

**ACTION SUMMARY MINUTES**  
**MINUTES OF THE REGULAR MEETING OF**  
**THE BOARD OF DIRECTORS OF THE**  
**FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**  
**HELD WEDNESDAY, MARCH 12, 2014**

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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, March 12, 2014 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  
Paul Allen, Facilities Manager  
Brandy Swisher, Program Assistant  
Diana Lopez, Office Assistant  
Debbie Campbell, Development Services Manager  
Esther Schwandt, Clerk to the Board

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

Mary Jo Quintero, Children's Hospital Central California  
Representing Water Safety Council of Fresno County  
Cristel Tufenkjian, Kings River Conservation District  
Representing Water Safety Council of Fresno County

Mario Fox, dog park proponent

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

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

Mr. Van Wyk reported on the following: (1) he stated staff would have the second meeting with the Building Industry next Wednesday regarding the proposed Development Review Fees, and he distributed copies of the letter the District staff sent to the Building Industry Representatives dated March 12, 2014 wherein staff responds to the questions and items they brought up at the previous meeting; (2) the Clerk to the Board will be distributing the Form 700 forms; (3) the Clerk to the Board is also in the process of setting up the required AB 1234 Ethics Training with Legal Counsel; (4) staff is in the process of developing the proposed Budget Schedule and would be distributing that to the Board at the next Board Meeting; (5) he reviewed the process staff has gone through regarding their concerns with respect to the “pass-through” amount due the District from the Redevelopment Agency and noted they had met with the County Auditor Controller’s Office; and (6) staff is in the process of developing a task tracking system.

**3. APPROVAL OF MINUTES: Meetings of February 12, 2014;  
February 19, 2014 and February 26, 2014**

**Approved as Recommended, Meeting of February 12, 2014**

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

**Approved as Recommended, Meeting of February 19, 2014**

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

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Due to his absence at the February 26, 2014 Board Meeting, Director Fowler abstained.

**Approved as Recommended, Meeting of February 26, 2014**

**Motion by: Groom            Second by: Burleson**  
**Ayes: Williams, Rastegar, Spina, Groom, Goodwin, Burleson**  
**Noes: None**  
**Abstentions: Fowler**  
**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. **13. 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.

**7. PUBLIC HEARING:**

There were no Public Hearings scheduled.

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**8. CONSENT CALENDAR:**

- b. Authorization to Execute Standard Developer Agreements:
  - (1) Tract 6025, Drainage Areas “DO” and “DP”, Lennar Fresno Inc., (Shaw & Leonard)
  - (2) CUP 2013-086, Drainage Area “CZ”, Spencer Enterprises Inc., (Chestnut & Nees)
- c. Award of Contract “D-67”, Installation of Concrete Slabs, Oso de Oro Lake Park, Basin “D” (Forkner & Barstow)
- d. Rejection of Claim and Authorization to Refer Matter to District’s Insurance Carrier, Joint Powers Insurance Authority (JPIA), Personal Injury, Kim Morton, Oso de Oro Park, Drainage Area “D” (Barstow & Forkner)
- e. Rejection of Claim and Authorization to Refer Matter to District’s Insurance Carrier, Joint Powers Insurance Authority (JPIA), Personal Injury, Wallace Whipps vs. City of Fresno, et. al.
- f. Report of Public Concerns, February 2014

Mr. Van Wyk pulled Agenda Item 8a.

**Approved as Recommended with the Exception of Agenda Item 8a.**

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

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- a. Adopting of Resolution Authorizing Quitclaim of Storm Drainage Easement, Tract 5154, Drainage Area “3G” (Bullard w/o Locan) (Leo Wilson & Gary Mason)**

Recommend the Board of Directors adopt the Resolution attached to the Board Memorandum authorizing the execution of a Quitclaim Deed of the District’s interest in the easement to the current owner.

Mr. Lakeman distributed a Resolution and Quitclaim Deed, noting staff had made a minor correction to the draft Resolution, and Legal Counsel had provided the correct Quitclaim Deed, as the one attached to the Board Memorandum was incorrect.

**Approved as Recommended with the above mentioned corrections, Adopting Resolution No. 2014-786**

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

- 9. Presentation of Sponsorship Recognition from the Water Safety Council of Fresno County**

No action is required by the Board of Directors unless it wishes to provide further direction to staff.

Ms. Mary Jo Quintero of the Children’s Hospital Central California and Ms. Cristel Tufenkjian of the Kings River Conservation District, both representing Water Safety Council of Fresno (WSC), addressed the Board with respect to the work of the WSC as outlined in the Board Memorandum, and to recognize the District Board as one of the sponsors of the WSC.

Ms. Tufenkjian presented a plaque to Chairman Williams on behalf of the WSC.

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

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**10. Direct District Staff Regarding Gate Openings and Dog Park Issues, Basin “DD<sub>1</sub>” (Holland & Thorne)**

Recommend the Board of Directors:

1. Direct staff on the enforcement of the Fresno Metropolitan Flood Control District, City of Fresno, City of Clovis and County of Fresno “leash laws” at some or all District Basins.
2. Direct staff whether to lock some or all basin gates open or allow citizens to close the gates to prevent their off leash dogs from leaving the site.
3. Authorize staff to work with citizens that are interested in forming a group that will be responsible for selecting an appropriate site and be responsible for maintenance and liability of a leash free dog parks(s). Similar to the agreements the District has with City of Fresno at Basin “AH<sub>1</sub>” and Fresno Greater San Joaquin Valley Junior Golf Foundation at Basin “FF”.

Mr. Mario Fox, residing at 3318 W. Magill Fresno, addressed the Board with respect to Basin “DD<sub>1</sub>” (Holland & Thorne), specifically stating that the gates being locked open was not that important of an issue, noting his belief the dog owners would just be happy if they were not “harassed”. He stated they do not understand why a neighbor can complain about something and then the District staff come out and tell the dog owners they have to place their dogs on a leash, noting the complaint has not even been investigated. He stated having a dog off leash does not make them bite or bark any less. He stated what it does do, is make them wander the neighborhood with the gates locked open, which is a bad thing for the neighbors. He stated if you read the leash law, it states “on leash or immediate control of the owner”. Mr. Fox stated it is pretty clear, that if he has control of his dog then his dog does not need to be on a leash as he can call his dog at any time, and his dog will come running.

Responding to Director Williams’ question as to who Mr. Fox believes is doing the harassing, Mr. Fox stated it was District and SPCA staff. Mr. Van Wyk stated the District’s Ordinance specifically states that dogs in District basins must be on a leash.

Director Spina expressed his support for staff recommendation item number 3; with respect to item number 2, he stated he supported the gates being locked opened as staff has been doing; and with respect to item number 1, he believed the District must continue to enforce the District’s Ordinance.

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Director Williams stated she concurred with Director Spina's comments with the exception of item number 2, noting she did not believe it necessary to lock the gates open.

Director Fowler suggested the Board not hold any Public Hearings until and if a group steps forward as outlined under recommendation Item no. 3, noting if no group steps forward to take the responsibility and liability, then this is a dead issue and he believed the District staff needed to continue as they have been. He further stated his belief that the District could not do anything that would violate the Ordinances of the Cities and/or the County. He stated if property owners wanted changes to the Ordinances, then they would need to start with the Cities and the County, not the District.

Director Goodwin stated her belief that the District was not the venue for the leadership position of developing a dog park, noting the District should participate in the discussions as it is our facilities; however, she believed the Cities and the County should be the ones to take the leadership of these discussions. With respect to locking the gates open, Director Goodwin noted she had mixed feelings as she believed if the gates were closed, then staff may in fact be supporting illegal behavior by dog owners who then could potentially be cited due to the Ordinances. Also, she noted that if a ponding basin were turned into a dog park, the dog park would not be exclusive to that neighborhood, but it would then be a public facility and open to all. Director Goodwin stated she did not believe the District had the funds nor the authority to make the broad statement that dogs could be off leash.

Director Rastegar stated he did not believe at this point there was anything the District could do.

Mr. Van Wyk stated his belief that there was a consensus among the Board as to recommendation item no. 3 and stated staff would then craft a letter which would characterize what the District's position was, and send that letter to those who had contacted the District regarding this item, either by attending the February 12, 2014 Board Meeting, sending letters and/or calling the District. He stated staff could also develop a "white paper" which staff would distribute to the visitors at the park sites, letting them know the District is not opposed to the "dog park" concept; however, the District would not violate the Ordinances. He stated he did want direction from the Board as to the locking open of the gates, noting his concern that if the gates are closed, then the District would be effectively creating a de-facto dog park.

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Director Spina stated his belief that the General Manager has to have the authority to make the decision as to whether he wants to lock the gates open or lock them shut, as he believed that is staff's responsibility.

**It was the decision of the Board of Directors:**

1. **That staff continue to enforce the District, City of Fresno, City of Clovis and County Fresno "leash laws" at all District basins;**
2. **That the General Manager continue to make the determination as to locking the gates open; and**
3. **That staff is authorized to work with citizens that are interested in forming a group that will be responsible for selecting an appropriate site and be responsible for maintenance and liability of a leash free dog park(s).**

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

**11. 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.



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**CLOSED SESSION**

The Board convened in Closed Session at 6:50 pm to consider the following litigation:

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

Whipps vs. City of Fresno et. al.

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

Small Claims Court; Vic Alberti vs. Gary L. Bruno; Robert Van Wyk, FMFCD

The Board then convened in Regular Session at 7:00 pm. Mr. Jensen stated no reportable action was taken in Closed Session.

Director Goodwin recused herself from the proceedings due to a potential conflict of interest and left the Board Meeting at 7:01 pm.

The Board then reconvened in Closed Session at 7:01 pm.

**13. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2):

(Number of Potential Cases: 1)

The Board then convened in regular session at 7:57 pm. Mr. Jensen reported an Ad Hoc Committee was appointed by the Chair to include Directors William, Fowler, and Burluson, with Director Spina being an Alternate to deal with the Clovis Unified School District.

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**ADJOURNMENT**

**Adjourned Board Meeting at 7:57 pm.**

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

  
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BOB VAN WYK  
GENERAL MANAGER-SECRETARY

  
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DATE