

**MAGMA FLOOD CONTROL DISTRICT**  
**MINUTES OF THE**  
**TUESDAY, DECEMBER 6, 2022, MEETING**

The Meeting of the Magma Flood Control District was conducted using measures to protect public health, including technological means using Zoom video, as permitted under Arizona law. The Meeting was properly posted within the boundaries of the District and a phone number of 1-346-248-7799 (Meeting Identification 913 7004 0429) was provided for individuals residing within and without the District to appear telephonically at the Meeting.

The Regular Meeting was called to order by Board President Tyler LeSueur at 4:04 p.m. The Meeting was to be held at the Florence Unified School District Anthem K-8, Room B-100, 2700 N. Anthem Way, Florence, Arizona. Appearing telephonically and by Zoom video were District Board President Tyler LeSueur, Director James Kenny, Director Stacy Brimhall, and District Counsel Stephen R. Cooper. Appearing in person was General Manager Kent Pace. There were no public members appearing in person or telephonically and introductions were not necessary.

General Manager Kent Pace next gave a brief update on the status of matters currently involving the District:

Brite Night Solar: Brite Night Solar is requesting to place a 230 KV powerline and power poles which will cross the northern boundaries of the MFRS (Dam). Negotiation have progressed satisfactorily for the District and a joint right of way encroachment agreement for the State land easement will be negotiated subject to District Board approval. Brite Night Solar is preparing

exhibits for the encroachment agreement.

San Carlos Irrigation and Drainage District (SCIDD): SCIDD has request to terminate the Northside Canal into the Lower Magma Channel. SCIDD has nearly completed the 100% design proposal. The Northside canal is problematic because of the maintenance issues it creates as well as the challenges it creates for the Lower Magma Channel to ultimately become a certified levy. SCIDD is negotiating rights for the use of a privately owned retention pond (approximately 7 acres) to store both tail and storm water and is completing environmental studies for the Bureau of Indian Affairs. The District is awaiting submittal of the completed plans and will provide comments back to SCIDD in the near future.

The Middle Magma Regional Flood Control Project. General Manager Kent Pace previously reported the following:

- i. NRCS verbally approved an \$80,000.00+/- grant for additional planning funds for the project. Hope to obtain formal approval of the grant within the next 30 days.

Based upon the assumption that the Final Plan/EA is approved:

- ii. NRCS intends to fund the remaining project design costs 100%.
- iii. NRCS intends to fund construction cost 100% (once a formal grant is approved & design is final);
- iv. Local Sponsors (Pinal County & MFCD in a 50/50 split) are responsible for all land rights and permitting costs (MFCD will update the IGA with Pinal County to address these topics);
- v. Pinal County land department is leading efforts to begin title work and appraisal process;
- vi. Phase 1: Environmental Assessments & Planning - ongoing thru end of 2022;

- vii. Phase 2: Final Design & Construction Plans - Final Design is anticipated to be achieved during Summer of 2023; Construction is estimated to begin late 2023.

General Manager Pace previously expressed a concern if the current plan is deemed unable to meet the NRCS programmatic requirements, the Middle Magma Regional Flood Control Project may have to be built in phases (with some phases receiving federal funding and other phases receiving only local funding). The District is hopeful the current project plan will be determined to meet all programmatic requirements, and the Project can be constructed and completed as one project (without phases).

The next item of business was consideration of the approval of the Minutes of the Regular Board Meeting Minutes of September 20, 2022, and to ratify the actions of the September 20, 2022, Meeting. A motion was made by Director James Kenny to approve the Regular Meeting Minutes and to ratify the actions taken at the Meeting. Director Stacy Brimhall seconded this motion. Thereafter, the Minutes for the Regular Session were approved, and the actions taken were ratified. A motion was then made by Director Stacy Brimhall to approve the Executive Session Minutes of the September 20, 2022, Meeting. It was seconded by Director James Kenny and was thereafter approved.

President Tyler LeSueur moved to go into Executive Session which was seconded by Director James Kenny. The motion was approved.

The next item of business was an Executive Session which was conducted from 4:18 p.m. to 4:55 p.m. and thereafter the public meeting was reconvened at 4:55 p.m.

The next item of business was the Ratification of the joint legal representation Engagement Agreement (previously signed by Stephen Cooper) on behalf of the District in which Rick Cobb

of Ellsworth Cobb PLC agrees to represent both the District and Kent Pace in the lawsuit filed by Standard Construction and Ringo Canyon Pinal County Superior Court (Case No. CV202001073).

A motion was then made by Director James Kenny to approve the joint legal representation engagement letter. The motion was seconded by Director Stacy Brimhall and was thereafter approved.

The next item of business was Discussion / approval / disapproval of ratification and approval of:

- 1) all expenditures for the year ended 6/30/22;
- 2) the annual report to Pinal County for the year ended 6/30/22; and
- 3) the audited financial statements for the year ended 6/30/22.

A motion was then made by Director James Kenny to approve all expenditures for the year ended 6/30/22; the annual report to Pinal County for the year ended 6/30/22; and the audited financial statements for the year ended 6/30/22. The motion was seconded by Director Stacy Brimhall and was thereafter approved.

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

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

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

The next item of business was adjournment of the meeting at 4:59 p.m.

**RESPECTFULLY SUBMITTED** this \_\_\_\_\_ day of December 2022.

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