

**ACTION SUMMARY MINUTES**  
**MINUTES OF THE REGULAR MEETING OF**  
**THE BOARD OF DIRECTORS OF THE**  
**FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**  
**HELD WEDNESDAY, APRIL 25, 2012**

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, April 25, 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  
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  
Peter Sanchez, Operations Engineer  
Paul Merrill, Finance Manager  
Karyn Kruser, Staff Analyst  
Daniel Rourke, Environmental Resources Manager  
Brandy Swisher, Program Assistant  
Gary Newmark, Staff Analyst  
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel; Baker, Manock & Jensen  
Ken Price, Assistant General Counsel;  
Baker, Manock & Jensen  
Lauren Layne, Assistant General Counsel;  
Baker, Manock & Jensen  
Robert Wilkinson, Assistant General Counsel;  
Baker, Manock & Jensen

**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.

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 2 OF 11**

**2. REPORT OF THE GENERAL MANAGER:**

Mr. Van Wyk reported on the following: (1) the Ad Hoc Committee had met this Monday and should the Board have no objection, recommended staff prepare a letter to the District's Congressional delegates, opposing proposed guidance regarding expansion of the federal regulation and authority of waters over which federal agencies assert jurisdiction under the Clean Water Act; and (2) Peter Sanchez reported on the storms which hit over a four day period, in particular the storm which hit on Friday, April 13<sup>th</sup>; Mr. Sanchez noted the April 13<sup>th</sup> storm was a 10 year frequency event and overtaxed the pipe system which caused the street flooding that had been reported by the media. He stated approximately 7 District basins were full to capacity, but none overflowed. He stated staff did not have confirmation of any homes being flooded.

**3. APPROVAL OF MINUTES: Minutes of April 11, 2012**

**Approved as Recommended**

**Motion by: Williams Second by: Goodwin**  
**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:**

Recommend the Board of Directors add to the Closed Session Agenda the following:

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

City of Fresno vs. The Oversight Board for the Successor Agency of the  
Redevelopment Agency of the City of Fresno; et. al.  
Case No. 34-2012-80001121

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 3 OF 11**

Mr. Van Wyk noted this item came up after the preparation and distribution of the Agenda, therefore pursuant to Government Code Section 54954.2(b)(2) it would require Board action to add it to the Agenda, and determination that there was need for immediate action on this matter, and the need came to the attention of the District subsequent to the Agenda being posted.

**Approved as Recommended added to the Closed Session Agenda as Item No. 17**

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

**6.      POTENTIAL CONFLICTS OF INTEREST:**

There were no Conflicts of Interest.

**CLOSED SESSION**

The Board then convened in Closed Session at 6:09 pm to consider the following litigation:

**16.      CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:**

Pursuant to subdivision (a) of Section 54956.9:

**a.      Initiation of Litigation to Acquire Simonian Property**

The Board then convened in regular session at 6:27 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 4 OF 11**

**7. PUBLIC HEARING:**

**Adoption of Resolution of Public Necessity, Basin "BL" Expansion  
(Armstrong & Church)**

Recommend the Board of Directors conduct the Public Hearing to consider the proposed Resolution of Public Necessity for the subject property. It is further recommended the Board of Directors, after receiving Public Comment, and closing the Hearing, adopt the Resolution of Public Necessity as attached to the Board Memorandum.

Mr. Van Wyk noted pursuant to Government Code, the Board of Directors must consider and make the following specific findings with respect to adoption of a Resolution of Necessity:

1. Public Interest and Necessity Require the Proposed Project
2. The Proposed Project is Planned or Located in a Manner that will be most Compatible with the Greatest Public Good and Least Private Injury
3. The Property Described is Necessary for the Proposed Project
4. The Offer of Purchase Required by Section 7267.2 of Government Code has been made to the Owner

Director Spina opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:42 pm.

Mr. Jensen noted the District had received a letter from the Attorney for the landowner, and the letter was included in the written materials presented to the Board for their review of this item (attached to the Board Memorandum).

**Approved as Recommended, Adopting Resolution No. 2012-738**

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

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 5 OF 11**

**8. CONSENT CALENDAR:**

- a. Acceptance of Report of External Auditor, Fiscal Year 2011, Money Purchase Pension Plan and Trust Report
- b. Authorization to Purchase Mixed Media Public Service Announcements to Comply with the Stormwater Quality Permit
- c. Award of Contracts:
  - (2) "LL-28", Storm Drain Pipeline Jacking in East Avenue (East s/o Annadale)

Director Goodwin pulled Agenda Item 8c(1); Director Spina pulled Agenda Item 8d.

**Approved as Recommended, pulling Agenda Items 8c(1) and 8d**

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

**8.c. Award of Contracts:**

- (1) **"BG-9", Pipeline to Basin "BG" (Jensen & Minnewawa) and Adoption of Resolution Authorizing Special Transfer of PPDA Funds**

**Recommend the Board of Directors award Contract "BG-9" to Rolfe Construction in the amount of \$538,700 and adopt the resolution attached to the Board Memorandum authorizing the transfer of \$410,000 from Drainage Area "BG" PPDA Trust Account to the Capital Projects Fund.**

Director Goodwin requested in the future, staff clarify as to why projects are being delayed and/or moved. Mr. Hofmann explained in this particular case, this was one of those projects that was a result of the Board's culmination of decisions for delaying projects in lieu of other projects.

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 6 OF 11**

**Approved as Recommended, Adopting Resolution No. 2012-739**

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

**8.d. Report of Pollutant Discharge Incidents, March 2012**

No action is required of the Board of Directors unless specific direction is to be given to staff.

Director Spina expressed his concern with respect to Zacky Farms discharging poultry processing wastewater to an on-site storm drain system. Mr. Rourke reviewed the item, noting staff will step up their oversight of this facility. In response to Director Spina's concerns, Mr. Rourke stated staff will provide a follow-up report to the Board on the next Report of Pollutant Discharge Incidents report with respect to this item.

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

**9. Adoption of Resolution Consenting to Join the Health Benefits Program of the ACWA Joint Powers Insurance Authority, Ratifying the Action of the ACWA Health Benefits Authority Board of Directors to Terminate the Health Benefits Authority Joint Powers Insurance Agreement, and Authorizing and Directing FMFCD Staff to Execute all Necessary Documents**

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum consenting to join the ACWA Joint Powers Insurance Authority Health Benefits Program, ratify the action of the ACWA Health Benefits Authority Board of Directors to terminate the Health Benefits Authority Joint Powers Insurance Agreement, and to authorize the District's General Manager-Secretary to execute all the necessary documents.

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 7 OF 11**

**Approved as Recommended, Adopting Resolution No. 2012-740**

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

- 10. Authorization to Enter into Master Agreement with the High Speed Rail Authority (Authority) to Cover Payment of Drainage Fees, Reimburse District Expenses and Construction, and Relocation of District Facilities**

Recommend the Board of Directors approve the Master Agreement with the High Speed Rail Authority as outlined in the Board Memorandum.

**Approved as Recommended**

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

- 11. Developer Request to Construct Garage Floor Elevation Below Major Storm Overflow, Tract 5993, Granville Homes, Drainage Area "FF" (Fulton & San Joaquin)**

Recommend the Board of Director's direct staff to follow one of these options:

- (1) approve the grading plan, only if Granville Homes releases and indemnifies the District (in a manner such release and indemnity suitable to District Legal Counsel) with respect to damages caused by flooding in garages whose floors are built below the District's usual minimum height requirement;
- (2) approve the grading plan, provided the garage floors are elevated to the six-inch (6") or more above the street crown;
- (3) remain passive should the City and Granville Homes proceed without the District's approval of the grading plan; or

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 8 OF 11**

- (4) approve the grading plan with the lesser elevations requested by Granville Homes.

Mr. Lakeman noted subsequent to distribution of the Board Packet, Granville Homes has now solved this issue by moving their building back 2 feet. Mr. Lakeman stated this item is now changed to a Report to the Board rather than an action item. He stated staff has executed the grading plan based on this resolution.

As this item was changed to a 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.

- 12. Sign Lease Proposal, El Paseo Shopping Center, Basin "EH" (Herndon & Golden State):**
- a. Transmittal of Proposal**
  - b. Appoint Real Property Negotiator to Negotiate with El Paseo Shopping Center Representatives Regarding Lease of District Basin Property for Pylon Sign**

Recommend the Board of Directors provide any comments or questions they wish to present to Mr. Shane at this time. It is further recommended that Bob Van Wyk be appointed the District's Real Estate Negotiator for the lease and that the Board defer to Closed Session to discuss such negotiations with the District's Real Estate Negotiator.

**Approved as Recommended**

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



**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 9 OF 11**

**CLOSED SESSION**

The Board then convened in Closed Session at 7:18 pm to consider the following litigation:

**15. CONFERENCE WITH REAL PROPERTY NEGOTIATOR:**

**Pursuant to subdivision (a) of Section 54956.8: Lease of District Basin Property for El Paseo Shopping Center sign**

The Board then convened in regular session at 7:54 pm. Mr. Jensen reported the Board conferred with its Real Property Negotiator with regards to the above mentioned item.

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

**a. Recommendation of the Community Relations Committee; Approval of Current District Flood Line Articles**

Recommend the Board of Directors approve publication of the Spring 2012 issue of the Flood Line newsletter as approved by the Community Relations Committee at its April 9, 2012 meeting.

Director Spina suggested staff contact Dave Orth from the Kings River Conservation District for a "Guest Story". Director Spina also requested one change on page 5, next to the last paragraph, last sentence "Killing two birds with one stone, so to speak" be deleted.

**Approved as Recommended with the above noted Change**

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

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 10 OF 11**

**b. Report on Board of Directors Attendance at Various Meetings:**

**(1) Upper Kings Integrated Regional Water Management Authority (UKBIRWMA), Director Spina**

Recommend Director Spina give a verbal report of the UKBIRWMA meeting held on Wednesday, April 18, 2012.

As Director Spina submitted a verbal report 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.

**(2) Association of Metropolitan Water Agencies (AMWA), Director Burleson**

Recommend Director Burleson give a verbal report of the AMWA meeting held on Thursday, April 19, 2012.

As Director Burleson submitted a verbal report 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.

**REPORT OF GENERAL COUNSEL**

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

**FMFCD BOARD MEETING MINUTES  
WEDNESDAY, APRIL 25, 2012  
PAGE 11 OF 11**

**CLOSED SESSION**

The Board then convened in Closed Session at 8:07 pm to consider the following litigation:

**16. CONFERENCE WITH LEGAL COUNSEL -- ANTICIPATED LITIGATION:**

Pursuant to subdivision (a) of Section 54956.9:

**b. Obtain Access to BNSF/San Joaquin Valley Railroad Parcel for Testing**

**17. CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION**

Pursuant to Subdivision (a) of Section 54956.9:

**City of Fresno vs. The Oversight Board for the Successor Agency of the Redevelopment Agency of the City of Fresno; et. al. Case No. 34-2012-80001121**

The Board then recessed at 8:31 pm and reconvened in Closed Session at 8:34 pm. The Board then convened in regular session at 9:07 pm. Mr. Jensen reported the Board of Directors gave instruction to General Counsel.

**ADJOURNMENT**

**Adjourned Board Meeting at 9:07 pm**

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

  
\_\_\_\_\_  
BOB VAN WYK  
GENERAL MANAGER/SECRETARY

  
\_\_\_\_\_  
DATE