

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, MARCH 27, 2013

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, March 27, 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
Mike Rastegar, Vice-Chairman
Roy Spina
Kendall Groom
Barbara Goodwin
Frank Fowler
Buzz Burleson

DIRECTORS ABSENT: None

STAFF, CONSULTANTS,

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

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

Melinda Marks, Executive Director,
San Joaquin River Conservancy

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

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, MARCH 27, 2013
PAGE 2 OF 9**

2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) the Council of the City of Fresno has on their Agenda for tomorrow, recommendation to approve the sale of property from the Airport to the District for the Dry Creek Detention Facility; he noted this has been a long process for the District and we are happy to see this come to a conclusion; (2) he distributed a copy of a letter from Baker, Manock & Jensen regarding the Simonian acquisition; (3) the District will be hosting the ACWA (Association of California Water Agencies) JPIA's (Joint Powers Insurance Authority) Human Resources Group Meeting on Wednesday, May 22, 2013; he distributed a flyer regarding this event; (4) he distributed copies of two letters, one from Tres A. Porter, an Attorney representing property owner Kristi Ann Raco regarding the payment of a Drainage Fee, and one from the District responding to Mr. Porter which was prepared with District Legal Counsel's advice; (5) he distributed a flyer regarding the Clovis Mayor's Breakfast scheduled for Thursday, May 16, 2013; he noted the Clerk to the Board would be contacting the Board Members as to their availability to attend; (6) he noted the California Special District's Association (CSDA) has requested the District submit a letter in Support of AB 416; he noted AB 416 will provide funding for greenhouse gas emissions, he stated staff believes this is of benefit to the District in that there may be funds available through AB 416 for District pump stations, portable pumps, fleet maintenance, etc. which the District may qualify for; He stated Mr. Jensen has stated ACWA is taking a favorable view on this legislation as well. Mr. Jensen stated AB 416 proposes that the Legislature appropriate funds from the State General Fund to fund a local emission reduction program to develop and implement a greenhouse gas emissions reduction project in the State. Director Fowler stated he could not support AB 416 due to the source of funding. Director Goodwin suggested since this is preliminary, the District may want to wait and see whether this Bill continued through the various reviews; Mr. Van Wyk stated since there is no urgency, he would concur and bring the item back to the Board at a later date, as a Board Memo with background information; Mr. Jensen stated he concurred and would bring back the Bill text for the Board's review along with comments from ACWA, CSDA and the Legislative staff. Director Goodwin requested that the funding source be addressed; and (7) Mr. Van Wyk requested Mr. Rourke follow-up from the Board's last meeting regarding "**Report on the Stormwater Quality NPDES Permit Reapplication, Third Permit Term**", where the Board directed staff to meet with the County to discuss the boundary issue; Mr. Rourke stated staff met with the County to discuss the Friant Road extension inside the NPDES permit boundary; he stated the County has requested this area be included in the NPDES permit boundary; and he stated the County indicated that since the Friant Ranch is not within the County service area, they thought it would be better serve under the umbrella of the NPDES permit area.

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, MARCH 27, 2013
PAGE 3 OF 9**

3. APPROVAL OF MINUTES: February 27, 2013

Due to his absence at the February 27, 2013 Board Meeting, Director Rastegar abstained.

Approved as Recommended

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

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. Authorization to Enter into Agreement with City of Clovis, Pipeline in Nees Avenue, Drainage Area "CZ" (Willow & Nees)
- c. Award of Contracts:
 - (1) Contract "AA-38", Basin Landscaping (Blackstone & Holland)
 - (2) Contract "BO-22", Basin Excavation (Sunnyside & Tulare)
- d. Ratification of Expenditures, February 2013

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, MARCH 27, 2013
PAGE 4 OF 9**

- e. Report of Bids, Annual Hydroseeding Contract
- f. Report of Pollutant Discharge Incidents, February 2013
- g. Report of Public Concerns, February 2013
- h. Report on Association of California Water Agencies (ACWA) Joint Powers Insurance Authority (JPIA):
 - (1) Liability, Property, and Workers' Compensation Program Risk Assessment of District Facilities and Operations
 - (2) Stabilization Fund Refund
- i. Report on Fresno Metropolitan Flood Control District Retirement Pension Plan Trustee Fiduciary Liability Policy
- j. Report on Submittal of Letter of Intent to Apply for Fansler Foundation Grant for Replacement of Play Equipment and Rubberized Play Surfacing, Basin "D" (Forkner & Barstow)

Director Goodwin requested item 8b be pulled.

Approved as Recommended, with the exception of item 8b.

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

- b. Authorization to Amend Larry Walker Associations Scope of Work to Include Preparation of Permit Application, Coverage Under the State's General Permit for the Discharge of Residual Aquatic Pesticides**

Recommend the Board of Directors authorize the Scope of Work dated March 27, 2013, not to exceed \$14,760, and also authorize the District to obtain coverage under the State's General NPDES permit for Residual Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Application.

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, MARCH 27, 2013
PAGE 5 OF 9**

Responding to Director Goodwin's question regarding the amendment of the Scope of Work, Mr. Rouke stated there would be no additional cost for the additional task to the Scope of Work, noting this would be included under the current Scope of Work budget. Director Goodwin requested in the future for clarity, staff state in the Board Memorandum as to whether the cost of the Scope of Work was changing when a new task is being added.

Approved as Recommended

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

9. Adoption of Resolution Transferring PPDA Fund Reimbursement to General Fund

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum authorizing the transfer of \$1,557,113.33 representing reimbursement to the General Fund for prior qualifying expenditures and withhold \$8,904,012.65 to meet service obligations relative to District capital projects and developer projects and/or reimbursements.

Approved as Recommended, Adopting Resolution No. 2013-761

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

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, MARCH 27, 2013
PAGE 6 OF 9**

10. Authorization to Resolve Default of Time Payment Agreement No. 1587(D)-AV, Conditional Use Permit No. 2006-223, Enrique R. Lopez & Carlos D. Lopez, Drainage Area "AV" (North & Elm)

Recommend the Board of Directors either:

- (1) maintain the payment of the drainage fee obligation pursuant to the current agreement including the 10% interest rate for late payment, or
- (2) approve the use of a Phased Drainage Fee Agreement for the subject site, or
- (3) pay the full amount of the fee in effect today and apply credit for the first installment payment.

Director Goodwin noted the need to insure we have something in writing to the City of Fresno, to insure it is documented in the City's records and the District's rights are protected, should the fee not be paid.

Approved as Recommended

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

11. Authorization to Appraise District Owned Parcel in Anticipation of Grant Credit and Appraise and Negotiate Acquisition of Qualls Parcel, Dry Creek Extension Basin (Brawley & Annadale)

Recommend the Board of Directors authorize staff to appraise the subject 20 acres for potential grant credit purposes and the subject adjacent 23.23 acres for purposes of potential acquisition negotiations and potential grant credit.

Approved as Recommended

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

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, MARCH 27, 2013
PAGE 7 OF 9**

12. This Item was Pulled

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

13. Consideration of Request from the San Joaquin River Conservancy to Submit a Letter of Support for AB 618 Perea, Protection for San Joaquin River Conservancy Lands

Recommend the Board of Directors authorize staff to send a letter of support for AB 618 to Assemblymember Henry T. Perea.

Ms. Kristine Johnson introduced the item and Ms. Melinda Marks, the Executive Director of the San Joaquin River Conservancy (Conservancy) who had requested to address the Board.

Ms. Marks addressed the Board with respect to their request for the Board's support for AB 618, specifically noting some of the Conservancy's and their neighbors' concerns with respect to illegal and dangerous activities in the Conservancy lands. She noted AB 618 would provide the Conservancy the authority to make violations of Conservancy regulations punishable by fines and/or jail time and would allow enforcement of Conservancy regulations on Conservancy lands by any duly authorized California peace officer. She stated currently there are no penalties associated with respect to enforcement and some of the offenses experienced on the Conservancy lands are not prohibited by codes and/or ordinances. Ms. Marks noted with the passage of this Bill, the Conservancy would go through the Administrative Procedures Act to develop the rules and regulations for use of the Conservancy property and would develop the fines to enforce those violations.

Director Fowler expressed his concern with respect to small unelected governmental agencies setting fines, misdemeanors and those types of rules. He stated there should be a better way, as he believed the same laws that apply to everyone else in the State should apply to the Conservancy lands as well. He stated he has a problem supporting AB 618.

Director Goodwin noted as the Board's representative on the San Joaquin River Conservancy Board, she has heard from the homeowners in the area who have expressed their concern with respect to the inability to deal with what is going on and the inability to do anything about it.

Director Burlison stated his belief that the fines should be set by a governmental agency, so that they are consistent. Ms. Marks noted the Conservancy is a State agency.

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, MARCH 27, 2013
PAGE 8 OF 9**

Approved as Recommended

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

14. Review of Funding for Dry Creek Flood Control Improvement Project

Recommend the Board review the material attached to the Board Memorandum and direct staff to pursue the Dry Creek Extension Basin expansion and acknowledge that the budget will be prepared assuming no grant funding, but recognizing favorable modification if the District obtains a Round 2 grant.

Approved as Recommended

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

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

- a. Report on Board of Directors Attendance at Various Meetings, 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 Board Meeting held on March 19, 2013.

Director Spina gave a verbal report.

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

**FMFCD BOARD MEETING MINUTES
WEDNESDAY, MARCH 27, 2013
PAGE 9 OF 9**

REPORT OF GENERAL COUNSEL

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

CLOSED SESSION

A Closed Session was not convened.

ADJOURNMENT

Adjourned Board Meeting at 7:32 pm.

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



BOB VAN WYK
GENERAL MANAGER-SECRETARY



DATE