

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, JUNE 12, 2013

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, June 12, 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
Andrew Remus, Staff Analyst
Karyn Kruser, Staff Analyst
Daniel Rourke, Environmental Resources Manager
Gary Newmark, Staff Analyst
Brandy Swisher, Program Assistant
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 Director Burleson led the Pledge of Allegiance.

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2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) tomorrow staff will be meeting at Baker, Manock & Jensen's offices for a Mitigation Conference on the Simonian property; he stated staff will report back to the Board at the subsequent Board Meeting on the results of the Mitigation Conference; (2) he stated staff received an update on the estimate of the costs for the wire theft at Basin "XX", it is now at \$96,000; he stated staff is receiving good cooperation with law enforcement; the costs will be covered by the District's Joint Powers Insurance Authority with the District paying \$1000.00 for the deductible; and (3) he requested Mr. Lakeman report on the next item; Mr. Lakeman stated the Department of Water Resources released their ranking of "Round 2 Grant"; he stated the District is Number 1 on the list with the District's total project cost being \$13,782,021. He noted this is a matching grant with the District contributing half and the State matching half.

3. APPROVAL OF MINUTES: Meeting of May 22, 2013

Approved as Recommended

Motion by: Rastegar Second by: Groom

Ayes: Spina, Williams, Groom, Rastegar, Goodwin, Fowler, Burleson

Noes: None

Abstentions: None

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:

Director Goodwin noted a potential Conflict of Interest with Agenda Item No. 15. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (Number of Cases: 1),** and stated she would therefore be recusing herself from this item.

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7. PUBLIC HEARING:

There were no Public Hearings scheduled.

8. CONSENT CALENDAR:

- a. Approve Scope of Work for Biological Consultant URS, Big Dry Creek Reservoir Seepage Remediation Project
- c. Award of Contracts:
 - (1) Contract "A-12", Basin "A" Pump Station (Florence & Chestnut)
 - (2) Contract "BO-23/BO-25", Storm Drain Pipeline Facilities (Sunnyside & Iowa)
- d. Ratification of Expenditures, Report of Fund Balances and Activity, May 2013
- e. Report of First Payment of Proposition 1E Grant Funds, Fancher Creek Flood Control Improvement Project
- f. Report of Public Concerns, May 2013
- g. Report on JPIA Response to Provisions of Grant Deed, Big Dry Creek Detention Basin

Director Goodwin requested item 8b be pulled.

Approved as Recommended with the exception of item 8b

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

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b. Authorization to Renew Basin Lease Agreement for Agricultural Purposes, Granville Homes, Basin "CD" (Dakota & Garfield)

Recommend the Board of Directors authorize District staff to enter into a one-year lease agreement with Granville Homes at Westlake LLC at a rental rate of \$200.00 per year for the 20.01 acre site.

Director Goodwin noted for clarification, at the top of page 2 there appeared to be a full line missing.

Mr. Remus stated the sentence missing states, "Under typical conditions where more than one individual demonstrated an interest in leasing property, it would be noticed for competitive bidding."

Approved as Recommended

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

9. Appoint Negotiator for Purchase of Storm Drain Pipeline Easement from Benjamin Sanchez and Silver Cortez, Drainage Area "CC" (Howard Street & Pine Avenue)

Recommend the Board appoint the District General Manager-Secretary, Bob Van Wyk as the District's Real Property Negotiator.

Approved as Recommended

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

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10. Consideration of Master Plan Alternatives and Provide Direction to Expand Drainage Area "AX" and Basin "AX" (Central & Orange)

Recommend the Board of Directors direct staff to return with a plan to expand Drainage Area "AX" to include either Alternate No. 1 (Attachment No. 2) or Alternate No. 4 (Attachment No. 5).

Director Fowler stated he could not support the southern area as it is outside the boundary, and expressed his concern with respect to the property owners as he believed they would not be individually notified of being subjected to potential drainage fees. Responding to Director Fowler's question with respect to notification of the County of this matter, Mr. Van Wyk stated staff wanted direction from the District's Board first. However, Mr. Lakeman stated in discussions with County staff, they have indicated if you are going to locate a basin outside of the Sphere of Influence (SOI) they would have an issue with that, but if you are simple serving an area that extends outside the SOI than they did not have that concern. Mr. Lakeman stated staff can run this item by the County first, if that is the Board's direction. Director Fowler stated he believed the question to the County should be "what does the County think about these property owners being subject to a fee in the future without a public hearing?" Mr. Lakeman responded that the District would notice an adoption of a new plan in a Public Hearing with notice being published in the Fresno Bee, and the Board could direct staff to do individual noticing.

Responding to Director Williams question regarding the benefit to the southern portion, Mr. Lakeman stated the southern area drains toward American Avenue, so if someone outside the SOI develops, they would increase runoff towards American Avenue and while the District has facilities in American Avenue they will not be planned to serve the southern area which is outside the SOI. He stated the District could design the pipe to provide capacity for that southern area, but leave that area out of the District's planned area; however, that means the fee rate would be higher for everyone else that is inside the planned area. He noted currently development outside the SOI is providing temporary onsite facilities.

Mr. Van Wyk noted staff would be in consultation with the County on this matter, as the Board has directed in the past that anytime staff is proposing to go outside the SOI, they seek the County's support. He also noted property owners would be subject to a CEQA notice in the event the District revised the boundary line for the area outside the SOI.

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Director Fowler continued his concerns with respect to the District going outside the SOI with respect to the District making assumptions as to what the density will be ahead of the City zoning the area; the County's desire to stop the purchase of cheap agricultural land noting the lands outside the SOI subsidize the true cost of the infrastructure when land is purchased before it has been zoned; and, there is currently no pressure from the City or County to grow in this area.

Directors Goodwin and Burluson expressed their desire for staff to have additional talks with the County on this specific matter.

Responding to Director Spina's question as to why staff is bringing this item up now, Mr. Lakeman stated primarily, there is an area inside the SOI that is planned for heavy industrial development and there is not a current drainage plan. He stated when staff began looking at the entire area they realized that the area outside the SOI is potentially heading the same way. He stated staff needed direction from the Board as to which way to proceed with respect to the need to plan for the entire potential drainage area. Director Spina initiated discussion with respect to upsizing the pipelines to accommodate growth.

Director Burluson noted the four Alternates as listed in the Board Memorandum all include the need for additional acreage, and suggested his preference for the District to pursue purchasing an additional 8 acres inside the SOI before a decision is made on proceeding to expand outside the SOI.

Director Williams noted the mission of the District is to control drainage and flooding, and she believes it is in the best interest for everyone to look out into the future to determine where the best place is for planned drainage areas and basins, and to attempt to do that at the most reasonable cost.

Director Rastegar initiated discussion with respect to how this matter was handled in the past. Director Fowler noted going outside the SOI boundary has been a contention in the past with the County of Fresno and property owners who were not made aware that they would be subject to a drainage fee. Mr. Van Wyk stated in one of the most recent cases, in particular the Granville Homes project on the West side, staff met with the County of Fresno staff (Alan Weaver) and the County Supervisor for the area (Supervisor Phil Larson) on the project, and then the item was taken to the Board of Supervisors for approval.

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Motion approved by the Board of Directors to direct staff to discuss this item with the City of Fresno and the County of Fresno as to what they envision for the future of this area. Staff is also to request something in writing from these agencies.

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

11. Authorization to Sign Letter of Support and Opposition to Pending Legislation and Report on Spring 2013 State Legislative Activity

Recommend the Board of Directors lend its support to three bills specifically: (1) AB 265 (Local Government Liability: Dog Parks); (2) AB 841 (Junk Dealers and Recyclers: Nonferrous Materials); and (3) AB 184 (Interagency Intercept Collections) and that the Board of Directors oppose three bills specifically: (1) AB 536 (Contractors: Payments); (2) AB 1212 (Public Contracts: Bids); and (3) AB 1248 (Local Agencies: Internal Control Guidelines).

Mr. Remus distributed additional information titled "Comparing Metal Theft Bills 2013" for review by the Board as attached to the Board Packet.

Mr. Remus noted staff is no longer recommending support for AB 184 due to the Bill having been changed. Mr. Jensen noted he believed AB 1212 is a two year Bill which would make it useless for the Board to take a position until next year. Mr. Remus stated staff's recommendation then would be contingent on whether or not this Bill was a two year Bill.

Director Goodwin suggested staff include in its letter of support the wording "*in the current stage of the Bill*" as bills change. She also noted the need for staff to be clear when sending letters to the Legislators that they either support or oppose a particular bill.

Mr. Van Wyk initiated discussion with respect to the Board's interest in considering establishing a Board Committee to review Legislation during this legislative season. The Board did not express an interest in developing a Board Committee but expressed their preference that staff continue as they have been doing.

Approved as Recommended supporting items 1 and 2, and opposing items 1, 2 and 3 as detailed in the Board Memorandum.

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

Director Goodwin suggested with respect to the AB 841 (Junk Dealers and Recyclers; Nonferrous Materials) staff send a copy of the letter to the various interested entities (i.e. Sherriff and Police Departments, etc.).

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

No items were submitted.

REPORT OF GENERAL COUNSEL

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

CLOSED SESSION

The Board then recessed at 7:20 pm and reconvened in Closed Session at 7:30 pm to consider the following litigation:

**14. CONFERENCE WITH REAL PROPERTY NEGOTIATORS:
Pursuant to subdivision (a) of Government Section 54956.8: Storm Drainage Easements on Lots 8 and 9 of the Lismac Terrace Tract, Portion of APN 451-152-15 and 451-152-16, Sanchez Property**

The Board then recessed at 7:39 pm and reconvened in Closed Session at 7:42 pm. Director Goodwin recused herself from the proceedings due to a potential conflict of interest.

**15. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (Number of Cases: 1)**

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The Board then convened in regular session at 8:28 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

ADJOURNMENT

Adjourned Board Meeting at 8:29 pm

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



BOB VAN WYK
GENERAL MANAGER-SECRETARY



DATE