

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, APRIL 27, 2011

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, April 27, 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
Frank Fowler
Buzz Burleson

DIRECTORS ABSENT: None

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
Brent Sunamoto, Senior Engineer
Karyn Kruser, Staff Analyst
Andrew Remus, Staff Analyst
Daniel Rourke, Environmental Resources Manager
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel

Dave Iadarola, SolarGen
Carmine Iadarola, SolarGen

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

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2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) staff as they do annually, is again participating in the fundraiser "Walk to Cure Diabetes" which is to be held May 21st and is seeking donations and/or participation from Board Members and staff; (2) the State of the City Luncheon has been scheduled for Wednesday, June 1st at 11:30 am at the New Exhibit Hall, he noted the Clerk to the Board would be contacting the Board Members as to their availability to attend; (3) he distributed a copy of the thank you note from "Hands On" Central California for the District's grant in helping them with their projects; and (4) staff is in the process of scheduling the tour of District facilities, but stated at this point due to conflicting schedules and the need to work with FID's schedule, staff will attempt to schedule the Tour for June or after Budget.

3. APPROVAL OF MINUTES: Minutes of April 13, 2011

Due to his absence at the April 13, 2011 Board Meeting, Director Fowler abstained.

Approved as Recommended

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

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7. PUBLIC HEARING:

There were no Public Hearings scheduled.

8. CONSENT CALENDAR:

- a. Adoption of Resolution Amending the ICMA Retirement Corporation 457 Governmental Deferred Compensation Plan & Trust to Include ROTH Provisions
- b. Authorization to Distribute Request for Proposals (RFP) for Keyless Entry System for the District Office
- c. Authorization to Distribute Request for Proposals (RFP) for River Discharge Monitoring and Stormwater Quality Technical Consulting
- d. Authorization to Purchase Mixed Media Public Service Announcements to Comply with the Stormwater Quality Permit
- f. Report of Pollutant Discharge Incidents, March 2011
- g. Update on Statewide Industrial General Permit Regulating Stormwater Discharges from Commercial and Industrial Facilities

Recommend the Board of Directors approve the Consent Calendar with the exception of item 8e.

Approved as Recommended excluding item 8e.

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

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e. Recommended Wording Changes to Policy HR-703 and HR-708 of the District's Employee Handbook and Human Resources Policies & Procedures

Mr. Pomaville distributed the additional proposed changes as proposed by Legal Counsel.

Recommend the Board of Directors approve the proposed revisions to the District's Employee Handbook and Human Resources Policies and Procedures HR-703 and HR-708 as distributed at the Board Meeting and as outlined in the Board Memorandum.

Approved as Recommended

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

9. Adoption of Resolution to Exchange Trail Property with City of Fresno, Basin "AE" (San Jose & Marty)

Mr. Lakeman distributed an amended Resolution and noted a correction to Exhibit A.

Recommend the Board of Directors adopt the Resolution as distributed this evening, Resolution of Authorization that authorizes the General Manager-Secretary to grant the pedestrian easement to the City of Fresno as outlined in the Board Memorandum.

Approved as Recommended

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

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- 10. Authorization to Execute Agreement for Conveyance of Public Street Water, CUP 2003-082 and Tract 5971, Norclo, LP, Drainage Area "BV" (Temperance, Dakota, Locan, Gould Canal)**

Recommend the Board of Directors authorize staff to execute an agreement with Norclo, LP for conveyance of public storm water from Tract 5971 through an existing 18 inch pipeline as shown on Exhibit No. 1, as attached to the Board Memorandum and subject to the conditions identified therein.

Approved as Recommended

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

- 11. Adoption of Resolution Authorizing Joining the Upper Kings Basin Integrated Regional Water Management Authority (UKBIRWMA) and Direct that Membership Fees and Dues be Included in the 2011-2012 Budget**

Recommend (1) the Board Chairman appoint a member of the FMFCD Board and the Board ratify the appointment to represent the District on the JPA Board of Directors; (2) Appoint the General Manager-Secretary as the alternate member on the JPA Board to act on behalf of the District in absence of the regular members; and (3) Adopt the attached Resolution (attached to the Board Memorandum as Attachment 4) joining the Upper Kings Basin Integrated Regional Water Authority.

Director Spina appointed the following:

**Chairman Spina as the member on the JPA Board of Directors;
Director Burleson, Mr. Van Wyk and Mr. Lakeman as the Alternate Directors**

Mr. Jensen initiated discussion with the Board Members and staff regarding needed corrections to the draft Resolution.

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It was the consensus of the Board to amend the Resolution, on page 2 of 3, paragraph six, deleting the following wording: *“providing, that Fresno Metropolitan Flood Control District’s signature on such joint powers agreement shall not be deemed effective, and it shall not become a member of the Upper Kings Basin Integrated Regional Water Management Authority, unless and until at least six other public agencies and/or mutual water companies have approved the joint powers agreement and agreed to become members.”*

The Board of Directors ratified the appointments as made by Director Spina and as noted above; and adopted Resolution No. 2011-697 as amended above, and as attached to the Board Memorandum; said Resolution to join the Upper Kings Basin Integrated Regional Water Authority.

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

12. Discussion Regarding OPEB Investment Alternatives

Mr. Pomaville stated Andrew Brown with HighMark Capital was scheduled to attend this evening, however due to a scheduling conflict Mr. Brown was unable to attend.

Staff is therefore requesting this item be rescheduled for the May 11, 2011 Board Meeting.

It was the consensus of the Board that this item be rescheduled to the May 11, 2011 Board Meeting.

13. Discussion Regarding Solar Power Generation at Fancher Creek Reservoir

Recommend the Board of Directors authorize staff to pursue a solar power project on District-owned land near Madsen and Herndon Avenues. Agreement terms and conditions would be brought back to the Board for consideration. It is also requested the Board of Directors provide direction to staff on applicability of the land lease policy for this project.

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Director Burleson expressed his concern with respect to a letter of credit or bond which would be posted for decommissioning should the solar company become insolvent, stating his belief it would be better to have some type of cash up front, noting the need to mitigate this type of risk.

Director Goodwin noted an analysis would need to be done as to what the life expectancy of the panels would be, in order to determine some of the risks.

Discussion was carried among the Board Members and staff as to: development of an RFP and/or a single provider; SolarGen being required to apply to the County for all permits; and July 2011 as possibly not being a realistic encumbered target date.

Mr. Dave Iadarola, representing SolarGen located at 5101 N. Roosevelt Avenue, Fresno, CA, addressed the Board with respect to Director Goodwin's question as to the life expectancy of the panels, noting the panels are guaranteed for 20 years. He stated they have entered into agreements to post decommissioning funds in the past with other entities, and are open to working with the District to find something mutually beneficial to both parties. He stated they are proposing to take all the risks with respect to getting the permits from the County. With respect to the target date, he stated what they are looking for is some sort of direction noting they have been working at this for 5 months and would like to know whether the Board is willing to move forward with this, and if so does the proposed site work. Responding to Director Burleson's question, Mr. Iadarola stated they have been in business for 2 years and would be willing to share some financial information with the District.

A motion was made by Director Williams, seconded by Director Rastegar to approve staff recommendation with the addition that staff receive financial information from SolarGen before the District enter into any Lease Agreement.

Discussion was carried among Board Members and staff with respect to whether there should be a development of an RFP and/or the legality of a single source, and the short existence of the SolarGen Company and their availability to sustain the lease agreement.

Director Williams noted her biggest concern was due to the short existence of the solar company, she did not know if they could support a 20 year lease agreement.

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Mr. Carmine Iadarola addressed the Board noting they are financed by GCL Solar Company and can be found at gclsolarenergy.com. He stated they are the largest solar manufacturer in the world and SolarGen is their exclusive representative in the United States. He stated if the Board would like to check their financials, they would be very impressed. He also stated they went into this with a concept of doing a pilot study, noting the District has lots of land that this could be used on. He stated it is their hope to do this first one on dry land, and then hopefully do it over the water, noting they believed it would reduce evaporation. He stated they have a lot of ideas with respect to the future on this item; however they do not have a clear understanding of how this will work over water, so their intent is to build this over water and see how it will work. Responding to Director Williams' question as to who would sign the lease, Mr. Iadarola stated they would be, in conjunction with GCL, with a limited liability called Fresno Drainage District LLC or something similar.

Director Spina noted he believed alternate sources of energy were extremely important, and stated the prospect sounds encouraging, in particularly if you can get the price of solar energy lower than the price of natural gas.

Mr. Jensen clarified that the District has a Policy with respect to leasing District property and a competitive process with respect to leasing, choosing tenants, rates and so forth, with a couple of exceptions. He stated one of the issues before the Board this evening is does the Board want to depart from that competitive process in regards to this situation if there is a lease.

Director Goodwin requested clarification as to the staff's request for direction from the Board as to the applicability of the land lease policy for this project, noting the Board would need input from Dr. House before they could direct staff. Mr. Pomaville stated staff is proposing to contract with Dr. House to do the analysis, and then bring back an option for the Board to consider. Mr. Pomaville stated Dr. House's thumbnail evaluation is that the power purchase agreement would be more lucrative to the District, and a long term agreement would be more beneficial.

Director Burleson stated he is comfortable with the District exploring opportunities to use our property for alternative energy, specifically solar; but he is short on being comfortable with a single source of SolarGen at this particular point. He stated as Mr. Iadarola has stated it would be a separate LLC who would sign the contract, and so those would be the financials he would want to see of the LLC. He noted that he shares some of the same concerns that Director Williams has stated.

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Director Fowler concurred with Director Burleson's comments, and stated he has some concerns as to how staff would develop the RFP if the Board should choose to go in that direction, and he expressed concern regarding the neighbors' feelings on the matter.

Mr. Van Wyk suggested in light of the discussions this evening, he would propose that before the Board take an action, that an Ad Hoc Committee be created to review this item, in particular to look at the financials, and suggested Director Williams be a part of that Committee. He also suggested that the Board direct staff to host, with SolarGen in attendance, public information meetings with the neighbors before this item goes to the Board of Supervisors.

A substitute motion was made by Director Williams, seconded by Director Rastegar as noted below.

Not Approved as Recommended, the Board directed an Ad Hoc Committee made up of Directors Williams, Burleson and Fowler meet to review this item in further detail, in particular the financials. The Board also directed staff to host, with SolarGen in attendance, public information meetings with the neighbors before this item goes to the Board of Supervisors. Also, the Board authorized the use of Lon W. House, Ph.D., with Water & Energy Consulting to evaluate proposal options and help ensure the best interests of the District.

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

14. Report of Groundwater Recharge Activity in District Basins for 2010 Recharge Year

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

Mr. Sunamoto presented the Groundwater Recharge Activity report.

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

15. Review of Real Estate Activity Report, March 2011

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

Director Burluson noted his desire was to get additional information and clarity in order to understand when these real estate activity items were placed on the list, how long they have been on the list, is it still a valid concern, and the priority of each item. He suggested also having staff bring the current priorities to the Board's attention. Director Burluson also stated what would be helpful to him is to know the last status of the item.

Mr. Pomaville stated staff could separate the list down into what is staff actively working on and report those to the Board. Then possibly on an annual basis provide a report that shows all of the Master Plan land that has not yet been acquired, and show the reasons why we are not yet pursuing it.

Director Rastegar suggested preparing a spreadsheet to show the information easier, showing whether the items are active, not active and/or what the specific target date is to purchase.

Mr. Van Wyk stated as the report acts as a good tool for staff to monitor where we are at with respect to acquisitions; however, realistically the land acquisition has toned down significantly so he believed this item can be brought to the Board on a quarterly basis, rather than monthly. He stated when there is information to report to the Board on a specific acquisition, staff can bring that to the Board as a specific Agenda item.

Responding to Director Rastegar's comments, Mr. Pomaville stated staff can put together a better report that shows what is happening on an ongoing basis so the Board can keep track of the acquisitions that staff is pursuing.

Director Williams noted her belief that the report did not need detailed information, but rather could merely have bullet point items.

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

The Board recessed at 7:37 pm and reconvened in regular session at 7:42 pm.

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

**a. Report on Board of Directors Attendance at Various Meetings,
Director Spina, Association of Metropolitan Water Agencies (AMWA)**

Recommend Director Spina give a verbal report of AMWA meeting held April 21, 2011.

Director Spina reported that AMWA has decided not to disband, and would now continue in existence. He then appointed Director Burleson as the District's representative to AMWA, with Director Fowler serving as the Alternate. He noted the next meeting of AMWA would be June 30th at 12:00 pm.

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

REPORT OF GENERAL COUNSEL

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

CLOSED SESSION

The Board then convened in Closed Session at 7:52 pm to consider the following litigation:

**18. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Subdivision (a) of Section 54956.9:**

a. Burrough vs. Fresno Metropolitan Flood Control District

The Board then convened in regular session at 8:03 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

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2. REPORT OF THE GENERAL MANAGER (Continued):

Mr. Van Wyk reported the District has recently experienced a significant loss in manhole covers (approximately 80), constituting approximately \$20,000 worth of damage, and noted the significant liability associated with this. He stated staff is reviewing design issues which will hopefully help with this situation, but as there are approximately 8,000 manholes it will take some time over a period of a few years to get those in place. However, he stated fortuitously today in one of the inlets that the lid was taken from, staff was able to find evidence, which was turned over to the police that will hopefully help identify the person or person(s) responsible.

ADJOURNMENT

Adjourned Board Meeting at 8:07 pm

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE