

MAGMA FLOOD CONTROL DISTRICT

MINUTES OF THE

TUESDAY, JUNE 2, 2015 MEETING

The Informal Public Meeting was called to order at 4:00 p.m. at the Florence Unified School District Anthem K-8 Choir Room, 2700 N. Anthem Way, Florence, Arizona. The following members of the public were present telephonically, Jason Standage and Kevin Harris attorney for FNF Construction. There were no other public members present.

General Manager Pace gave an overview of the history of the District. The District was created in approximately 1963 to protect 23,000 acres of agricultural land from flooding. The Dam was designed for protection of agriculture and is approximately five and a half (5 1/2) miles long located on Arizona Farms Road approximately two and a half (2 1/2) miles west of Highway 79.

In the early 2000's the Arizona Department of Water Resources Dam Safety Division had concerns about the Dam due to its age and its primary function was no longer protecting agricultural lands. The Dam Safety Division classified the Dam as a high hazard dam and required that the Dam be repaired or decommissioned. Decommissioning the Dam was not an option due to the fact the Dam would have to be breached in several locations and many property owners below the Dam would be required to purchase federal flood insurance which would cost between \$800.00 to \$1,300.00 dollars per household per year. General Manager Pace noted that purchasing flood insurance would not resolve the problems of the Dam.

The District Board began attempting to acquire federal funding to remedy the Dam. As a result, taxes were required to be raised for the District. The average homeowner in the District paid approximately \$300.00 dollars per year in taxes for a number of years to accumulate funding for the federal grant. The District reached an agreement with a federal agency, NRCS would pay sixty-five (65%) percent of the cost and the District would pay thirty-five (35%) percent of the cost of Dam repairs. This started in approximately 2004.

Over the last five (5) years tax rate has been approximately \$3.00 dollars per assessed \$100.00 dollar valuation. It is anticipated once the Dam repairs are completed the tax rate can be reduced to a sum of approximately ten (10%) to twenty (20%) percent of the current rate which would go to operation and maintenance of the Dam.

General Manager Pace believes that the \$3.00 dollar per assessed \$100.00 dollar valuation tax rate will continue for approximately two (2) more years until the Dam is repaired. This of course is conditioned upon how the litigation involving FNF Construction over Dam repair is resolved.

The Regular Meeting was called to order by President Vinson Dobson at 4:15 p.m. Appearing were President Dobson and Director Tyler LeSueur. Also present at the Meeting were Kent Pace (General Manager), Larry Pfeiffer, Assistant Board Secretary and Board Treasurer and Stephen Cooper (District Counsel). The following members of the public were present telephonically, Jason Standage and Kevin Harris attorney for FNF Construction. The meeting was properly posted within the boundaries of the District and a phone number of 1-800-920-7487 was provided for individuals residing within and without the District to appear

telephonically for the meeting. There were no other public members present and introductions were not necessary.

General Manager Pace gave a brief update of the status of District business which had been previously discussed during the Public portion of the Meeting and noted:

- The Magma Dam plans are at the one hundred (100%) percent stage. The District's plans are in final review. Hunter Contracting has been hired by the District to provide pre-construction services as a Construction Manager at risk.
- The lower Magma channel plans are at the ninety (99%) percent stage. The District is sending these plans to the Town of Florence and Pinal County for review and comment. Hunter Contracting plans to issue cost estimates in July/August timeframe.
- FY 2015-2016 Budget and Tax Levy. The proposed budget is \$10,819,413 dollars. The tax rate is proposed to be 2.6962% with an estimated tax levy of \$1,255,989.00 dollars.

The next item of business was consideration of the approval of the Minutes of the Regular and Executive Board Minutes of March 3, 2015. A motion was made by President Dobson to table the approval of the Minutes to a future Board Meeting. Tyler LeSueur seconded the motion thereafter, the matter was tabled.

The next item of business was a discussion concerning the ratification of the General Manager actions to sign Modifications # 6 and #7 of NRCS Agreement 68-9457-10-492 and Modification #6 of NRCS Agreement 68-9457-9-473. These matters dealt with extending the completion times of the Agreements by one (1) year and providing additional funding from NRCS for the Dam rehabilitation projects. A motion was made by Board President Dobson and seconded by Board Member LeSueur to ratify the acts of General Manger Pace to sign the modifications to these Agreements. This motion was approved by the Board.

The next item of business was to approve a combined Resolution 2015-06-02 to allow for Pinal County Treasurer to purchase, hold, and sell interest bearing securities (as authorized by law) on behalf of the District, as well as to authorize General Manager Pace and Assistant Secretary Larry Pfeiffer to issue warrants and to complete other banking functions on behalf of the District. A motion was made by Board President Dobson to approve this Resolution, and was seconded by Board Member LeSueur. Thereafter the motion was unanimously approved.

The next item of business before the Board was the consideration and approval of Resolution 2015-6.1, a call for election for the Magma Flood Control District for the purpose of electing two (2) Board Members and authoring the General Manager to take all necessary actions and to sign all necessary agreements to proceed with the election.

General Manager Pace noted Directors Dames and Director LeSueur were up for election. This election would occur on October 7, 2015. It is further noted the last date to file a nomination petition for the election would be July 9, 2015 with the petitions being delivered to the Pinal County Elections Office located at 31 N. Pinal Street, Building E, Florence, Arizona, no later than 5:00 p.m. Arizona time.

General Manager Pace also noted that he had just received a proposed IGA for election services with Pinal County today. He would be reviewing the proposal and if appropriate would sign the IGA on behalf of the Board to conduct the election.

A motion was made by Board Member LeSueur to approve Resolution #2015-6.1 for the purpose of calling for an election of two (2) Board Members and authorizing the General Manager to take all necessary actions to implement the procedures necessary for the election including signing any agreements with Pinal County for election services. This motion was

seconded by President Dobson. Thereafter this matter was approved.

The next item of business was the approval of the meetings schedule for the District. It was proposed the District hold the following scheduled meetings for FY 2015-2016:

September 1, 2015
December 1, 2015 (FUSD K-8 Library)
March 1, 2016
June 7, 2016

It was further noted these meetings would begin at 4:00 p.m. at the Florence Unified School District Anthem K-8 Band Room (excepting the December 1, 2015 Library Meeting) where the District now holds its meetings. Board President Dobson moved to approve the proposed meeting schedule and was seconded by Board Member LeSueur and thereafter it was approved.

The next item was the calling for an Executive Session for legal matters, a motion was made by Board Member LeSueur to enter into Executive Session and President Dobson seconded the motion thereafter it was carried in the Executive Session that lasted from 4:35 p.m. to 4:50 p.m. No action to direct legal counsel or staff to proceed as directed in Executive Session was taken by the Board.

The next item of business was discussion of the budget for fiscal year 2015-2016. General Manager Pace noted the proposed budget consisted of \$10,819,413 dollars in revenues. It was pointed out that both the revenue and expenditure amounts were based upon a scenario in which MFCD actually received all possible funding from NRCS (approximately 60-63% of budget) to complete the Central Filter Project and/or Lower Magma Channel. MFCD's expenses and disbursements would be limited to the actual revenues it received (or the District's actual

cash position) as detailed within the proposed budget form. A motion was made by Board Member LeSueur and seconded by Board President Dobson to approve the budget. Thereafter, this matter was unanimously approved.

The next item of business was the discussion of the 2015-2016 tax rate. The Board Members discussed that the proposed tax rate would remain the same (2.6962%) as the 2014-2015 tax rate. A motion was made by Board Member LeSueur and seconded by President Dobson to establish a tax rate of 2.6962% which would generate property tax revenues in the District to be approximately \$1,255,989.00 dollars for fiscal year 2015-2016. Thereafter, this matter was unanimously approved.

The next matter of business was consideration and possible approval of an agreement between the District Board and the General Manager for certain litigation services to the District in the event the General Manager's employment is not extended beyond the current litigation with FNF Construction. District Attorney Cooper presented this matter to the Board. This Agreement if approved would provide either the Board or General Manager Pace the right to cancel the Agreement upon thirty (30) days notice. It was explained that because of potential upcoming Board Elections, there is uncertainty as to whether a New Board would retain the services of the General Manager. It was also discussed that the current litigation with FNF Construction as well as the current negotiations of Hunter Contracting for Dam repairs and the requirements of federal regulations concerning the funding available to the District would require a continuity of a General Manager to complete these projects.

A motion was made by President Dobson to approve an agreement with the General Manager to provide certain litigation services to the District in the event the General Manager's

employment is not extended. This motion was seconded by Board Member LeSueur and thereafter this matter was approved.

The next item of business was Board reports. There were no reports to come before the Board.

The next item of business was General Manager reports. There were no other reports.

The next item of business was other business which came before the Board. There was no items of other business.

The next item of business was adjournment, the meeting was adjourned at 5:02 p.m.

RESPECTULLY SUBMITTED this _____ day of June, 2015.

**STEPHEN R. COOPER, Attorney for
MAGMA FLOOD CONTROL DISTRICT**