

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, JUNE 26, 2013

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, June 26, 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
Frances Lopez, Office Manager
Karyn Kruser, Staff Analyst
Carol Gerking, Accountant
Daniel Rourke, Environmental Resources 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 Director Groom led the Pledge of Allegiance.

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2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) Mr. Van Wyk noted he had received a call from a District Board Member regarding the City of Fresno looking at an ordinance to benefit infill projects with respect to impact fees on properties that were being redeveloped, so the properties would not have to pay an impact fee for the second time; he stated the District already does that noting the property owners are given credit for the fees they have already paid; he noted this proposal by the City would thus have no impact on the District and in fact the District would welcome it; he noted the City of Clovis is also looking at a similar ordinance as well, particularly in the Shaw Avenue corridor; (2) he noted there is a possibility the District may be cancelling the July 10th Board Meeting; (3) he reported the Simonian Settlement Conference did not produce a settlement, so the trial is scheduled for January 2014; and, (4) he stated Legal Counsel had distributed an amended Salary Resolution for the Board's consideration during the Budget proceedings this evening; Mr. Jensen noted the changes were made to make the Resolution language clearer.

3. APPROVAL OF MINUTES: Meetings of June 5, 2013 and June 12, 2013

Mr. Jensen requested an addition to the Minutes of the June 12, 2013 Board Meeting, specifically page 7, Agenda Item 11, third paragraph, second line which states, "Mr. Jensen noted he believed AB 1212 is a two year Bill which would make it useless." He would like the following added to the end of that sentence "**... for the Board to take a position until next year**".

Director Goodwin requested a correction to the Minutes of June 12, 2013, page 2, Agenda Item 6, 4th line which states, "... and stated she would therefore be abstaining on this item". She requested it be changed to better reflect that she was recusing herself; said wording to be changed as follows: "... and stated she would therefore be **recusing herself from** this item". Also, the vote for Adjournment shows Director Goodwin voting "Aye" when it should be changed to show her absent for the vote.

Approved as Recommended, with the above noted changes

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

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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:

Director Goodwin noted a potential Conflict of Interest with Agenda Item No. **12. 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 on this item.

7. PUBLIC HEARING: Adoption of Proposed Budget, Fiscal Year 2013-2014

a. Budgeted Revenues, Transfers and Fund Balances

Recommend the Board of Directors consider public comment and then close the Public Hearing with respect to Other Revenues and approve the Revenue Section of the Budget for inclusion in the Resolution adopting the final 2013-2014 Budget document.

Mr. Merrill began the Budget presentation.

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:10 pm.

Approved as Recommended

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

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b. Budgeted Expenditures:

(1) Administration, Operations and Maintenance

Recommend the Board of Directors consider public comment and then close the Public Hearing with respect to these expenditures and approve the expenditures portion of the Budget for inclusion in the Resolution adopting the 2013-2014 Budget.

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:11 pm.

Approved as Recommended

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

(2) Budgeted Capital Improvements and Reserves

Recommend the Board of Directors review and confirms the presented 2013-2014 Budget. It is further recommended the Board direct such revisions as may be determined appropriate, and receive public comments, then close the Public Hearing with respect to Capital Expenditures and approve the Capital Projects Fund portion of the Budget for inclusion in the Resolution adopting the 2013-2014 Budget.

Mr. Van Wyk noted in light of the likelihood that we will be getting the Grant from the State Department of Water Resources as was reported at the last Board Meeting, it will require an amendment to the District's Capital Program Budget. He stated staff did not include the Grant amount, noting that the Grant has not been officially awarded as of yet. He stated once staff receives the final notification, then a modification of the Capital Program Budget will be brought back to the Board.

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:12 pm.

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Approved as Recommended

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

(3) Adoption of 2013-2014 Salary Resolution

Recommend the Board of Directors give final approval to the Personnel Budget of \$8,667,849; further it is recommended the Board adopt the attached Salary and Employee Benefits Resolution for 2013-2014.

Mr. Jensen stated the Resolution submitted to the Board this evening is the one the Board will be adopting, noting the amended Resolution is meant to explain that the Board is superseding the 2102 Salary Resolution as well as salary resolutions in prior years and establishing this current Resolution for the upcoming year.

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:14 pm.

Approved as Recommended, adopting Resolution No. 2013-764 as submitted this evening.

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

c. Assessment Tax Zones of Benefit Boundaries and Levy of Assessment Tax to Fund 2013-2014 Annual Budget

1. Assessment Tax Zones

It is recommended the Board of Directors adopt the 2013-2014 Budget and confirm the Assessment Tax Levy, recognize and affirm the Zone of Benefit Boundaries established, therefore, and existing as of June 30, 2013.

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2. Levy of Assessment Tax

It is recommended the Board of Directors consider public comment, then close the portion of the Public Hearing related to the Assessment Tax Levy and approve such revenues calculated pursuant to the amount required to fund the Budget approved by the Board of Directors, such rates set forth on Attachment No. 6, Table No. 5 for inclusion in the Resolution adopting the final 2013-2014 Budget Resolution as attached to the Board Memorandum.

It is further recommended that this action: (1) include the adoption and confirmation as the findings of the Board of Directors the data set forth above; and (2) incorporate into the public record all data herein described and considered by the Board pursuant to this memorandum, and data similarly considered by the Board of Directors which was presented during the Budget workshop, the Budget Hearing, and also contained in the continuing Public Record established relative to the District's Assessment Tax Levy, and in consideration of the CIEDB Loan for Drainage Area "RR" and Drainage Area "II₁".

Finally, it is recommended the Board of Directors adopt the Assessment Tax Rates for 2013-2014 reflected on Attachment No. 6, Table No. 5. as attached to the Board Memorandum

Mr. Merrill reported two corrections to the Board Memorandum, specifically page 5, last line reads "Required 2012-2013 Assessment Tax Receipts" should read "**Required 2013-2014 Assessment Tax Receipts**"; and page 8 under Recommendation, the last line reads "... therefore, and existing as of June 30, 2014." should read "... **therefore, and existing as of June 30, 2013**".

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:20 pm.

Approved as Recommended

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

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d. Adoption of Resolution Determining Prevailing Wages, 2013-2014

It is recommended the Board of Directors adopt the Resolution attached to the Board Memorandum establishing the 2013-2014 schedule of prevailing wages identified by the State of California Department of Industrial Relations, and any amendment thereof adopted by the State of California prior to June 30, 2014.

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:21 pm.

Approved as Recommended, adopting Resolution No. 2013-765

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

e. Adoption of Resolution Adopting 2013-2014 Budget

It is recommended the Board of Directors affirm the findings, conclusions and determinations made and/or established during the consideration of the 2013-2014 Budget and adopt the Resolution adopting the 2013-2014 Budget, inclusive of the previously received agenda items.

Mr. Merrill reported one correction, page 7 of the Resolution, 6th paragraph which reads in part, “. . . for fiscal year 2012- 2013 is hereby adopted . . .” should read “. . . for fiscal year 2013-2014 is hereby adopted . . .”.

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:22 pm.

Approved as Recommended, adopting Resolution No. 2013-766 as above amended

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

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f. Acceptance of Five-Year Financial Forecast

It is recommended the Board of Directors approve the Five-Year Financial Forecast.

Director Williams opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:23 pm.

Approved as Recommended

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

Mr. Van Wyk expressed his thanks to the Board Members and the various staff members who have worked extremely hard in putting this Budget together this year, noting the amount of effort and time that has been put into preparation for the culmination of tonight's Budget adoption.

8. CONSENT CALENDAR:

- a. Approval of 2013-2014 Scope of Work for Larry Walker Associates, National Pollutant Discharge Elimination System (NPDES) Stormwater Quality Monitoring and Technical Services
- b. Authorization to Execute Encroachment Agreement with Fresno Irrigation District, Storm Drain Crossing of Braly Canal, Drainage Area "II₁" (California & East)

Responding to Director Fowler's comment regarding the most recent bids coming in above the Engineer's Estimates, Mr. Lakeman stated staff is being encouraged to consistently review current market conditions and adjust the estimates as the market has recently changed.

- c. Authorization to Execute Standard Developer Agreement, Tract 5950, Bonadelle Homes, Inc., Drainage Area "3G" (Leonard & Barstow)

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d. Award of Contracts:

- (1) Contract "II,-109", Storm Drain Facilities (East & California)
- (2) Contract "AB-45", Storm Drain Facilities (Marks & Alluvial)
- (3) Contract "J-23", Pump Station Facilities (Bullard & Forkner)

e. Report of Pollutant Discharge Incidents, May 2013

Approved as Recommended

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

9. Adoption of Resolution Ratifying General Manager's Authorization to Sign Reimbursement Agreement with High Speed Rail Authority

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum ratifying the General Manager's authorization to execute the amended Reimbursement Agreement with the Authority.

Mr. Lakeman reported two corrections to Attachment No. 2 of the Board memorandum, specifically Item no. 2, fourth line which reads in part ". . . authority as necessary until December 31, 2012, instead of terminating on June 30, 2012." should read ". . . authority as necessary until **December 31, 2013**, instead of terminating on **June 30, 2013**."

Approved as Recommended, adopting Resolution No. 2013-767

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

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

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

(1) Oversight Board for the Successor Agency of the Clovis Redevelopment Agency, Director Spina

Director Spina give a verbal report of the Oversight Board for the Successor Agency of the Clovis Redevelopment Agency Board Meeting held on Tuesday June 18, 2013.

Director Spina gave a verbal report.

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.

(2) San Joaquin River Conservancy (SJRC), Director Goodwin

Director Goodwin give a verbal report of the San Joaquin River Conservancy (SJRC) Board Meeting held on Wednesday, June 19, 2013.

Director Goodwin gave a verbal report.

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.

REPORT OF GENERAL COUNSEL

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

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CLOSED SESSION

Director Goodwin recused herself from the proceedings due to a potential conflict of interest and left the dais and Board Meeting at 6:39 pm.

The Board then convened in Closed Session at 6:39 pm to consider the following litigation:

12. **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)

The Board then convened in regular session at 6:56 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

ADJOURNMENT

Adjourned Board Meeting at 6:56 pm.

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



BOB VAN WYK
GENERAL MANAGER-SECRETARY



DATE