

**ACTION SUMMARY MINUTES**  
**MINUTES OF THE REGULAR MEETING OF**  
**THE BOARD OF DIRECTORS OF THE**  
**FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**  
**HELD WEDNESDAY, MAY 8, 2013**

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Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, May 8, 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  
Paul Merrill, Finance Manager  
Frances Lopez, Office Manager  
Kristine Johnson, Staff Analyst  
Karyn Kruser, Staff Analyst  
Ryan Schiebelhut, Facility Technician  
Doug Jensen, General Counsel; Baker, Manock & Jensen  
Kevin Meikle, Director of Aviation: City of Fresno Airports

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

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

Mr. Van Wyk reported on the following: (1) Esther is doing well and will be back in 4 weeks. (2) Mr. Van Wyk attended the funeral services of George Marcus and was extremely honored to be asked to speak. (3) He reported Baker Manock & Jensen's hourly fee for Ken Price was incorrect for one year resulting in an under payment of over \$1,200. Mr. Jensen waived the reimbursement for the correct rate. (4) Priorities & Programming Committee Meeting will be Monday, May 13<sup>th</sup> at 12:00 pm to review the Capital portion of

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the Budget. (5) Administrative Committee Meeting will be meeting Friday, May 17<sup>th</sup> at 12:00 pm to review the balance of the Budget. (6) The City of Clovis State of the City Breakfast will be on Thursday, May 16<sup>th</sup> at 7:00 am. (7) The City of Fresno State of the City Luncheon will be on Thursday, May 16<sup>th</sup> at 11:30 am. (8) Update on Basin "XX" Pump Station copper wire theft. Mr. Lakeman reviewed the information that was reported at the last meeting. The police apprehended Jean John Morris on April 24<sup>th</sup> with charges of grand theft. Cost to repair the wire at Basin "XX" is approximately \$80,000. Options to prevent future thefts include putting telemetry alarms; flashing red light on door with sirens and fake cameras, etc. Staff will be meeting with other agencies to share ideas to prevent theft. Staff will evaluate the possibility of security response. Work has begun on fixing basins that may be targeted. Staff will also work with DAs office to use their full ability to prosecute individuals. Staff met with the Sheriff Department and got some recommendations. A suggestion was to support legislation that would limit the ability to recycle strip wire. Another suggestion was to join the Rural Crime Task Force which will be looked into. A letter is being drafted to neighbors of basins with information on what to do when a crime is in process. In response to Director Burleson, Mr. Lakeman stated JPIA will cover the repair expense after a \$1,000 deductible. Director Goodwin suggested a community basin watch could be established to help neighbors better understand all the issues about basin and build relationships. (9) Mr. Van Wyk pointed out a letter from Clovis unified School District on Drainage Fees. Mr. Hofmann and Mr. Van Wyk have working the school district to explain their share of the drainage system. Director Fowler asked about which schools have paid. The unpaid drainage fees are mostly from schools that have made additions to the school campus. Mr. Hofmann will report back to the Board with more information. (10) Enrique Lopez paid off the Time Payment Agreement totaling \$55,778.83 at the current rate for a development in Drainage Area "AV" (northwest corner of Elm and North). Mr. Van Wyk introduced Ryan Schiebelhut to the board and stated he works for the District as a Facility Technician under the direction of Peter Sanchez and is one of the many staff who sometimes works late nights during the rainy season to help keep the community dry.

**3. APPROVAL OF MINUTES: 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.

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**7. PUBLIC HEARING:**

There were no Public Hearings scheduled.

**8. CONSENT CALENDAR:**

- a. Authorization to Execute a Standard Developer Agreement, Tract 6012 (Tract 5875A Phase 4), McCaffrey Homes, Inc., Drainage Area "DO" (Ashlan & Locan)
- b. Authorization to Execute Easement Encroachment Agreement for Construction of a Retaining Wall Within an Existing Storm Drain Easement, De Young Properties, Tract 5351, Drainage Area "1G" (Armstrong & Gettysburg)
- c. Authorization to Renew Contract: District Employee Uniforms and Office Floor Mat Rental
- d. Engineer's Report of Construction, April 2013
- e. Engineer's Report of Developer Agreements, April 2013
- f. Ratification of Expenditures, Report of Fund Balances and Activity, April 2013
- g. Rejection of Claim and Authorization to Refer Matter to District's Insurance Carrier, Joint Powers Insurance Authority (JPIA), Mendes General Store, Drainage Area "UU"
- h. Report of Public Concerns, April 2013

Director Burleson requested item 8f be pulled.

**Approved as Recommended, with the exception of item 8f.**

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

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**f. Ratification of Expenditures, Report of Fund Balances and Activity, April 2013**

Recommended the Board of Directors ratify the expenditures for the month of April 2013 per the attached schedules.

Director Burleson stated the last page of the memorandum does not include two meetings he attended – AMWA and the Upper Kings Basin Integrated Regional Water Management Authority. Mr. Van Wyk responded the meetings will be added to the next report.

**Approved as Recommended**

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

**(Item 12. moved before item 9)**

**12. Acquisition of Land From City of Fresno; Big Dry Creek Detention Basin:**

**a. Appoint Negotiator for Purchase of Big Dry Creek Detention Basin from City of Fresno.**

Recommended the Board appoint a negotiator for the purchase of Big Dry Creek Detention Basin from the City of Fresno

**Approved as Recommended**

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

**CLOSED SESSION**

The Board then convened in Closed Session at 6:27 pm to consider the following litigation:

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

Pursuant to subdivision (a) of Government Section 54956.8: Big Dry Creek Detention Basin; Fresno County APNS: Portion of 438-021-20T Portion of 438-061-19T All of 438-061-06T,07T,10T,12T,20T,22T,26T,27T,28T and 29T and All of 438-062-04T,6T,7T,8T,9T,10T,15T,16T and 25T

- Agency Negotiator: Bob Van Wyk, General Manager
- Negotiating Parties: City of Fresno and District
- Under Negotiations: Terms of Sale

The Board then convened in regular session at 6:50 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

**12. Acquisition of Land From City of Fresno; Big Dry Creek Detention Basin:**

**b. Authorization to Issue Check to City of Fresno to Acquire Big Dry Creek Detention Basin (Ashlan & Freeway 168) and Accept Deed Thereto**

Recommended the Board authorize issuance of a check in the amount of \$648,748.06 to complete purchase of 13.345 acres for the Big Dry Creek Detention Basin.

Kevin Meikle, Director of Aviation: City of Fresno Airports, 4995 E Clinton Way, Fresno addressed the Board on this item.

Mr. Van Wyk stated his concern about the wildlife mitigation plan required in the agreement and the combined laws with the local state and the U.S. In response, Kevin Meikle reported the City of Fresno Airports is required and will continue to perform wildlife mitigation for their property including Leaky Acres adjacent to the proposed site. The City has contracted with Wildlife Technologies to perform the mitigation. Mitigation includes monitoring the property 8 months out of the year, 5 days a week by driving the perimeter. Wildlife Technologies has the State and Federal permits necessary to mitigate any wildlife deemed to be hazardous to aircraft. Mitigation has not been necessary at the adjoining sites for several years. If the City observes wildlife on the proposed property they will notify the District, however, this will not release the District from its obligation to what is required in the agreement. The City uses a mitigation plan based on a plan developed by the military. The District would be able to use the same plan.

The Directors, staff and Mr. Meikle discussed the cost to mitigate at the proposed site, the time frame for monitoring and importance of the District keeping good documentation. The discussion continued on to the need for this particular property and how it affects stormwater and flood control. Director Fowler suggested having a termination clause in future public agency agreement.

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**Approved as Recommended**

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

The Board recessed at 7:44 pm and reconvened in regular session at 7:50 pm.

**9. Adoption of Resolution Declaring Excess Property Not Needed for District Purposes, Pup Creek Enterprise Detention Basin (PEB) (Herndon & DeWolf)**

Recommended the Board of Directors adopt the attached Resolution declaring 0.306+/-acres of Pup Creek Enterprise Basin as excess property, not needed for District purposes.

Director Burleson suggested the buyer should be responsible for any additional fees for lot line adjustment. Mr. Van Wyk stated the fees would be investigated and if there is an option to change the lot line without a cost it would be included with the sale.

**Approved as Recommended**

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

**10. Consider for Approval, Legal Counsel's Request for Fee Amendment to Begin July 1, 2013**

Recommended the Board discuss the fee increase and determine if a fee increase is appropriate. Then authorize staff to modify the fee schedule to be effective July 1, 2013 if the fee increase is approved.

Ms. Johnson reported an error in the memo for the 2011-12 attorney fees in that the total fees should read \$338,299 for legal services. The total fees for legal services spent for this current year through March 13, 2013 is approximately \$99,000. This increase will become effective July 1, 2013.

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**Approved as Recommended**

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

**11. Request for Extension of Amnesty Period, Drainage Fee Payment Violation, Mr. Jose Garcia, Drainage Area "AV" (North & Elm)**

**Recommended that the Board of Directors determine if an extension of the amnesty period should be allowed for the subject site.**

Mr. Hofmann introduced the item. Mr. Garcia met with staff and signed Time Fee payment; however he will not have a down payment until July 2013.

Director Fowler stated he would support extending the amnesty period for Mr. Garcia and in other cases if it would allow the District to collect fees.

Director Williams suggested documenting each case as to why the amnesty is being extended and have the owner sign a deed. In response to her comment Mr. Van Wyk stated the policy provides the Board the ability to determine each case individually and it will not set precedence.

**Approved by the Board to have signed a deed immediately with no interest and extend the amnesty period for 90 days.**

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

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

**a. Recommendations from the Board Committees:**

**(1) Policy Committee:**

**(a) Adoption of Amendments and Updates to District Employee Handbook and Human Resources Policies and Procedures**

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Recommend the Board of Directors review and approve the proposed revisions to the District's Employee Handbook and Human Resources Policies and Procedures as recommended by the Policy Committee.

Ms. Kruser introduced the following: (1) Revise the language to authorize the General Manager to require the employee take the time off or negotiate with the employee to take the time off within a specific time period for the required 15 days of annual leave used per year. (2) Each year employees who have acquired more than 100 days of annual leave are paid out. The payment would be at the salary rate at the end of the fiscal year when the annual leave was accumulated. (3) It was proposed to add to the policy; extraordinary step increases at step 6 and 7 within each salary range, thereby allowing the ability to grant these steps at a lower level should a promotion not be available based on the District needs. (4) Salary compression in the salary resolution; which allowed a salary of the manager or supervisor to be above the range be at no less than 10% of the lower range was inadvertently omitted when the human resources policy was complete. The Administrative Committee recommends leaving the language out of the policy. Last to report on was the Team Leader compensation to be added to the Employee Handbook.

Responding to Director Spina, Mr. Van Wyk stated the Team Leader position is a permanent position, not temporary. Temporary will be taken out of the language.

Edits to the policy: HR308 – format error on page number 5 of 5; last paragraph should be line item 6. In addition, Employee Handbook 308-Annual Leave: delete “suspension of annual leave accruals”.

Approved as Recommended except for the temporary team leader issue. The Board requests staff bring back a job description on a team leader and to define the relationship between the team leader position to the manager's position.

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

**(2) Administrative Committee:**

- (a) Amend District By-Laws, One Regular Meeting on the Second Wednesday of Each Month**

Administrative Committee recommends Article III - Meetings, Section 2. Regular Meetings of the District By-Laws be amended to read as follows:



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Section 2. Regular Meeting. The Regular meetings shall be held without official notice to Board members on the second and fourth Wednesday of each month, at 6:00 pm, in the Board Chambers of the District Office, 5469 E. Olive Avenue, Fresno, California. In the event the date of a regular meeting shall be a legal holiday, said meeting shall be held on a date determined by the Board of Directors.

Director Spina recommended the meetings remain as they are and that staff cancel board meetings if not needed rather than reducing it to one per month. The Board agreed the board schedule remain at two per month.

**Not Approved**

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

- (b) Consideration of Actuarial Report of Future Other Post-Employment Benefits (OPEB) Option, Retiree Health Insurance**

Administrative Committee recommends that the Board of Directors amend the District's retiree health benefit for future employees to eliminate the 50% benefit at 10 years of service and revise the normal retirement eligibility requirement on or after age 60 with 15 years of service for all new employees.

**Approved as Recommended**

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

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

- (1) Upper Kings Basin Integrated Regional Water Management Authority (UKBIRWMA)**

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. The next meeting is on July 17, 2013 at 9:30 am and Director Burleson will not be available. Director Fowler will attend in his place.

**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. Director Burleson will to a verbal report at the next Board Meeting on the Blue Tech Valley Water Conference.

**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.

**ADJOURNMENT**

**Adjourned Board Meeting at 9:05 pm.**

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

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

  
\_\_\_\_\_  
DATE