

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

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, July 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
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
Karyn Kruser, Staff Analyst
Andrew Remus, Staff Analyst
Kurt Hupp, Rural Program Manager
Esther Schwandt, Clerk to the Board

Ken Price, 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 Director Burleson led the Pledge of Allegiance.

2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) he reported Mr. Gary McDonald has submitted his payment in full with interest; (2) he distributed the Board Requests and Assignments Form, noting this is now being submitted to the Board on a quarterly basis; (3) the Clerk to the Board would be contacting the Board to schedule the General Manager's Evaluation sometime in September, as the General Manager will be on vacation in August;

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(4) he reported the District has received its first transfer from the Redevelopment Agencies demise in the amount of \$17,000; and (5) he distributed a flyer prepared by a citizen regarding the complaints the District has received about dogs off leash in Basin "DD₁"; the flyer requested park users be more considerate of the neighbors and other park users; Mr. Van Wyk reported the District has received several complaint calls from neighbors of the park regarding the ongoing problem of dogs off leash as this is not a "dog park"; Mr. Van Wyk stated staff would visit the site on the weekend to monitor the situation and would report back to the Board.

3. APPROVAL OF MINUTES: Minutes of June 27, 2012 and July 11, 2012

Approved as Recommended

Motion by: Groom 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:

Mr. Van Wyk reported the District had received a Protest from Wellsona Iron and Engineering, and staff would therefore recommend this be added to the Agenda under Agenda Item No. 12. Award of Contract "RCB-19", Rehabilitation of Control Structure at Redbank Creek Detention Basin (DeWolf & McKinley).

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 as Agenda Item No. 12. Protest from Wellsona Iron and Engineering to Award of Contract "RCB-19", Rehabilitation of Control Structure at Redbank Creek Detention Basin (DeWolf & McKinley).

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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 Amend Agricultural Leases:

- (1) Redbank Detention Basin, Ruschhaupt
- (2) Fancher Creek Reservoir, Sample
- (3) Fancher Creek Reservoir, Stefano

b. Report of Pollutant Discharge Incidents, June 2012

c. Report on FMFCD Experience Modification (E-Mod) for the Worker's Compensation Insurance Program

Approved as Recommended

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

9. Confirmation of "At Large" Representative of District to Association of Metropolitan Water Agencies (AMWA)

Recommend the Board of Directors confirm the Chairman selection of Frank Fowler as the AMWA member "at large".

Director Fowler noted he would be unavailable for the next AMWA meeting which will be on October 18, 2012. Director Burleson suggested Mr. Lakeman be selected as the District's AMWA member "at large".

Not Approved as Recommended, the Board of Directors selected Mr. Jerry Lakeman as its AMWA Member “at large”.

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

10. Approval of Revision of Association of Metropolitan Water Agencies (AMWA) By-Laws

Recommend the Board of Directors approve the revision to the Bylaws of the Association of Metropolitan Water Agencies (AMWA) as attached to the Board Memorandum.

Approved as Recommended

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

11. Authorization to Amend Agency Cost Sharing Under Master Stormwater Discharge Agreement (FMFCD, City of Fresno, County of Fresno, City of Clovis, and Fresno Irrigation District)

Recommend the Board of Directors authorize the General Manager to execute the amendment to the Master Stormwater Discharge Agreement as attached to the Board Memorandum, and reflecting the proposed cost share as shown in the Board Memorandum.

Responding to Director Spina’s concern as to the other agencies being signers to the agreement, Mr. Lakeman stated he believed a signature page was missing from the Board Memorandum, as all the agencies are required to sign the agreement.

Discussion was carried among Board Members, staff and Legal Counsel as to the need to sometime in the future re-negotiate this agreement with all parties.

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Approved as Recommended

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

12. Award of Contract "RCB-19", Rehabilitation of Control Structure at Redbank Creek Detention Basin (DeWolf & McKinley)

Protest from Wellsona Iron and Engineering to Award of Contract "RCB-19", Rehabilitation of Control Structure at Redbank Creek Detention Basin (DeWolf & McKinley).

Recommend the Board of Directors award Contract "RCB-19" to Floyd Johnston Construction Co. Inc., in the amount of \$299,697.25.

Mr. Lakeman stated staff had distributed a supplemental memo, wherein staff was now requesting the Board of Directors reject all bids as outlined in the supplemental memo.

Recommend the Board of Directors reject all bids for Contract "RCB-19"

Director Fowler expressed his concerns with respect to this item and stated he did not believe he could reject the bids based on the reasons presented by staff. Director Rastegar stated he could support rejecting the bids to allow staff the opportunity for several improvements in the plans and specifications, and possibly achieve a lower project cost.

Discussion was carried among Board Members, Legal Counsel and Staff with respect to this item.

Director Fowler stated he would recommend the rejection of the Wellsona Iron and Engineering bid because of bidder error; and he would recommend the rejection of Floyd Johnston Construction Company, Inc. bid because of being over budget.

Mr. Price stated the Public Contract Code, the District's Plans and Specifications, and the bid documents themselves allow the Board to reject any and all bids with or without reason.

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Approved as Recommended, Rejecting all Bids for Contract "RCB-19"

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

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

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

(1) San Joaquin River Conservancy, (SJRC), Director Goodwin

Director Goodwin give a verbal report of the SJRC meeting held on June 13, 2012.

Director Goodwin presented a verbal report.

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.

(2) Association of Metropolitan Water Agencies (AMWA), Director Fowler

Director Fowler give a verbal report of the AMWA meeting held on June 21, 2012.

Director Fowler presented a verbal report.

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.

**(3) Oversight Board for the Successor Agency of the Clovis
Redevelopment Agency, Director Spina**

Director Spina give a verbal report of the Clovis Oversight Board Meeting held on July 24, 2012 and June 19, 2012.

Director Spina presented a verbal report.

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.

REPORT OF GENERAL COUNSEL

Mr. Price reported on a number of lawsuits challenging Proposition 13.

CLOSED SESSION

The Board then convened in Closed Session at 7:26 pm to consider the following litigation:

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

Fresno Metropolitan Flood Control District v. Gary Charles and Elaine June Simonian Trust; Case No. 12CECG01857 DSB; Basin “BL” (Church & Armstrong)

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

Fresno Metropolitan Flood Control District v. San Joaquin Valley Railroad, et al.; Case No. 1:12-CV-01032-LJO-DJB; Basin “CC” (Floradora e/o Clark)

The Board then convened in regular session at 7:44 pm.

Mr. Price stated no reportable action was taken in Closed Session; however, he did report that the District had filed a Dismissal with respect to Agenda Item 16.

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ADJOURNMENT

Adjourned Board Meeting at 7:45 pm

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



BOB VAN WYK
GENERAL MANAGER/SECRETARY



DATE