

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, JUNE 15, 2011

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, June 15, 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 Burlison

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
Paul Merrill, Finance Manager
Karyn Kruser, Staff Analyst
Julia Norvell, Accounting Technician
Carol Gerking, Accountant
David O'Masters, Facility Technician
Larry Kalpakoff, Information Systems Coordinator
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel; Baker, Manock & Jensen
Ken Price, Assistant General Counsel;
Baker, Manock & Jensen

Adrienne Steele, Daughter of Julia Norvell
Bobby Steele, Son-in-Law of Julia Norvell
Morgan Denny, Granddaughter of Julia Norvell
Jim Walls, Companion of Julia Norvell
T.J. Cox, President, Central Valley New Market
Tax Credit Fund
Scott Anderson, Fancher Creek Properties

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

2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) tomorrow morning Staff will be making a presentation to the Fresno City Council on the Big Dry Creek Extension at Ashlan & Freeway 168, noting the District has been working with the Fresno Airport on purchase of this property; and (2) he had Mr. Lakeman display photographs of the recent Joint Board/FID Tour; Shade Structures at Basins "Y" Trolley Creek Park (Kings Canyon & Adler) and "TT₂" (Grove w/o Walnut); and the Tree Planting/Media Event held on June 4, 2011 at Basin "TT₂" (Grove w/o Walnut) with First Five and Tree Fresno.

3. APPROVAL OF MINUTES: Minutes of June 7, 2011

Approved as Recommended

Motion by: Groom Second by: Rastegar

Ayes: Spina, Williams, Groom, Rastegar, Goodwin, Fowler, Burleson

Noes: None

Abstentions: None

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:

- a. **Adoption of Resolution Amending the Storm Drainage and Flood Control Master Plan, and Amending the Schedule of Drainage Costs and Fees, Local Drainage Areas “BL” (Church, Locan, Jensen, Fowler) and “BM” (Kings Canyon, Church, Fowler, Temperance)**

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum amending the Storm Drainage and Flood Control Master Plan and the schedule of drainage fees for Local Drainage Area “BL” and Drainage Area “BM” as outlined in the Board Memorandum.

Chairman Spina opened the Hearing for Public Comment there being none the Public Comment portion of the Hearing was closed at 6:16 pm.

Approved as Recommended adopting Resolution No. 2011-700

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

- b. **Adoption of Resolution Amending the Storm Drainage and Flood Control Master Plan and Amending the Schedule of Drainage Costs and Fees for Local Drainage Area “EL” (Freeway 99 & Herndon Canal)**

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum amending the Storm Drainage and Flood Control Master Plan and the schedule of drainage fees for Local Drainage Area “EL”.

Mr. Lakeman stated it was staff’s request that the Board open this Hearing to the Public for Comment as this was a noticed Public Meeting; the staff then requests that the Board continue this item to the July 13, 2011 Board Meeting.

Chairman Spina opened the Hearing for Public Comment, there being none the Public Comment portion of the Hearing was closed at 6:18 pm.

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The Board of Directors continued this Public Hearing to the July 13, 2011 Board Meeting.

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

8. CONSENT CALENDAR:

- a. Approval of Shade Structure Recognition Signs
- c. Ratification of Expenditures, May 2011
- d. Report of Pollutant Discharge Incidents, May 2011
- e. Report of Public Concerns, May 2011

Director Goodwin requested item 8b be pulled.

Approved as Recommended with the Exclusion of Item 8b

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

- b. **Authorization to Extend Administrative Services and Office Space Agreement for the San Joaquin River Conservancy**

Recommend the Board of Directors authorize the General Manager to extend the current Agreement through June 30, 2012.

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Director Goodwin questioned where the San Joaquin River Conservancy (SJRC) is passed through the District's Budget, as she believed there should be transparency and understanding as to the level of services the District provides to the SJRC. Mr. Merrill stated it is in the Budget under line item 4521 as the primary resource. Director Goodwin stated her issue is she assumes the SJRC gets audited because of their grants, and she therefore believed that it should be made clear in the District's Budget where the amounts are shown coming "in" and then going "out". Mr. Van Wyk stated staff will include that additional level of detail in the Budget going forward.

Approved as Recommended

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

9. Adoption of Resolution of Appreciation, Honoring Julia Norvell's Twenty Years of District Service

Recommend the Board of Directors adopt a Resolution of Appreciation acknowledging Ms. Julia Norvell's 20 years of dedicated service to the District.

Mr. Van Wyk acknowledged Ms. Norvell's work and accomplishments at the District.

Approved as Recommended, Adopting Resolution No. 2011-698

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

Chairman Spina then presented a framed Resolution to Ms. Norvell. Ms. Norvell introduced her family and friend in attendance. She then noted her work at the District and the life-long friends she has made during her tenure.

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Mr. Merrill addressed the Board acknowledging Ms. Norvell's work at the District and thanked her for her service to the District.

Ms. Gerking then addressed the Board acknowledging Ms. Norvell's work ethic and friendship.

Mr. Van Wyk then presented Ms. Norvell's daughter and granddaughter with a bouquet of flowers.

10. Award of Contracts:

- a. Contract "D-61", Demolition of Play Equipment and Play Surfacing at Oso de Oro Park, Basin "D" (Forkner & Barstow)**

Recommend the Board of Directors award Contract "D-61" to Hobbs Construction Company, Inc. in the amount of \$19,202.

Director Spina noted an error in the Board Memorandum on page 2, last paragraph: "All the bids were meaningfully above the Engineer's Estimate." The word above should be replaced with the word below.

Responding to Director Burleson's question, Mr. Van Wyk stated the contract was broken in four different phases. Mr. Sanchez and Mr. Hofmann explained the four different phases, and stated staff separated the project into four phases to be more economical and avoid markup charges by a general contractor or subcontractor's work. Director Burleson requested when staff brings back the next phase, he would like to see what the total cost estimates are. Mr. Hofmann stated he would bring that detail at the next Board Meeting with the second phase Award of Contract.

Approved as Recommended

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

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- b. Contract “5B/5C-37”, Pump Station, Basin “5B/5C”
(Sierra & Freeway 168)**

Recommend the Board of Directors award Contract “5B/5C-37” to Floyd Johnston Construction Company, Inc. in the amount of \$377,581.

Approved as Recommended

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

11. Report of Status of Encroachment into Pipeline Easements:

- a. Lots 58 & 59, Tract 4897, Drainage Area “DE” (International, Friant, Willow, Copper, Maple)**
- b. Lot 10, Tract 4188, Drainage Area “BG” (Minnewawa, Jensen, Clovis, Kings Canyon)**

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

Mr. Jensen noted these items were on the Agenda under Closed Session as well, and he therefore suggested the Board address these items in Regular Session, after the Board has discussed the items in Closed Session.

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

- a. Report of Board of Directors Attendance at Various Meetings, San Joaquin River Conservancy, Director Spina**

Recommend Director Spina give a verbal report of the San Joaquin River Conservancy meeting held June 15, 2011.

Director Spina gave a verbal report.

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

**b. Report of the Administrative Committee, Baker, Manock & Jensen
Proposed Rate Increase**

The Administrative Committee recommends the Board approve the proposed rate increase and authorize staff to modify the fee schedule to be effective July 1, 2011.

Approved as Recommended

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

f. Report of the Solar Ad Hoc Committee

The Ad Hoc Committee requests the Board discuss the issue of power generation projects and provide direction to staff on the following issues:

1. Should the District limit the pursuit of power generation projects to those that will offset the District's consumption of power or should the District look for broader power generation opportunities.
2. The Board is requested to approve the Committee's recommendation that consideration of power generating facilities would be conducted through a formal "Request for Proposal" process.
3. The Board is requested to authorize the General Manager-Secretary to enter into a professional services agreement with Dr. Lon House for the purpose of providing consulting services to the District on an as needed basis.

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Discussion was carried among the Board Members, and staff with respect to the total amount of electric power the District's uses; the opportunities available to the District as to offsetting the District's current consumption and/or generating revenue; the guidance, expertise, and compensation for Dr. House on this issue; the District's land and its restrictions; the amount of staff time this project may involve; terms that may not be acceptable to the Solar proponents; the benefits of the District developing an RFP; and the short time table with the tax credits/rebates.

With respect to Item 1. above, it was the consensus of the Committee that it would be difficult to determine without additional information from Dr. House.

Mr. Price noted the Government Code governing the District's Act allows the District to construct a power generation system so long as the District does not own it and so long as it is under 5 megawatts; however he noted that there is some ambiguity with how the Statue is drafted and how the threshold works.

With respect to Item 2. above, it was the consensus of the Committee that it would be difficult to determine without additional information from Dr. House.

Mr. Pomaville stated it is staff's intent to develop a professional services agreement with Dr. House capped at \$5,000; staff intends to use him sparingly and to have him answer specific questions for the District.

The Board of Directors authorized the General Manager-Secretary to enter into a professional services agreement with Dr. Lon House for the purpose of providing consulting services to the District on an as needed basis.

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

d. Authorization for District to Participate in Fancher Creek Statewide Park Program

No action is required by the Board of Directors at this time, unless Fancher Creek Town Center representatives appear with a request.

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Mr. T.J. Cox, President of Central Valley New Market Tax Credit Fund, addressed the Board stating with respect to their Property 84 Grant for Park and Trail Improvements, Tree Fresno is going to be the lead applicant with the City of Fresno being the sponsoring entity in the program. He stated there is not much that they need from the District, other than assistance and information regarding costs and maintenance schedules, noting that some of this information has already been given to them by the District.

Mr. Lakeman then displayed photographs of the Bakersfield Aquatic Park, which Mr. Cox stated is an example of features they are proposing for their park.

Mr. Scott Anderson, representing Fancher Creek Properties, expressed his thanks to the Board for allowing staff to work with them on putting the grant together.

As no action was requested, no further action was taken.

e. Continued Discussion of Draft Budget, Fiscal Year 2011-2012

Recommend the Board of Directors discuss the proposed Cost of Living Adjustment and provide direction to staff on finalization of this section in the 2011-2012 Annual Budget.

Mr. Burleson stated he was comfortable with the additional information that was provided.

Mr. Van Wyk stated with respect to the three vacant employee positions, if they were to be filled as part of a work plan, he would report that need to the Board.

Approved as Recommended

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

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 7:14 pm to consider the following litigation:

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

- a. **Burroughs vs. FMFCD**

**15. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to sub-division (b) of Section 54956.9:**

- a. **Report of Status of Encroachment into Pipeline Easements:**

- (1) **Lots 58 & 59 of Tract 4897, Drainage Area “DE” (International, Friant, Willow, Copper, Maple)**
(2) **Lot 10 of Tract 4188, Drainage Area “BG” (Minnewawa, Jensen, Clovis, Kings Canyon)**

The Board then convened in regular session at 7:43 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

11. Report of Status of Encroachment into Pipeline Easements:

- a. **Lots 58 & 59, Tract 4897, Drainage Area “DE” (International, Friant, Willow, Copper, Maple)**
b. **Lot 10, Tract 4188, Drainage Area “BG” (Minnewawa, Jensen, Clovis, Kings Canyon)**

As no reportable action was taken in Closed Session, there was therefore no further action needed or taken.

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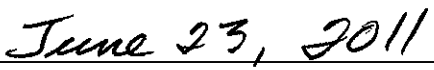
ADJOURNMENT

Adjourned Board Meeting at 7:44 pm

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE