

MAGMA FLOOD CONTROL DISTRICT

MINUTES OF THE

WEDNESDAY, APRIL 17, 2024, MEETING

The Meeting was conducted using 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 4:02 p.m. The Meeting was held at the Florence Unified School District Anthem K-8, Room B-100, 2700 N. Anthem Way, Florence, Arizona. Appearing by Zoom video were District Board President Tyler LeSueur, Director Terell “Brad” Hinton, and District Counsel Stephen R. Cooper. Appearing in person was General Manager Kent Pace and Board Assistant Secretary Larry Pfeifer. Director Stacy Brimhall appeared by Zoom at 4:08 pm. There were no public members appearing in person or telephonically and introductions were not necessary.

General Manager Kent Pace next noted the posted Agenda of April 17, 2024, and gave a brief update on the status of matters currently involving the District:

1. **Trespassing & OHV issues:** The District continues working with the Arizona State Land Department (“ASLD”), the Pinal County Sheriff’s Department, other agencies, and other stakeholders to address off road vehicle use violations on District property and concerns within the surrounding ASLD areas. ASLD anticipates taking formal action by Land Commissioner and State Land Board approval to close the area to off road vehicles in the Spring of 2024.
2. **San Carlos Irrigation and Drainage District (SCIDD):** SCIDD has requested to terminate the Northside Canal into the Lower Magma Channel. Discussions have occurred over the last four (4) years. SCIDD has completed the 100% design proposal. SCIDD has approved Magma’s design requirements and review comments. SCIDD is also working on receiving final approval and agreements from Bureau of Reclamation

and the Bureau of Indian Affairs on the final agreement to be signed. SCIDD is facing obstacles with receiving the necessary agency approvals and receiving federal funding for the project. The Northside Canal is problematic to the District because of the ongoing maintenance issues it creates as well as the challenges it creates for the Lower Magma Channel to ultimately become a certified levy.

3. The Middle Magma Regional Flood Control Project (MMRFCP): The Watershed Plan (Plan), the Environmental Assessment (EA), & a Finding of No Significant Impact (FONSI) have all been approved and issued by NRCS, the Bureau of Reclamation, and the Bureau of Land Management. The National office of NRCS has authorized federal assistance for the next phase of the project—Design (if funding is available). A request has been submitted to the NRCS National Office for approval & authorization of design funding. The General Manager informed the Board the Fed Assistance Authorization by the NRCS Chief was the culmination of 5+ years effort and concludes the Planning Phase of the MMRFCP. This Project is the only Watershed Protection and Flood Prevention Act project in Arizona that has progressed to this stage (completion and approval of the Planning Phase) and is ready to proceed with the Design Phase.

The District Manager also reported as part of the recent Federal Budget agreement reached by Congress, the NRCS’ watershed protection and flood prevention program budget for FY24 was cut from an estimated \$180 million to \$38 million. The District’s MMRFCP is currently waiting for NRCS to award design funding. The District has a priority right to funding above those projects that have not yet completed planning. But the District is behind in priority for those other projects already in design and construction. In addition to the \$38 million, there are also an additional \$20-35 million of funds from the “Bipartisan Infrastructure Funds” that have been allocated to this program over the next 2 years. Not knowing if any further funds will be allocated by Congress to this program in future years, the sooner the District can complete design (a prerequisite for seeking construction funding for the project), the more likely it will be to obtain federal funding to construct the project.

Note: Everything below this point is based upon the assumption that Final Design and any needed funding grants are approved and authorized.

- i. Preferred Funding approach: (Note: other options to fund the project budget may also be considered/pursued)
 - a) NRCS will fund the remaining project design costs 100%;
 - b) NRCS intends to fund construction cost 100% (assuming program funding is allocated by Congress).
 - c) 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)

- Pinal County land department is leading efforts to begin title work and appraisal process to clarify and perfect drainage easement rights within Wild Horse Estates.
- ii. Phase 2A: Design & Construction Plans (Assuming design funding is authorized by 6/1/24) the District expects NRCS approval of 100% design by 12/31/24.
- iii. Phase 2B: Construction—estimated to begin 2/15/25 (assumes funding is available & approved); estimated completion 12/31/25.

The next item of business was consideration of the approval of the Minutes of the Regular Board Meeting Minutes and Executive Session Minutes of January 16, 2024, and to ratify the actions of the January 16, 2024, Meeting. A motion was made by Director Terrell “Brad” Hinton to approve the Regular Meeting Minutes, the Executive Session Minutes and to ratify the actions taken at the Meeting. Director Stacy Brimhall seconded this motion. Thereafter, the Minutes for the Regular Session were unanimously approved, and the actions taken were ratified.

The next item of Business was an Executive Session. Pursuant to A.R.S. § 38-431.03(A)(3), (4), and (7) discussion and legal advice relating to:

- Legal advice with attorneys and designated representatives concerning the lawsuit filed by Standard Construction against MFCD in Pinal County Superior Court (Case No. CV202001073) relating to the MFRS Erosion Mitigation Project (MFCD Contract No. 2019-01).
- Legal and contractual issues concerning the Middle Magma Regional Flood Control Project.
- any matters that may relate to items listed on the agenda.

President Tyler LeSueur moved to go into Executive Session which was seconded by Director Stacy Brimhall. The motion was unanimously approved. The Executive Session was conducted from 4:13 p.m. to 5:06 p.m. and thereafter the public meeting was reconvened at 5:06 p.m.

The next item of business was consideration of the approval of instructing the General Manager to proceed as directed in Executive Session. A motion was made by Director Stacy

Brimhall and seconded by Director Terell “Brad” Hinton to approve and authorize the District Manager to proceed as directed in Executive Session, and thereafter the motion was unanimously approved.

The next items of business were Board Member / General Manager reports. There were no reports to come before the Board.

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

A motion was made by President Tyler LeSueur and seconded by Director Stacy Brimhall to approve to adjourn the meeting and thereafter the motion was unanimously approved.

The next item of business was adjournment of the meeting at 5:10 p.m.

RESPECTFULLY SUBMITTED this _____ day of April 2024.

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