

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, DECEMBER 12, 2012

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, December 12, 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
Frank Fowler
Buzz Burleson

DIRECTORS ABSENT: Barbara Goodwin

**STAFF, CONSULTANTS,
OTHERS PRESENT:** Bob Van Wyk, General Manager
Jerry Lakeman, District Engineer
Alan Hofmann, Assistant District Engineer/Design
Daniel Rourke, Environmental Resources Manager
Brandy Swisher, Program Assistant
Paul Merrill, Finance Manager
Peter Sanchez, Operations Engineer
Kristine Johnson, Staff Analyst
Karyn Kruser, Staff Analyst
Esther Schwandt, Clerk to the Board

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

Jeff Roberts, Granville
Goldie Lewis, Granville
Tim Lyles, Principal, Ahwahnee Middle School
Anna Demaree, Teacher, Ahwahnee Middle School

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

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2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) he distributed an article from the Scientific American entitled, "Megastorms Could Drown Massive Portions of California"; and, (2) he reported this is the last Board Meeting of the year, and at the first meeting of the Board in January, the Board will conduct its Election of Officers; Also, he noted at a subsequent Board Meeting, the Board will be asked to ratify the Chairman's recommendations for the Standing Committees.

3. APPROVAL OF MINUTES: Meeting of November 14, 2012

Approved as Recommended

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

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:

Adoption of Resolution Amending the Storm Drainage and Flood Control Master Plan and Amending the Schedule of Drainage Fees, Surcharges and Costs for Local Drainage Areas (2013 Rate Schedule)

Recommend the Board of Directors adopt the following:

1. Authorize the removal of the drainage system and area west of Garfield in Drainage Area "CD" as shown on Exhibit No. 5.
2. Adopt the Resolution attached to the Board Memorandum updating the Storm Drainage and Flood Control Master Plan Map and amending the proposed cost and fee schedules as set forth therein.
3. Direct Staff to transmit the Map and fee schedule amendments to the City of Fresno, County of Fresno, and the City of Clovis for adoption.
4. Find that adoption of the Resolution is exempt from further CEQA assessment per the provisions of Public Resources Code Section 21080(b)(8)(D).

The Chairman then opened the Hearing for Public Comment at 6:17 pm.

Mr. Jeff Roberts, representing Granville, stated as the proposed developer of the Westlake Project, Granville supports the recommended items.

There being no further comment, the Public Comment portion of the Hearing was closed at 6:18 pm.

Approved as Recommended as to Item 4

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

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Approved as Recommended as to Items 1 - 3, Adopting Resolution No. 2012-757

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

8. CONSENT CALENDAR:

- b. Authorization to Exercise First Option Year of Operations Center Landscape Contract, Ed Jakusz & Son Property Maintenance
- c. Authorization to Enter into Agreement with City of Fresno for Construction of Master Plan Facilities, Nees Avenue Widening at Maple Avenue, Drainage Area "CY"
- d. Authorization to Transfer Lease Agreement, Burton, Basin "EI", (Garfield & Alluvial) to Fresno County Horse Park, LLC
- e. This Item was Pulled
- f. Award of Contract "BO-24", Electrical Facilities
- g. This Item was Pulled
- h. Ratification of Expenditures, November 2012
- i. Report of Pollutant Discharge Incidents, November 2012
- j. Report of Public Concerns, November 2012

Director Fowler requested Agenda Item 8a be pulled.

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Approved as Recommended, pulling Agenda Item 8a

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

- a. Authorization to Supersede Developer Agreement No. 1500(D)-BS-10, Tract 5501, Drainage Area "BS" (Clinton & Armstrong), UCP Meadowood, LLC**

Recommend the Board of Directors authorize staff to supersede Developer Agreement No. 1500(D)-BS-10 with provision for construction of the facilities identified and application of credits as outlined in the Board Memorandum.

Responding to Director Fowler's question, Mr. Hofmann stated when the District supersedes an agreement, the District is essentially voiding the initial agreement and then a new agreement is re-written in its place. Responding to Director Fowler's subsequent question, Mr. Hofmann stated through this authorization, the Board is approving staff to re-write that agreement and move forward with execution of it. He stated there would not be a need for this particular agreement to be brought back to the Board a subsequent time.

Approved as Recommended

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

- 9. Presentation of First Quarter Report to Department of Water Resources (DWR) of Fancher Creek Flood Improvement Project Grant**

As this item was pulled, no discussion was carried, and no action was taken.

12. Award of 2013-2014 Clean Stormwater Grants

Recommend the Board of Directors award 2013 Clean Stormwater Grants totaling \$25,913.72 for projects recommended for funding in Attachment No. 1 as attached to the Board Memorandum. Additionally, Staff requests authorization to distribute the press release as attached to the Board Memorandum regarding the grant awards.

Ms. Johnson distributed an amended Attachment No. 1 which included an additional grant application from Rowell Elementary. She also distributed an updated proposed Press Release dated December 13, 2012; and an email she received from Christina Gammel from Steinbeck Elementary thanking the Board for their support in the past.

Approved as Recommended, including the additional grant to Rowell Elementary as listed in the amended Attachment No. 1

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

Mr. Tim Lyles, Principal, and Ms. Anna Demaree, Teacher, Ahwahnee Middle School, addressed the Board with their thanks to the Board for the grant for their Rain Garden Project.

10. Authorization to Enter into an Easement Agreement with PG&E for High Pressure Gas Lines at Basin "CK" (Belmont & Polk)

Recommend the Board of Directors approve staff to execute an easement agreement with PG&E for the existing and proposed gas lines in Basin "CK" as outlined on Exhibit "C" summary as attached to the Board Memorandum.

Approved as Recommended

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

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11. Ratification of Pipeline Repair and Trench Failure, Contract "BQ-6", Haydon Construction (Belmont & Fowler)

Recommend the Board of Directors authorize payment of third party contractors to complete the repairs and seek recovery from Haydon Construction, assuming neither Haydon Construction nor Rinker Materials pays third party contractors.

Approved as Recommended

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

13. Report of Claim, Contract "UU₃-30", Halopoff Construction (Hughes & Hedges)

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.

14. Drainage Fee Time Payment Agreements:

- a. Authorization to Cancel Time Payment Agreement, Agreement No. 1587(D)-AV, Enrique R. Lopez & Carlos D. Lopez, Drainage Area "AV" (North & Elm)**

Recommend the Board of Directors authorize staff to negotiate the cancellation of Agreement No. 1587(D)-AV, surrender the Promissory Note, and reconvey the Deed of Trust, provided that the Lopez' agree the funds already paid remain as a credit on their property.

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- b. Report on Inactivity of Time Payment Agreement, Agreement No. 1590(D)-Z, Central Community Development Center, Reverend Donald Lockhart, Drainage Area "Z" (Chestnut & Tulare)**

Recommend the Board of Directors authorize staff to negotiate an amendment to Agreement No. 1590(D)-Z, whereby the payments made under the agreement are credited towards the land (APN 463-120-17) and the property owner agrees to pay the drainage fee at the rate then in effect when the owner begins development activity in the future with the current securities remaining in place.

Director Fowler stated he could support staff recommendation so long as it was made clear to the developers that they had the option of appealing this matter to the Board.

Approved as Recommended with the addition that it be made clear to the Developers that they have the option of appealing the matter to the Board.

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

15. This Item was Pulled

As this item was pulled, no discussion was carried, and no action was taken.

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

- a. Recommendation from Community Relations Committee; Authorization to Print the Fall 2012 Issue of the Flood Line Newsletter**

Recommend the Board of Directors approve publication of the Fall 2012 issue of the Flood Line newsletter as approved by the Community Relations Committee at its December 5, 2012 meeting.

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Approved as Recommended

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

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

- (1) ACWA 2012 Fall Conference and Joint Powers Insurance Authority (JPIA) Board of Directors' Meeting, December 3-4, 2012, San Diego, California, Director Groom**

Recommend Director Groom give a verbal report of the ACWA JPIA 2012 Fall Board of Directors' Meeting held on December 3-4, 2012 in San Diego, California.

Director Groom gave a verbal report.

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

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

Recommend Director Spina give a verbal report of the Oversight Board for the Successor Agency of the Clovis Redevelopment Agency which held its meetings on December 4, 2012 and December 11, 2012.

Director Spina gave a verbal report.

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

- (3) San Joaquin River Conservancy (SJRC), Director Goodwin**

Recommend Director Goodwin give a verbal report of the San Joaquin River Conservancy Board Meeting held on December 12, 2012.

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As Director Goodwin was not in attendance, no report was given.

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.

CLOSED SESSION

The Board recessed at 7:15 pm and then reconvened in Regular Session at 7:17 p.m. The Board then convened in Closed Session at 7:18 pm to consider the following litigation:

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

Unknown Number of Cases Relating to Unpaid Drainage Fees

The Board then reconvened in regular session at 7:32 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

ADJOURNMENT

Adjourned Board Meeting at 7:32 pm

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



BOB VAN WYK
GENERAL MANAGER-SECRETARY



DATE