

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, FEBRUARY 13, 2013

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, February 13, 2013 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: Jennette Williams, Chairman
Roy Spina
Kendall Groom
Barbara Goodwin
Frank Fowler
Buzz Burleson

DIRECTORS ABSENT: Mike Rastegar, Vice-Chairman

**STAFF, CONSULTANTS,
OTHERS PRESENT:**

Bob Van Wyk, General Manager
Jerry Lakeman, District Engineer
Alan Hofmann, Assistant District Engineer/Design
Peter Sanchez, Operations Engineer
Pal Merrill, Finance Manager
Daniel Rouke, Environmental Resources Manager
Benita Walker, Accounting Technician
Verlyn Neufeld, Construction Manager
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel; Baker, Manock & Jensen
Ken Price, Assistant General Counsel;
Baker, Manock & Jensen

PRESIDING: Director Williams, presiding as Chairman called the meeting to order at 6:00 p.m. and Mr. Van Wyk led the Pledge of Allegiance. Chairman Williams then presented Director Spina with a framed gavel for his service as Chairman and expressed the Board's thanks for his service. Mr. Van Wyk then presented Director Spina a flag which was flown over the United States Capital.

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2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) he requested Mr. Lakeman give a brief presentation on the Proposition "1E" Grant which staff had recently applied for, Mr. Van Wyk noted the following employees worked long hours in preparing the documentation for the Grant: John Santos, Jerry Lakeman, Norma Lopez, Susan Yang, Peter Sanchez, Kurt Hupp, Brandy Swisher, Daniel Rourke, Mary Feagins, Brent Sunamoto, Anthony Zaragoza, Jarrod Takemoto, Wade Tavares, Kyle Singh, Terri Shaffer, Kristine Johnson, and Ramiro Perez; Mr. Lakeman stated the grant amount the District has applied for is approximately \$6 million dollars for a \$12 million dollar project; He noted the grant is for four features, the toe drain at Big Dry, the Pup Creek Enterprise Basin, the Big Dry Creek Detention Basin and the Extension Basin; Mr. Van Wyk noted the District did receive local support from the other public agencies for the grant; (2) Mr. Lakeman noted he had attended the Crime Stoppers Annual Dinner on January 23, 2013, and noted Director Groom was honored that evening as one of the longest serving Directors of the Crime Stoppers Board; (3) he mentioned there are two items on the Agenda this evening that have to do with the Goals and Objectives established by the Board of Directors for the General Manager; one being the "Report of District's Cash Flow Projection" and the other to develop additional staff to produce the District Annual and Quarterly Budget in the event the Finance Manager is not available to perform the task. He noted Benita Walker, an Account Technician has been in training with the Finance Manager to be able to perform those Budget tasks along with Carol Gerking, Accountant IV; (3) he reminded the Board that the Statement of Economic Interest packets will be going out next week; (4) he requested the Board return the Board Personal Data Sheets to the Clerk to the Board as soon as possible, so staff can update their records; and (5) he noted staff had completed the Executive Staff Retreat today at noon and would bring an item back to the Board to review the District staff's Goals and Objectives.

3. APPROVAL OF MINUTES: Meeting of January 9, 2013

Approved as Recommended

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

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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.

7. PUBLIC HEARING:

There were no Public Hearings scheduled.

8. CONSENT CALENDAR:

- a. Acceptance of Quarterly Investment Report, Fourth Quarter
- b. Acceptance of Report of External Auditor, Brown Armstrong Accountancy Corporation, Fiscal Year 2011-2012, Financial Statements:
 - (2) Report of District External Audit Engagement, Brown Armstrong Corporation, Money Purchase Pension Plan
- c. Authorization to Extend Independent Contractor Agreement for Professional Auditing Services, Brown Armstrong Accountancy Corporation
- d. Adoption of Resolution Nominating its Association of California Water Agencies Joint Powers Insurance Authority (ACWA/JPIA) Board Member to the Executive Committee of the ACWA/JPIA
- e. Allocation of National Deferred Compensation Distributions
- f. Authorization to Execute a Non-Standard Developer Agreement, TPM 2011-010/SPR 2012-037, Drainage Area "AG" (Marks, Brawley, Freeway 99, Shaw), Brawley Business Park, LLC

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- g. Engineer's Report of Construction, January 2013
- h. Engineer's Report of Developer Agreements, January 2013
- i. Quarterly Real Estate Report, January 2013
- j. Ratification of Expenditures, January 2013
- l. Report of Public Concerns, January 2013
- n. Authorization to Execute Standard Developer Agreement, Tract 5985, Drainage Area "3G" (Bullard & Locan), Leo Wilson, 5985 Enterprises, LP

Approved as Recommended

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

- b. Acceptance of Report of External Auditor, Brown Armstrong Accountancy Corporation, Fiscal Year 2011-2012, Financial Statements:**

Recommended the Board of Directors accept the Annual Audited Financial Statements for the fiscal year ended June 30, 2012

Responding to Director Goodwin's question regarding the accumulation of 100 annual leave days, Mr. Van Wyk stated in 1988 the Board combined the staff's vacation and sick time, and capped the accumulation to no more than 100 days. If more than 100 days are accumulated by June 30th of each year, staff is then cashed-out on those days that exceed 100.

With respect to her second question regarding the unfunded liability, Mr. Merrill noted the liability was calculated on a worst case scenario. He stated the Board approximately two years ago began funding the unfunded liability setting aside approximately \$300,000 per year. Mr. Van Wyk noted every year, the Board will be asked to fund this unfunded liability at Budget time, based on the most current information. Director Groom noted on the Board Requests and Assignments form, it shows at the request

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of Director Spina staff would be looking at the 55 and 10 year retiree option. Responding to Director Burleson's question, Mr. Merrill stated when an employee retires, he/she is cashed out on those days he/she has on the books.

Director Williams suggested the Administrative Committee should be meeting on a quarterly basis in light of her belief that the District is running in a deficit. Director Fowler noted the deficit and the revenue fall is due to the decline in property tax; however, he noted the previous Board had requested the District begin spending down its funds for Capital Projects. Director Goodwin noted she believed it would be prudent to look at the Budget on a quarterly basis; however, she was not sure she would recommend we change anything.

Mr. Van Wyk stated staff would welcome this discussion, and had anticipated scheduling an Administrative Committee in the near future and would add this item to the Committee's Agenda.

Approved as Recommended

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

**b.(1) Report of District Auditor, Brown Armstrong Accountancy Corporation,
June 30, 2012 Audit Findings**

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

Responding to Director Williams question regarding the Auditors' suggestion that the Policy Committee meet to address the late payments on the receivables, Mr. Van Wyk stated staff indicated to the Auditors that the Policy with respect to time payment on drainage fees doesn't tell you what to do when you have a delinquency. He stated staff will be reviewing the Policy and asking the Policy Committee to consider changes to the Policy for recommendation to the full Board. He stated the staff in the meantime, will be giving the Board quarterly reports on time payment contracts and their status. At that time, if there are delinquencies, then the Board will be asked to give staff direction.

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

k. Report of Pollutant Discharge Incidents, December 2012

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

Director Spina requested Mr. Rouke show a map of and review the illicit discharge which occurred from a cement plant as outlined in the report. Mr. Rourke stated the discharge was observed flowing from the Cemex pond to Little Dry Creek and onto the San Joaquin River Conservancy's property at Ball Ranch.

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

m. Submittal of Second Quarter Budget Report, Fiscal Year 2012-2013

Recommend the Board of Directors accept the Second Quarter Budget Report Executive Summary ending December 31, 2012.

Responding to Director Williams' question with respect to non-cash item, Mr. Van Wyk stated non-cash item is for facilities.

Approved as Recommended

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

9. This Item was Pulled

As this item was pulled, no further action was carried.

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10. Rejection of Claim and Authorization to Refer Matter to District's Insurance Carrier, Joint Powers Insurance Authority (JPIA), Vehicle Damage and Personal Injury, A.J. Cerkueira Drainage Area "I", (Fruit & Celeste)

Recommend the Board of Directors reject the subject claim and refer it to the District's insurance carrier for further action.

Approved as Recommended

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

11. Report of District's Cash Flow Projection

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

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

12. Report on Recognition by ACWA Joint Powers Insurance Authority (JPIA) of District's Low Loss Ratio Award Regarding the Workers' Compensation Program, Property Program and Liability Program

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

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

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

a. Ratification of Appointment of Standing Committees and External Representations

Recommend the Board of Directors ratify the appointments as proposed by Chairman Williams and as outlined on Attachment No. 1.

An amended Attachment No. 1 was distributed to the Board this evening.

Director Williams noted she had made corrections to Attachment No. 1 after it was distributed with the Board Packet.

Director Fowler expressed his concern with respect to the Standing Committee assignments, noting his belief that it was out of balance. Director Williams noted there are only four Standing Committees and it presented quite a challenge in insuring rotation of assignments. Director Williams requested the Board move forward with this item, and should any Board Members request a different assignment, that they contact her and she would take a look at that, and recommend changes at a subsequent meeting should it be necessary.

Approved as Recommended in the amended Attachment No. 1

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

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

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

Recommend Director Burleson give a verbal report of the Upper Kings Basin Integrated Regional Water Management Authority (UKBIRWMA) which held its meeting on January 16 2013.

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Director Burleson gave a verbal report.

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 Association of Metropolitan Water Agencies (AMWA) Board Meeting held on January 17, 2013.

Director Burleson gave a verbal report.

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 then convened in Closed Session at 7:25 pm to consider the following litigation:

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

(Number of Potential Cases: 1)

The Board then convened in regular session at 7:38 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

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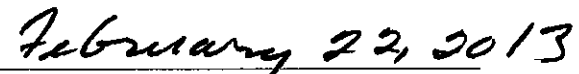
ADJOURNMENT

Adjourned Board Meeting at 7:38 pm.

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



BOB VAN WYK
GENERAL MANAGER-SECRETARY



DATE