

**MAGMA FLOOD CONTROL DISTRICT**  
**MINUTES OF THE**  
**TUESDAY, March 7, 2023, 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 4:05 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:

The District conducted the annual dam safety inspection with ADWR & NRCS on January 25, 2023. The formal report has not yet been received. However, the verbal information provided indicated that no safety issues were observed, and only typical maintenance items were identified which need to be addressed.

BrightNight Solar: BrightNight Solar is requesting to place a 230 KV powerline which will cross over the North Training Dike of the MFRS (Dam). Negotiation have progressed for approximately two (2) years on a shared used agreement relating to easement rights held by both parties over State Land. Agenda item #10 of this meeting is providing a draft of the BrightNight Solar agreement and the General Manager will seek Board approval to negotiate and sign the encroachment agreement.

San Carlos Irrigation and Drainage District (SCIDD): SCIDD has requested 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. SCIDD is working to address MFCD's design and review comments. A meeting is scheduled tomorrow to discuss the remaining concerns.

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

- i. NRCS approved appx \$80,000.00 grant for additional planning funds for the project.

Based upon the assumption that the Final Plan/Environmental Assessment ("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 – The revised Plan/EA was submitted in January of 2023. Awaiting a response to the District submittal from NRCS-NHQ;
- vii. Phase 2: Final Design & Construction Plans –90% Final Design plans will begin upon approval of Plan/EA with 100% design anticipated to be completed in summer 2023. Construction is estimated to begin in late 2023 or early 2024.

General Manager Pace noted two Agenda items at this meeting involve accepting additional funding of appx. \$80,000 and more time to complete the planning and design. NRCS-NWMC submitted 330 comments on the draft Plan/EA. The District and it's consultants worked for 9 months to address the comments and resubmitted the revised Plan/EA to the NRCS-NHQ. General Manager Pace again 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 December 6, 2022, and to ratify the actions of the December 6, 2022, Meeting. A motion was made by President Tyler LeSueur to approve the Regular Meeting Minutes and to ratify the actions taken at the Meeting. Director James Kenny 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 James Kenny to approve the Executive Session

Minutes of the December 6, 2022, Meeting. It was seconded by Director Stacy Brimhall 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 4:16 p.m. to 4:55 p.m. and thereafter the public meeting was reconvened at 4:57 p.m.

The next item of business was the Ratification of Amendment #2 (extending the project planning completion date from 1/31/2023 to 12/31/2023) and amendment #3 (providing additional funds from NRCS to the District in the amount of \$79,790.24—for a grand total of \$579,655.24) to the original Grant and Agreement Award (Agreement # NR209457XXXXC002) with NRCS for the Middle Magma Regional Flood Control Project. These items of business were discussed in the General Manager's status report to the District. A motion was then made by Director Stacy Brimhall to approve the Ratification of Amendment #2 and Amendment #3. It was seconded by Director James Kenny and was thereafter approved.

The next item of business was the consideration of Resolution 2023-3.1 which formally establishes a Committed Fund separate and apart from the District's General Fund for completion of the Middle Magma Regional Flood Control Project. Once established the amounts within the Committed Fund can only be used for specific purpose of completing the Middle Magma Regional Flood Control Project. This matter was discussed in the General Manager's status report to the District. A motion was then made by Director James Kenny to approve Resolution 2023-3.1. The motion was seconded by Director Stacy Brimhall and was thereafter approved.

The next item of business was the Discussion / approval / disapproval of Resolution 2023-3.2 which formally establishes and adopts the Investment Policy for the Magma Flood Control District dated March 7, 2023. This matter was discussed in the General Manager's status report to the District. A motion was then made by Director James Kenny to approve Resolution 2023-3.2. It was seconded by Director Stacy Brimhall and was thereafter approved.

The next item of business was consideration of authorization for the General Manager to enter into an intergovernmental agreement for provision of services by the Pinal County Recorder and Elections Department. It was noted that two District Board members (Directors Kenny and LeSueur) would be up for election this year. A motion was then made by Director Stacy Brimhall authorizing the General Manager to enter into an intergovernmental agreement for provision of services by the Pinal County Recorder and Elections Department. It was seconded by Director James Kenny and was thereafter approved.

The next item of business was consideration of the District Board authorizing the General Manager to take all necessary actions to finalize and execute a Shared Use Agreement with BOCA bn, LLC (which establishes the terms allowing the BrightNight solar plant to construct a powerline which crosses the North Training Dike of the Dam). A motion was then made by Director James Kenny to authorize the General Manager to take all necessary actions to finalize and execute a Shared Use Agreement with BOCA bn, LLC (which establishes the terms allowing the BrightNight solar plant to construct a powerline. This motion was seconded by Director Stacy Brimhall and was thereafter approved.

The next items of business were 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 5:07 p.m.

**RESPECTFULLY SUBMITTED** this \_\_\_\_\_ day of March 2023.

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