

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, MAY 11, 2011

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, May 11, 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
Kendall Groom
Mike Rastegar
Frank Fowler
Buzz Burleson

DIRECTORS ABSENT: Jennette Williams, Vice-Chairman
Barbara Goodwin

**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
Paul Merrill, Finance Manager
Karyn Kruser, Staff Analyst
Esther Schwandt, Clerk to the Board

John Smith, Assistant General Counsel
Ken Price, Assistant General Counsel

Andrew Brown, Vice President/Senior Investment Manager,
HighMark Capital

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

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2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) he reminded the Board that a Tree Planting/Media Event had been scheduled at Basin "TT₂" for Saturday, June 4, 2011; (2) the Tour of District facilities will be scheduled for either June 7th or June 17th; staff is awaiting the availability of the Fresno Irrigation District Board; (3) Director Groom and the General Manager attended the JPIA Board Meeting in Sacramento this week; he noted a briefing would be coming back to the Board on those meetings; however, he wanted to note that he was proud of District employee Gary Newmark who received an award for submittal of a safety project; Mr. Van Wyk stated they also attended a Retirement Dinner honoring Dan Klaff and presented him with the Board's Resolution acknowledging his work; (4) the General Manager and District Engineer also met this week with Councilmember Quintero who is interested in converting Basin "BF" (Chestnut & Church) from a recharge basin to a park site; he noted staff informed the Councilmember he would need to work with the City to make that conversion; (5) he distributed a copy of an email the District received from PETA (People for the Ethical Treatment of Animals) regarding fish in the District's basin sites, when the basins are being pumped; he stated staff will bring back a report to the Board on this item; (6) he distributed an email from Kelli Furtado thanking the District on its response to a constituent's concern regarding the protection of nests in District basin sites; (7) he distributed a copy of an Agenda from a meeting the General Manager and District Engineer had with Councilmember Xiong; and (8) he reported the Upper Kings Water Forum (UKWF) met on May 6th regarding the District's application to the Department of Water Resources (DWR) for a Grant for Fancher Creek Project; he noted the UKWF had approved of the District's application; he stated the application will now be forward to DWR for consideration and funding.

3. APPROVAL OF MINUTES: Minutes of April 27, 2011

Approved as Recommended

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

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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:

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.

8. CONSENT CALENDAR:

- a. Authorization to Execute Standard Developer Agreement, Fresno Community Hospital and Medical Center, Clovis SPR 2011-003, Drainage Area "7H" (Herndon & Temperance)
- b. Authorization to Execute Renewal Lease for Agricultural Use of Fancher Creek Reservoir, Bonner Sample
- c. Authorization to Schedule 2011-2012 Budget Workshop and Budget Hearing, and Cancel Regular Board Meeting
- d. Award of Contracts "KK-22", Basin Internal Pipelines (Elm & Annadale) and "LL-29", Pipeline Project (near Jensen & East)
- e. Engineer's Report of Construction, April 2011
- f. Ratification of Expenditures, April 2011
- g. Report of Public Concerns, April 2011

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Approved as Recommended

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

- 9. Discussion of Easement Encroachment, Existing Shade Structure, Bluff View Private Preschool, Drainage Area "DH" (Blackstone, Alluvial, Audubon, San Joaquin River**

Mr. Lakeman stated as this item would be discussed in Closed Session, staff would recommend this item be deferred to the end of the Closed Session.

Chairman Spina directed this item to be deferred to the end of the Closed Session.

- 10. Authorization of Alternate Payment Agreement to Collect Drainage Fee Violation, Fresno SPR 2000-419, Granite Construction, Drainage Area "LL" (Cherry & Jensen)**

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

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11. Selection of Investment Strategy of Other Post Employment Benefit (OPEB) Funds

Recommend the Board of Directors receive a presentation from Mr. Brown and select an appropriate investment portfolio.

Mr. Andrew Brown, Vice President and Senior Investment Manager with HighMark Capital addressed the Board regarding available investment portfolios for the Board to consider as outlined in the Board Memorandum.

The Board of Directors directed staff to invest in Moderate HighMark Index (Passive).

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

It was the consensus of the Board that they receive quarterly reports on how the funds are doing.

12. Submittal of Quarterly Capital Facilities Update and Engineer's Report of Projects, April 2011

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. Submittal of Third Quarter Budget Report, Fiscal Year 2010-2011

Recommend the Board of Directors accept the Third Quarter Budget Report Executive Summary ending March 31, 2011.

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Mr. Merrill distributed the Statement of Net Assets and the Income Statement Summary (March 31, 2011) which had not been distributed with the Board Memorandum.

Approved as Recommended

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

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

No Items were submitted.

REPORT OF GENERAL COUNSEL

Mr. Smith reported on items of interest to the District. He noted he had participated in an Educational Seminar regarding “acquiring potentially contaminated property” which he found very informative, and offered to host a luncheon meeting to review the items he learned with the Senior Executive Staff at no cost to the District.

CLOSED SESSION

The Board then convened in Closed Session at 7:00 pm to consider the following litigation:

- 16. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to sub-division (b) of Section 54956.9:**
- a. Discussion of Easement Encroachment, Existing Shade Structure, Bluff View Private Preschool, Drainage Area “DH” (Blackstone, Alluvial, Audubon, San Joaquin River)**

The Board then convened in regular session at 7:25 pm. Mr. Smith reported General Counsel was given authorization in Closed Session to file litigation to enforce the District’s easement regarding the above-mentioned litigation.

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- 9. Discussion of Easement Encroachment, Existing Shade Structure, Bluff View Private Preschool, Drainage Area "DH" (Blackstone, Alluvial, Audubon, San Joaquin River)**

Recommend the Board of Directors provide direction to staff regarding how to proceed on this matter.

As action had been taken in Closed Session and said action was reported in regular session, there was no further action or discussion.

ADJOURNMENT

Adjourned Board Meeting at 7:25 pm.

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE