

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, MARCH 14, 2012

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, March 14, 2012 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
Alan Hofmann, Assistant District Engineer/Design
Peter Sanchez, Operations Engineer
Paul Merrill, Finance Manager
Karyn Kruser, Staff Analyst
Daniel Rourke, Environmental Resources Manager
Andrew Remus, Staff Analyst
Wendell Lum, Master Plan Manager
Carol Gerking, Accountant
Paul Allen, Facilities Manager
Ramiro Perez, Engineer
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel; Baker, Manock & Jensen
Lauren Layne, Assistant General Counsel;
Baker, Manock & Jensen

Gene Qualls
Ron Samuelson
Dwight Kroll, City of Clovis
David Fry, City of Clovis

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

2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) the District received an email from Director Franco inviting the District to participate in the EOC Gala on Friday, May 18th; he requested the Board notify the Clerk to the Board as to their interest in attending; and (2) Mr. Lakeman noted photographs had been distributed to the Board this evening relating to Agenda Item 8e.

3. APPROVAL OF MINUTES: Minutes of February 22, 2012

Approved as Recommended

Motion by: Fowler **Second by:** Goodwin
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 Groom noted a potential Conflict of Interest with Agenda Item No. 8.e. **Authorization to Participate as a Gold Sponsor, Crime Stoppers**, and stated he would therefore be abstaining on this item.

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7. PUBLIC HEARING:

There were no Public Hearings scheduled.

8. CONSENT CALENDAR:

- a. This Item was Pulled
- b. Authorization to Exercise First Year Option, Extension of Independent Contractor Agreement for Professional Auditing Services
- c. Authorization to Sign Basin Use Soccer Agreements:
 - (1) Argentina Fresno Soccer Club, Basin "C" (Ashlan & Barton)
 - (2) Chaos Soccer of Fresno, Basin "C" (Ashlan & Barton)
 - (3) Central Valley Soccer Alliance, Basins "F" (Barstow & Del Mar); "H" (Del Mar & Mesa); "I" (Bullard & Teilman); and "M" (San Jose e/o First)
- d. Authorization to Sign Agricultural Lease Agreement, Tony and Stacey Stefano, Fancher Creek Reservoir
- e. Authorization to Participate as a Gold Sponsor, Crime Stoppers
- f. Ratification of Expenditures, February 2012
- g. Report of Public Concerns, February 2012
- h. Authorization to Schedule Public Hearing on Resolution of Necessity, Basin "BL" (Armstrong & Church) Expansion

Approved as Recommended

Motion by: Rastegar Second by: Fowler
Ayes: Spina, Groom, Rastegar, Goodwin, Fowler, Burleson
Noes: None
Abstentions: Groom abstained on Agenda Item 8c
Absentees: Williams

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- 9. Approve Actions Related to Annadale Avenue Abandonment, Brawley to Annadale, Dry Creek Extension Basin:**
- a. Authorization to Quitclaim Interest in Access Easement in Exchange for Equivalent Access Easement on the Ronald R. Samuelson Property**
 - b. Authorization to Accept Permanent and Temporary Access Easements from Eugene and Shirley Qualls**
 - c. Authorization to Grant Temporary Access to Ronald R. Samuelson Across South Ten Feet of Dry Creek Extension Basin**
 - d. Approve Design Concept of Annadale Avenue Road Improvements**

Staff recommends that the Board of Directors authorize:

- a. quitclaim of reserved easement rights over the south ten (10') feet of Annadale Avenue in exchange for equivalent access rights north of the existing Annadale centerline on the Ronald R. Samuelson property.
- b. acceptance of permanent and temporary easements from Eugene and Shirley Qualls as shown on Exhibit "C" that also grant the District authority for it to provide temporary access rights to Mr. Samuelson subject to certain conditions and restrictions,
- c. grant Ronald R. Samuelson temporary, conditional, and restricted access rights across the south ten (10') feet of District's property,
- d. approve for in design concept the relocation of Annadale Avenue drivable road improvements across the frontage of Dry Creek Extension.

Mr. Ron Samuelson, 534 N. Classon Kerman California, addressed the Board with respect to his concerns regarding: (1) need to access Brawley Avenue with his farm equipment and his trucks; (2) all the trash that is dumped on that site; (3) his preference that the road be gated and closed; and (4) who will be the responsible party for maintenance of the road. He stated originally, he believed the agreement with the District, which was satisfactory to him, and that was going to be presented to the Board of Supervisors was that, he would grant the District 30 feet, 10 feet on the north side of Annadale, 20 feet on the

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south side; and, as far as access easterly to Brawley, he requested access rights to 10 feet on the north side and 20 feet or whatever was worked out with Mr. Singh on the south side. He now has been told that the 10 feet on the north side from his property to Brawley Avenue was only going to be temporary. He stated this is a problem for him. Mr. Samuelson stated he is requesting a 10 foot wide access area, 200 foot length he is willing to buy, and 460 feet he is asking for the District to provide an easement, the balance he is asking from Gene Qualls.

Mr. Gene Qualls, 4974 N. Fresno Street, Fresno, addressed the Board with respect to his concerns and disagreement with Mr. Samuelson's request. Mr. Qualls noted he is not opposed to the easements as requested by the District; however, he is opposed to granting a permanent 10 foot easement on the property he owns to Mr. Samuelson. Mr. Lakeman noted this was the reason staff had proposed a temporary 10 foot easement as a compromise.

Director Spina noted his concern that he did not believe the District should be the mediator, but suggested rather that Mr. Qualls and Mr. Samuelson should discuss the matter and come to an agreement.

Director Fowler noted his belief that this is a County issue, abandonment of a road, and neither the District nor the County can force a property owner to give an easement. He stated he has doubts the County will abandon the road, if the property owners cannot work out their differences. He therefore stated he believes the County needs to take their action as to whether or not they abandon Annadale Avenue first, before the District can enter into any agreements. Director Spina concurred with Director Fowler.

Responding to Director Spina's question as to what meetings staff has had with County representatives, Mr. Van Wyk stated staff has had two meetings with Supervisor Phil Larson and a Staff County Road representative. Mr. Lakeman stated the County abandonment is scheduled and noticed now, with the recommendation that they abandon the road, reserve PG&E and the District an easement from Brawley to Blythe on the south 30 feet. He stated with that Mr. Samuelson would have his access to Blythe, Mr. Qualls and the Ag Management will have their access to Brawley, and the District would have its access in both directions. Then, all of the other arrangements that were talked about this evening would make things better for each parcel.

Director Burleson stated he concurred with Directors Fowler and Spina, and noted he did not see how the Board could take a vote when the property owners are not in agreement, as he believed that put the District further in the middle of something that the County needs to decide whether they are going to abandon the road and what access is to be reserved.

No action was taken by the Board. Staff was directed to report back to the Board following the County of Fresno Board of Supervisors Hearing on the abandonment of Annadale Avenue.

12. Report on Progress of City of Clovis General Plan

Presentation of the City of Clovis General Plan Update with respect to drainage planning and is for informational purposes only. No action is required by the Board unless specific direction is to be given to staff.

Mr. Dwight Kroll and Mr. David Fry of the City of Clovis reviewed the City of Clovis General Plan Update using a PowerPoint presentation, and as outlined in the Board Memorandum and on the attached maps.

Mr. Lum then reviewed how the plan would affect the District as outlined in the Board Memorandum and on the attached maps.

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

10. Fancher Creek Improvement Grant Project:

- a. **Authorization of Development Agreement/Grant Agreement, Fancher Creek Town Center**
- b. **Report of Engineering Contracts for Project**
- c. **Allocation of Temporary Funding Advance Pending Department of Water Resources Reimbursement**
- d. **Authorization of "At-Risk" Work Prior to Full Department of Water Resources Authorization**

It is recommended the Board of Directors:

- a. **authorize staff to execute a development agreement between the District and the Developer including provisions for grant reimbursement, phased fee payment, and "at risk" acknowledgement;**

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- b. authorize staff to enter into a design services agreement with Alan Mok Engineering for the design of storm drain facilities not yet designed and included in the grant;
- c. allocate \$411,254 from unallocated funding from the 2010-2011 Budget 4th Quarter carry over to the Fancher Creek Flood Control Improvement Project for projected expenses prior to the Department of Water Resources reimbursements; and,
- d. authorize staff to proceed with the design and construction of storm drain facilities as explained on an “at-risk” basis.

Approved as Recommended

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

The Board recessed at 7:39 pm and reconvened in regular session at 7:55 pm.

11. Department of Water Resources:

- a. **Authorization to Reimburse Department of Water Resources on Redbank-Fancher Creeks Flood Control Project Portion of Wolfe Property**

It is recommended the Board of Directors authorize reimbursement of the Department of Water Resources in the amount of \$406,245.00.

Director Burleson noted a correction needs to be made to the Invoice submitted by the Department of Water Resources, it refers to (Excess “Wilfe” Parcel) and should be (Excess “Wolfe” Parcel).

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Approved as Recommended

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

- b. Final Report on Reimbursement of Department of Water Resources for the Subventions Program, Redbank-Fancher Creeks Flood Control Project**

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

Ms. Gerking then reviewed the closing out of the Subventions Program associated with the Redbank-Fancher Creeks Flood Control Project as outlined in the Board Memorandum.

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

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

- a. Ratification of Appointment to the Redevelopment Agency of the City of Fresno Oversight Board**

It is recommended the Board of Directors ratify the appointment of Bob Van Wyk as proposed by Chairman Spina to serve as the Fresno Metropolitan Flood Control District's appointment to the Redevelopment Agency of the City of Fresno Oversight Board.

Approved as Recommended

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

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 7:59 pm to consider the following litigation:

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to sub-division (b) of Section 54956.9:
Initiation of Order Permitting Entry – Petition (Civ. Code Section 1245.010[a]);
Property Location = APN 451-010-14MU Owner BNSF, Basin “CC” Expansion**

The Board then convened in regular session at 8:06 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

- 13. Adoption of Resolution to Initiate Order Permitting Entry – Petition (Civ. Code Section 1245.010[a]); Property Location = APN 451-010-14MU Owner BNSF, Basin “CC” Expansion**

It is recommended the Board of Directors adopt the Resolution attached to the Board Memorandum to Initiate Order Permitting Entry on BNSF Property for the purpose stated therein.

Approved as Recommended, Adopting Resolution No. 2012-733

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

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ADJOURNMENT

Adjourned Board Meeting at 8:07 pm

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE