

ACTION SUMMARY MINUTES
MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
HELD WEDNESDAY, DECEMBER 11, 2013

Pursuant to notice, the Regular Meeting of the Board of Directors of the Fresno Metropolitan Flood Control District was held Wednesday, December 11, 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: Mike Rastegar, Vice-Chairman
Roy Spina
Kendall Groom
Barbara Goodwin
Frank Fowler
Buzz Burleson

DIRECTORS ABSENT: Jennette Williams, Chairman

**STAFF, CONSULTANTS,
OTHERS PRESENT:**

Bob Van Wyk, General Manager
Jerry Lakeman, District Engineer
Alan Hofmann, Assistant District Engineer/Design
Peter Sanchez, Operations Engineer
Kristine Johnston, Staff Analyst
Andrew Remus, Staff Analyst
Frances Lopez, Office Manager
Karyn Kruser, Staff Analyst
Brandy Swisher, Program Assistant
Paul Merrill, Finance Manager
Esther Schwandt, Clerk to the Board

Doug Jensen, General Counsel; Baker, Manock & Jensen
Robert Wilkinson, Assistant General Counsel;
Baker, Manock & Jensen

Eric Tienken, Chief Digital Officer, Jeffrey Scott Agency
Michael Pitzer, Creative Director, Jeffrey Scott Agency

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

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2. REPORT OF THE GENERAL MANAGER:

Mr. Van Wyk reported on the following: (1) he distributed a copy of a letter from the District to Floyd Johnston Construction Company, Inc. dated December 6, 2013 declining their request for a "change of conditions" change order.

3. APPROVAL OF MINUTES: Meeting of November 13, 2013

Due to his absence at the November 13, 2013 Board Meeting, Director Rastegar abstained.

Approved as Recommended

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

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. 18. **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),** and stated she would therefore be recusing herself on this item.

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7. PUBLIC HEARING:

- a. **Adoption of Resolution Adopting Negative Declaration for the South Fresno Economic Development Project (Drainage Areas “HH” [Sierra Vista & Drummond Avenues]; “KK” [Annadale & Elm Avenues]; “AX” [Central & Orange Avenues] and “CQ” [North & Fig Avenues])**

Recommend the Board of Directors consider the proposed Negative Declaration, public comments, and any testimony at the Hearing. Subsequently, it is recommended the Board of Directors approve the final Negative Declaration and adopt the Resolution attached to the Board Memorandum. Following the adoption of the Negative Declaration, it is recommended the Board of Directors approve the project. It is further recommended the Board’s action include such additional measures it feels are necessary to mitigate or alleviate any concerns raised through public testimony or Board discussion.

Director Rastegar opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:04 pm.

Responding to Director Groom’s question as to whether he should recuse himself due to owning property in the area, Mr. Jensen stated so long as all the affected property owners were treated the same, and Director Groom’s property was not treated any differently than his neighbors, then Director Groom did not need to rescue himself.

Approved as Recommended, Adopting Resolution No. 2013-778

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

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b. Adoption of Resolution Confirming the Schedule of Drainage Fees, Surcharges and Costs for Local Drainage Areas (2014 Rate Schedule)

Recommend the Board of Directors adopt the following:

1. The Resolution attached to the Board Memorandum confirming the Existing cost and fee schedule set further therein;
2. Direct staff to transmit the Map and fee schedule amendments to the City of Fresno, County of Fresno, and the City of Clovis for adoption.

Mr. Hofmann noted it is staff's recommendation that the fees remain at the same current level.

Director Rastegar opened the Hearing for Public Comment, there being none, the Public Comment portion of the Hearing was closed at 6:08 pm.

Approved as Recommended, Adopting Resolution No. 2013-779

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

8. CONSENT CALENDAR:

- a. Adoption of Resolution Rescinding Resolution No. 2013-773, Declaring Excess Property and Authorizing Sale of Excess Property to Daniel O'Bar, Fancher Creek Reservoir (Nees Avenue)
- b. Authorization of Contract Amendment with Labor Consultants of California in Support of Proposition 84 Grant, Local Groundwater Assistance
- c. This Item was Moved
- d. This Item was Moved

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- e. Ratification of Expenditures, Report of Fund Balances and Activity, November 2013
- h. Acceptance of Quarterly Investment Report, Third Quarter

Director Goodwin requested Agenda Item 8f be pulled. Director Spina requested Agenda Item 8g be pulled.

Approved as Recommended, with the exception of Agenda Items 8f and 8g

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

f. Report of Public Concerns, November 2013

This report is for informational purposes only. No Board action is required unless specific direction is given staff regarding the content, format and interest in receiving future reports.

Responding to Director Goodwin's question regarding the item on Page 1 of the attachment, Drainage Area "DD" in which it is reported the County of Fresno had recently completed street work at a number of locations without notifying the District, thereby causing a problem with District manholes needing to be raised, Mr. Sanchez stated typically the County of Fresno sends letters to the District notifying us they are going to perform street repair, giving the District the option of raising the manhole as part of their contract. However, in this particular case, the County stated they re-prioritized their projects at the last minute, which caused them not to do their normal notification to the various entities. In response to Directors Goodwin and Fowler's comments, Mr. Sanchez stated he was sending an email with pictures to Maintenance & Operations at the County to hopefully prevent these issues in the future.

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

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g. Authorization to Publish Notice and Schedule Adoption of Resolution of Findings for the Mitigation Fee Act Five Year Report

Recommend the Board of Directors authorize staff to notice the findings discussed in the Board Memorandum to the public through the District's website and schedule the Adoption of the Resolution of the Mitigation Fee Act Five Year Report findings at the January 8, 2014 Board Meeting.

Responding to Director Spina's question as to notification, Mr. Hofmann stated the Mitigation Fee Act states that the District must have this available to the public; however, it does not require a Public Notice nor a Public Hearing. Responding to Director Spina's subsequent question regarding page 3 of the Board Memorandum, item No. 6) "An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public project.", Mr. Hofmann stated the Mitigation Fee Act requires that the District state when we are going to do that, and staff is saying they have done that through a description, where we state we are going to hold onto those funds and spend it on the approval of the District Board at the time when the District thinks it most prudent to spend those funds.

Approved as Recommended

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

9. Allocation of a Portion of the Excess PPDA Transfer Revenue in the Amount of \$615,000 to the Fancher Creek Flood Control Improvement Project, Drainage Area "BO" (Tulare & Fancher Creek)

Recommend the Board of Directors allocate \$615,000 from the General Fund (excess PPDA transfer funds) to the Fancher Creek Flood Control Improvement Project, Tulare Avenue trunk line and branches as shown on the exhibit attached to the Board Memorandum.

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Approved as Recommended

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

10. Authorization to Execute Agreements Related to Funding of Economic Development Assistance Grant:

- a. North and Fig Avenue Improvements, Use of City Pond, and Amendment of Agreement No. 961-“LL”/“KK”/“AV”/“AW₁”/“AW₂”, City of Fresno Drainage Area “CQ”**
- c. North and Fig Avenue Improvements, County of Fresno, Drainage Area “CQ”**
- d. North Central Canal Improvement, Fresno Irrigation District, Drainage Area “AX” (*location*)**
- e. Storm Drainage and North Central Canal Improvements, North Pointe Business Park, Fowler Packing Company, Leland Parnagian, Drainage Area “AX” (*location*)**

Recommend the Board of Directors authorize staff to enter into an agreement with the various agencies (co-applicants) and business owners, as described in the Board Memorandum for funding of the South Fresno Economic Development Project.

Mr. Van Wyk acknowledged the hard work of staff members who have worked on this grant, specifically Jerry Lakeman, Alan Hofmann, Brandy Swisher, Jason Clarke, Kristine Johnston, and Norma Lopez.

Mr. Lakeman noted staff did drop the Drummond Avenue feature out of the grant, as staff was not able to convince those folks to contribute the local share.

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Approved as Recommended

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

11. Authorization to Transfer Proposition 1E Grant Funds from the General Fund to the Capital Projects Fund

Recommend the Board of Directors:

- a. Authorize the transfer \$1,056,463.04 from the General Fund back to the Capital Projects Fund;
- b. Authorize the transfer from the General Fund to the Capital Projects Fund for any future receipts as they are received, net of General Fund Advances.

Director Goodwin suggested staff run the way the District is doing the accounting by the State to insure we are in compliance with their rules.

Approved as Recommended

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

12. Recommendations from Environmental Resources Department:

- a. **Award of 2014-2015 Clean Stormwater Grants**

Recommend the Board of Directors award 2014-2015 Clean Stormwater Grants totaling \$30,717.15 for projects recommended for funding in Attachment No. 1 attached to the Board Memorandum. Additionally staff requests authorization to distribute the press release attached to the Board Memorandum regarding the grant awards.

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Ms. Johnston stated this afternoon she had received a phone call from a teacher at Saroyan Elementary School, informing her that he had submitted a grant application for a 5th grade field trip in the amount of \$762.50. She stated while staff has not been able to locate his grant application, the teacher did submit verification of his submittal by the District's deadline. Ms. Johnston stated by combining the field trip with another school, the cost could be reduced to approximately \$300.00. Mr. Van Wyk stated staff is recommending this grant application be included in the total staff recommendation.

Approved as Recommended with the Addition of the Saroyan Elementary School as noted above.

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

- b. Approve New Public Service Announcements, and Authorize Purchase of Television and Radio Time for the District's Public Service Announcements to Comply with National Pollutant Discharge Elimination System (NPDES) Stormwater Quality Permit**

Recommend the Board of Directors authorize staff to finalize production of the television and radio PSAs, and to proceed with the proposed mixed media buy as outlined in the Board Memorandum and in the media buy as attached to the Board Memorandum.

Mr. Eric Tienken, Chief Digital Officer and Mr. Michael Pitzer, Creative Director of Jeffrey Scott Agency, doing business at 670 "P" Street, Fresno California 93721, showed the Board the proposed Public Service Announcements.

Approved as Recommended

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

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13. Report to the Board on Co-Permittees' Fees to State Water Resources Control Board (SWRCB) for National Pollutant Discharge Elimination System (NPDES) Permit Fees

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.

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

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

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

Recommend Director Goodwin give a verbal report of the San Joaquin River Conservancy Board Meeting held on November 20, 2013.

Director Goodwin gave a verbal report.

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

(2) ACWA 2013 Fall Conference and Joint Powers Insurance Authority (JPIA) Board of Directors' Meeting, December 2-3, 2013, Los Angeles, California, Director Groom

Recommend Director Groom give a verbal report of the ACWA JPIA 2013 Fall Board of Directors' Meeting held on December 2-3, 2013 in Los Angeles, California.

Director Groom gave a verbal report, stating the JPIA is advocating that Special Districts go to a Health Savings Plan. He recommended District staff look into this as he believed it was a win for both the District and employees.

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

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15. Authorization to Schedule Public Hearing to Adopt Resolution Amending Schedule of Service Charges, Master Fee Ordinance and Consideration of Methodology to Calculate Employee Billable Rates

Recommend the Board of Directors:

1. Authorize scheduling a Public Hearing on January 8, 2014 for the Adoption of the Amendment of the Master Fee Ordinance.
2. Provide comments or direction to staff on the billable hour methodology.

Mr. Sanchez noted one correction to the Board Memorandum, specifically the last paragraph on Page 1 should be deleted, as the Board does not need to make the findings until the Public Hearing which will be scheduled for January 8, 2014.

Approved as Recommended

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

REPORT OF GENERAL COUNSEL

Mr. Jensen stated there were no items to report.

CLOSED SESSION

The Board then convened in Closed Session at 7:26 pm to consider the following litigation:

**17. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:
Pursuant to subdivision (a) of Section 54956.9:**

Fresno Metropolitan Flood Control District v. Gary Charles and Elaine June Simonian Trust; Case No. 12CECG01857 DSB; Basin “BL” (Church & Armstrong)

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Director Goodwin recused herself from the proceedings due to a potential conflict of interest and left the Board Meeting at 7:34 pm.

**18. 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 7:39 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

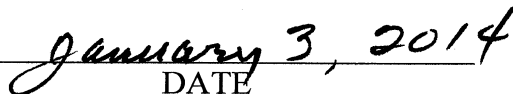
ADJOURNMENT

Adjourned Board Meeting at 7:40 pm

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



BOB VAN WYK
GENERAL MANAGER-SECRETARY



DATE