching and Counseling" should not be a part of the corrective action, as the Supervisors should have the ability to do this.



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Director Goodwin initiated discussion regarding HR-703, page 3, item 2 "Upon receipt of the complaint of harassment or discrimination, the Human Resources Officer will notify the General Manager", noting her concern, how you exclude the person against whom an accusation is made should the allegation be made against the General Manager. It was determined that staff and Legal Counsel bring back alternative options for the Board to consider on this item.

**Approved as Recommended with the exception of HR-703 and HR-708, which are to be brought back to the Board with proposed changes and alternatives for the Board to consider.**

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

- (2) Recommend Rescinding Personnel Policies and Denote in Policy Manual Under Personnel Category that this Category is Replaced by the Adopted District's Employee Handbook and Policies and Procedures**

**Recommend the Board rescind Board Personnel Policies 1, 2, 3, and 4 as outlined in the Board Memorandum.**

**Approved as Recommended**

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

**REPORT OF GENERAL COUNSEL**

No items were reported.

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**CLOSED SESSION**

The Board then convened in Closed Session at 8:03 pm to consider the following litigation:

**CONFERENCE WITH REAL PROPERTY NEGOTIATOR (DISTRICT'S  
GENERAL MANAGER) Pursuant to Section 54956.8:**

**Discussion Regarding Property Retained by the District Located Between DeWolfe and Leonard, and east of McKinley and Shields in Response to a Letter Sent to the District by the Department of Water Resources**

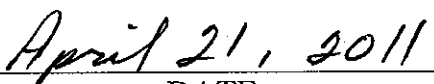
The Board then convened in regular session at 8:11 pm. Mr. Jensen reported the General Manager as the Real Property Negotiator was given instruction in Closed Session.

**ADJOURNMENT**

**Adjourned Board Meeting at 8:12 pm**

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

  
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BOB VAN WYK  
GENERAL MANAGER/SECRETARY

  
\_\_\_\_\_  
DATE