

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, AUGUST 10, 2011

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, August 10, 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
Barbara Goodwin
Frank Fowler
Buzz Burleson

DIRECTORS ABSENT: Jennette Williams, Vice-Chairman

**STAFF, CONSULTANTS,
OTHERS PRESENT:**

Bob Van Wyk, General Manager-Secretary
Jerry Lakeman, District Engineer
David Pomaville, Administrative Services Manager
Peter Sanchez, Operations Engineer
Kurt Hupp, Rural Program Manager
Frances Lopez, Office Manager
Daniel Rourke, Environmental Resources Manager
Kristine Johnson, Staff Analyst
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel; Baker, Manock & Jensen

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

2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) the State of the County Breakfast is scheduled for Wednesday, September 14th at 7:00 am; the Clerk to the Board would be contacting the Board Members as to their availability to attend; (2) he distributed to each of the Board Members a California Special District's Handbook for Board of Directors; (3) he distributed a copy of a Resolution of Appreciation adopted by the JPIA presented to the General Manager acknowledging his 16 years of service on the JPIA's Liability Program Committee; Director Spina expressed the Board's appreciation to Mr. Van Wyk on his

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service to the JPIA; (4) he reported staff held a meeting with the Regional Water Quality Control Board (RWQCB) on the District's NPDES permit and indicated he was cautiously optimistic the RWQCB would be completing the District's permit by the end of this year; and (5) he had Mr. Sanchez show a video of work contractors did to address leak issues in five pressured manholes.

3. APPROVAL OF MINUTES: Minutes of June 29, 2011; July 13, 2011; and July 27, 2011

Approved as Recommended

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

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:

Director Rastegar noted a potential Conflict of Interest with Agenda Item No. 10. **Authorization to Submit Environmental Enhancement and Mitigation Program (EEMP) Grant to Landscape Basin "II₄" (Millbrook & Dudley) and Basin "JJ" (McKinley between 8th & 9th),** and stated he would therefore be abstaining on this item.

7. PUBLIC HEARING:

Cancellation of Proposed Amendment of Storm Drainage and Flood Control Master Plan for Local Drainage Area "EL" (Freeway 99 & Herndon Canal)

Recommend the Board of Directors cancel the proposal to amend the Storm Drainage and Flood Control Master Plan for local Drainage Area "EL".

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Director Spina opened the Hearing for public comment, there being none the Public Comment portion of the Hearing was closed at 6:09 pm.

Approved as Recommended

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

8. CONSENT CALENDAR:

- a. Adoption of Resolution of Special Transfer of PPDA Funds, Contract "5B/5C-37", Drainage Area "5B/5C" (Sierra & Freeway 168)
- b. Authorization to Enter into Agreement for Conveyance of Public Storm Water with Fresno Community Hospital and Medical Center, Clovis Center, Drainage Area "7H" (Herndon & Temperance)
- d. Engineer's Report of Construction, July 2011
- e. Engineer's Report of Projects, July 2011
- f. Ratification of Expenditures, July 2011
- h. Report of Public Concerns, July 2011
- i. Quarterly Real Estate Report, August 2011

Director Spina requested items 8c and 8g be pulled for discussion.

Approved as Recommended, Pulling items 8c and 8g

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

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c. Award of Contract "X-21", Pipeline & Inlet Construction (Willow & Lewis Avenues)

Recommend the Board of Directors award Contract "X-21" to Haydon Construction Inc. in the amount of \$57,698.

Responding to Director Spina's question, Mr. Lakeman stated in general when projects come in or over Budget, staff monitors those through the Engineer's Report noting the additional amount needed for this project will come from other projects that came under bid. Director Spina stated when other funds are needed in support of a project the Board Memorandum needs to identify the source of these funds.

Approved as Recommended

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

g. Report of Comments on EPA and Army Corps of Engineers Guidance Regarding Identification of Waters Protected by the Clean Water Act

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

Responding to Director Spina's question, Mr. Rourke reviewed the potential impacts to the District such as additional costs and undue hardship should the EPA proceed with their definition of "Waters of the United States", noting EPA has made rules that have greatly extended the federal jurisdiction beyond the original legislative intent.

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

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- 9. Authorization to Exercise Option to Transfer Fee Ownership to Fresno Metropolitan Flood Control District from City of Fresno, Basin "D" (Forkner & Barstow); "G" (Olive & Winery); "BB" (Fresno n/o Shields) and "B/E" (s/o Gettysburg, e/o First)**

Recommend the Board authorize the General Manager to execute an agreement with the City of Fresno to repurchase Basins "D", "G", "BB" and "B/E" from the City of Fresno for one dollar (\$1) each.

Approved as Recommended

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

- 10. Authorization to Submit Environmental Enhancement and Mitigation Program (EEMP) Grant to Landscape Basin "II₄" (Millbrook & Dudley) and Basin "JJ" (McKinley between 8th & 9th)**

Director Rastegar recused himself from the proceedings due to a potential conflict of interest and left the dais at 6:20 pm.

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum authorizing the General Manager to submit a grant application to fund landscaping for Basin "II₄" and Basin "JJ".

Approved as Recommended

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

- 11. Presentation of Fancher Creek Detention Basin Design and Flood Routing**

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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Mr. Lakeman then reviewed and distributed a copy of the PowerPoint presentation entitled "Fancher Creek Detention Basin" dated April 4, 2011.

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

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

a. Report on Board of Directors Attendance at Various Meetings:

(1) Association of Metropolitan Water Agencies (AMWA), Director Burleson

Recommend Director Burleson give a verbal report of the AMWA meeting held June 30, 2011.

Director Burleson gave a verbal report of the AMWA meeting. Director Burleson then initiated discussion as to the possibility of the District assisting AMWA with the Treasury responsibilities including retaining AMWA's funds on deposit with the County. It was the consensus of the Board that Director Burleson was so authorized to offer the District's assistance in assisting with AMWA's Treasury responsibilities should he believe it necessary. Director Goodwin suggested an MOU should be developed between the District and AMWA should the District assume the Treasury responsibilities for AMWA.

(2) Upper Kings Basin Integrated Regional Water Management Authority (UKBIRWMA), Director Spina

Recommend Director Spina give a verbal report of the UKBIRWMA meeting held July 20, 2011.

Director Spina gave a verbal report of the UKBIRWMA meeting.

As the reports were 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.

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CLOSED SESSION

The Board then convened in Closed Session at 7:33 pm to consider the following litigation:

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Pursuant to subdivision (a) of Section 54956.9: **Brar Construction and Development, Inc. Regarding Contract "RR-61" vs. FMFCD**

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

ADJOURNMENT

Adjourned Board Meeting at 7:44 pm.

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE