

**MARICOPA COUNTY FLOOD CONTROL DISTRICT BOARD OF DIRECTORS MINUTE BOOK**

**June 10, 2002**

The Board of Directors of the Flood Control District of Maricopa County, Arizona, convened at 9:00 a.m., June 10, 2002, in the Board of Supervisors' Auditorium, 205 W. Jefferson, Phoenix, Arizona, with the following members present: Don Stapley, Chairman; Andy Kunasek, Max W. Wilson and Mary Rose Wilcox. Absent: Fulton Brock, Vice Chairman. Also present, Fran McCarroll, Clerk of the Board; Shirley Million, Administrative Coordinator; David Smith, County Administrative Officer and Paul Golab, Deputy County Attorney. Votes of the Members will be recorded as follows: (aye-no-absent-abstain)

**MINUTES**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve the minutes from meetings held on May 1, 2002.

**PERSONNEL**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve the personnel agenda: (List on file in the Clerk of the Board's Office.)

**EASEMENTS AND RIGHT-OF-WAY DOCUMENTS**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve easements, right-of-way documents, relocation assistance, and appraisal services contracts under \$5,000 per resolution FCD 87-12; escrow instructions per resolution FCD 87-13; license procedures and fee schedules per resolution FCD 97-02; and payment of tax notices per resolution FCD 97-07 for Flood Control purposes. (ADM1910)

**Bullard Wash Phase II Project (Per: Resolution 2000R016A)**

Item 500-04-010Y, Temporary Right-of-Entry Easement and Agreement for Flood Control Purposes from Southwest Specialty Foods to Flood Control District of Maricopa County for the sum of \$500.00.

Item 500-04-011J, Temporary Right of Entry Easement and Agreement for Flood Control Purposes from Sasser Interest Limited Partnership to the Flood Control District of Maricopa County for the sum of \$500.00.

Item 500-04-011K, Temporary Right-of-Entry Easement and Agreement for Flood Control Purposes from Cardinal Capital Co. to the Flood Control District of Maricopa County for the sum of \$500.00.

**Doubletree Ranch Road Regional Drainage Project (Per: Resolution FCD 96-03A)**

Item 9903.009, Permanent Drainage Easement and Agreement for Flood Control Purposes from Sharon Zwolinski to Flood Control District of Maricopa County for the sum of \$5,200.00.

Item 9903.009, Escrow Instructions.

Item 9903.007, Permanent Drainage Easement and Agreement for Flood Control Purposes from Ronald M. and Lisa M. Fried to Flood Control District of Maricopa County for the sum of \$16,400.00.

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Item 9903.007, Escrow Instructions.

**Skunk Creek "Floodprone Properties Acquisition Project" (Per: Resolution FCD 2001R011)**

Item A008.005, Warranty Deed from Tim Mathis, Tammy R. Mathis, Dennis C. Ames and Brenda M. Ames to the Flood Control District of Maricopa County for the sum of \$193,640.00.

Item A008.005, Escrow Instructions.

Item A008.005, Relocation Assistance Entitlements for Tim Mathis, Tammy R. Mathis, Dennis C. Ames and Brenda M. Ames in the amount of \$34,500.00.

Item A008.012, Warranty Deed from David L. Caldwell and Carol A. Caldwell to the Flood Control District of Maricopa County for the sum of \$226,600.00.

Item A008.012, Escrow Instructions.

**Skunk Creek Channel (Per: IGA 2000A019)**

Item K-1-EX, Quit Claim Deed from the Flood Control District of Maricopa County to the City of Peoria for the sum of \$365,000.00.

**Sossamon Road Drain Project (Per: Resolution 1999R016)**

Item SR-11B(a), Quit Claim Deed from Neil McNichol to the Flood Control District of Maricopa County at no cost to the District.

**CORRECTION TO APRIL 5, 2000, MINUTES**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve a correction to the April 5, 2000, minutes to accurately reflect the action taken at that meeting, see below. (Clerk's Note: The Drainage Fee Schedule is on file in the Clerk of the Board's Office.) (Clerk's Note: It was subsequently determined that revisions to the drainage regulations and fees are to be adopted by the Board of Supervisors, as recommended by the Flood Control District Board of Directors, every two years. The latest two-year revision and adoption is recorded in the Board of Supervisors minutes for July 24, 2002.) (C06020067) (ADM1915)

**PUBLIC HEARING – PROPOSED REVISION OF FLOOD CONTROL DISTRICT DRAINAGE FEE SCHEDULE**

Item: This is the time scheduled for a public hearing and approval in regard to a proposed revision of the Flood Control District Drainage Fee Schedule. The new fees will cover the plan review and issuance of permits for all development in the unincorporated areas of Maricopa County and the communities of Gila Bend and Cave Creek. The new (proposed) fee schedule is based upon the costs related to the actual time staff expends on plan review, inspections and permit processing. Fees assessed by other counties and Flood Control Districts in Arizona and California were considered during development of this fee schedule.

No written protests have been received. If approved by the Board, the Flood Control District is authorized to implement the new fees for plan review and issuance of permits for all development in the

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unincorporated areas of Maricopa County and the communities of Gila Bend and Cave Creek. Implementation shall be as follows: one-half of the drainage fees on July 1, 2000, with the remainder to be implemented on January 1, 2001.

Mike Ellegood, Chief Engineer and General Manager of the Flood Control District, (FCD) stated the revised drainage fee schedule would reflect full cost recovery of the effort required to perform the drainage inspections. He said this is the first revision of fees in the 12 years they have been in existence and that while it does represent a substantial percentage increase in these fees, they are substantially lower than fees charged for similar services both in other Maricopa County cities and in other counties in the state. He said the Homebuilders Association has requested an extended period of implementation of these fees and this has been complied with. He said that Director Brock has requested that the fees be revised every three years and this will be done.

Director Brock explained that because in many cases the fee increases doubled or increased by two and a half times the cost for developmental fees, he felt it would be best that the fee schedule be totally reconsidered every three years.

Director Brewer said that everyone in Maricopa County that receives a property tax form is billed for Flood Control District and asked Mr. Ellegood what this money is used for.

Mr. Ellegood answered that this secondary tax provides revenue for all of the operation and maintenance of District facilities plus the construction of new District facilities as part of their CIP program. The money is used for an education program, a flood warning system that's extensive throughout Maricopa County, to operate and maintain the thousands of miles of facilities including the 22 dams that protect the County, the Arizona Canal Diversion Channel and the East Maricopa Floodway, all of which require extensive maintenance. There is also an extensive capital improvement program to provide new facilities as the Valley continues its growth.

Director Brewer asked what the fund balance was in the District budget.

Mr. Ellegood said at the start of this fiscal year it was \$36 million and at the end of this fiscal year it will be \$26 million saying they require a \$12 million fund balance in order to start the new year.

Director Brewer asked what would happen if the fee increase was not adopted.

Mr. Ellegood replied they are still required to do what needs to be done and would continue to do the drainage fees, so the net effect on the public is nothing.

Director Brewer commented that she has some concerns over this since everyone pays into the FCD when paying taxes, and as water knows no boundaries we all are assessed this tax. She said that there is money in the FCD budget now. It does not seem right to increase these costs to the public or the developers when there is money in the budget and there is no decrease of service to the public even without the increase in fees.

Spencer Kamps, representing the Home Builders Association, said the association supports this and appreciated receiving the extended implementation period. He said they also support reviewing these fees every three years to see if they need to be adjusted. He asked that the County Flood District take over the mapping process from FEMA to decrease the amount of time it takes to create and process the maps. He also asked for funding for an individual out of the Corps of Engineers to deal with 404 permits.

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Chairman Kunasek asked if the County has a legal obligation to review the fee schedule periodically, and if so, he suggested a two-year review period.

Mr. Ellegood answered that he does not know the legal opinion on that but he does believe it is good, prudent business practice to do this. In 1997 the District put some new fiscal strategies into effect for the District and they have in place a system whereby they can capture all of the costs associated with providing any service, and he believes the fees as set forth are accurate.

Chairman Kunasek stated that these fees should be paid by the development community and it is fair that this ultimately be passed on to the homebuyer. He mentioned the fact that technology changes and processing may become easier in the future and enable a reduction in costs and this savings should be passed on.

Mr. Ellegood agreed.

Director Brewer commented that bringing this back every two years would just give it a chance to be increased that often.

Director Stapley disagreed, saying that the Board needs to drive down the levy paid by all taxpayers. The only way to do that is to have users cover the costs of fees for inspections.

Director Wilcox said that she would not want to impose impact fees on property owners in areas that are already developed. She sees this fee as an impact fee and the areas wanting to be developed should be the ones who pay the price. She requested that any motion for approval include Chairman Kunasek's suggestion for review and expressed her belief that the two requests made by the Home Builders are legitimate and should be reviewed by Mr. Ellegood and his advisory board and brought forward at a later time if so desired.

Fran McCarroll, Clerk of the Board, requested clarification that the motion would be to approve the item as recommended with the changes in the implementation dates, and asked if it was to add a mandatory two-year review or a sunset clause. She was told the intent of the motion was for a mandatory two-year review. Supervisor Brock agreed that it would be preferable to have a two-year review rather than a three-year review.

Motion was made by Supervisor Wilcox and seconded by Supervisor Stapley to accept the revised drainage fee schedule with the changed implementation dates and added two-year mandatory review as presented. Motion passed by a majority vote with Directors Kunasek, Stapley, Brock and Wilcox voting "aye" and Director Brewer voting "no."

Director Brewer disagreed with the motion saying that water has no boundaries and over the years "we have all paid for that protection. She felt that it was unfair to begin imposing a "tax" after other flood control projects had been completed with the general tax levy. She stated that the fund balance was substantial and taxpayers should not have to add to that balance.

/s/ Don Stapley, Chairman of the Board

ATTEST:

/s/ Fran McCarroll, Clerk of the Board

**SCHEDULE PUBLIC HEARING REGARDING PERMIT PROCEDURES AND FEE SCHEDULES FOR USE OF FLOOD CONTROL DISTRICT REAL PROPERTY**

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Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to schedule a public hearing for 9:00 a.m., Wednesday, July 24, 2002, in regard to adopting Resolution FCD 2002R002, Permit to Work in Flood Control District of Maricopa County Real Property. This resolution will supercede Resolution FCD 97-02 dated September 24, 1997, covering the permit procedures and fee schedules for the use of Flood Control District (District) real property. A copy of the Resolution FCD 2002R002 is being forwarded to the Board of Directors along with this request to set a hearing date and to publish the fee schedule at least fifteen days prior to the public hearing. (C69020886) (ADM1904)

**Exhibit A to RESOLUTION FCD 2002R002**  
**PERMIT USE AND FEE SCHEDULE**

- |    |                                   |  |
|----|-----------------------------------|--|
| 1. | Permit Filing Fees (in all cases) | \$250.00 /application  |
| 2. | Temporary Use *                   | \$325.00 + Rent  |
| 3. | Permanent Installation Review Fee | \$650.00 /application<br>\$325.00/review for each review thereafter  |
| 4. | Inspection Fees                   | \$70.00/inspection (within 25 miles of Durango Complex)<br>\$80.00/inspection (25 to 50 miles of Durango Complex)<br>\$90.00/inspection (over 50 miles of Durango Complex) |
| 5. | Rent (if applicable) **           | \$600.00 minimum or appraised value (whichever is greater)   |
| 6. | Easement (if applicable) **       | \$600.00 minimum or appraised value (whichever is greater)   |
| 7. | Appraisal Fee (if applicable)     | \$250.00 (in-house valuation) or actual cost if district appraisal consultants must be utilized  |
| 8. | Extensions                        | \$50.00 Filing Fee + Rent and Inspection (if applicable)   |
| 9. | After-the-Fact Permit             | \$1,500.00 (assessed in addition to the above fees)  |

\* No Permanent Installation Review Fee will be assessed when the DISTRICT real property is utilized for temporary use only.

\*\* Rent or Easement Fees will not be charged on existing public utility easements dedicated to the Public.

Permit Filing Fees are non-refundable. Initial Permanent Installation Review Fee covers the first submittal only and inspection fees are per trip. The number of inspection trips required is determined by the district on a case-by-case basis.

Commercial General Liability Insurance Coverage - as follows or other limits determined by Risk Management and adopted by the Board of Directors:

\$2,000,000 General Aggregate  
 \$2,000,000 Products/Completed Operation Aggregate  
 \$1,000,000 Each Occurrence

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Note: No evidence of liability insurance shall be required as a condition precedent to the issuance of a permit to federal, state, county or municipal agency, political subdivision, or any public service corporation with a net worth of more than \$1,000,000 as reflected by its most current balance sheet.

**INTERGOVERNMENTAL AGREEMENT WITH CITY OF AVONDALE**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve Intergovernmental Agreement (IGA) FCD 2001A009 between the Flood Control District of Maricopa County and the City of Avondale for the Easement for Recreational Use of Flood Control District of Maricopa County Property (Project). The purpose of this IGA is to identify and define the roles, responsibilities, liabilities, and rights of the District and the City regarding recreational use and maintenance of District property in the area shown on Exhibit "A" for the City trails and recreations uses. The IGA also authorizes preparation of an easement allowing the City use of District owned property and authorizing the Chief Engineer and General Manager of the District to approve plans for the City's project. (C69020812)

**CONTRACTS FOR SERVICES**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve the following contracts for services, effective for two years from the date of execution, or until expenditure of total fee amount, whichever occurs first for each contract. The Flood Control District of Maricopa County and the consultant, will mutually agree to a detailed scope of work for each work assignment prior to the commencement of any work. A not-to-exceed fee will be negotiated for each Work Assignment prior to the notice-to-proceed with each assignment. The negotiated fee will be in accordance with the rates included as Exhibit B to the contracts.

- a) SiteTek Financial Arts, Inc., Contract FCD 2002C006, On-Call Value Engineering Services, in the amount of \$100,000. (C69020975)
- b) TBE Group, Inc., Contract FCD 2002C004, On-Call Utility Location and Identification Services, in the amount of \$150,000. (C69020995)
- c) Brooks, Hersey & Associates, Inc., Contract FCD 2002C008, On-Call Survey and Right-of-Way Delineation Services, in the amount of \$150,000. (C69021005)
- d) Premier Engineering Corporation, Contract FCD 2001-C055, On-Call Candidate Assessment Report Services, in the amount of \$250,000. (C69021035)

**CHANGES TO FY 2002 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve and authorize changes to the Flood Control District of Maricopa County FY 2002 Capital Improvement Program (CIP) budget. The requested funding adjustments are required due to changes in the timing of some project schedules and the current amount of revenue generation being experienced by the District. Because of these factors, some CIP Projects will require additional funding greater than 10% of that currently budgeted. Other CIP project schedules have been delayed and will require less than the current budgeted amount during the FY 2002. (C69020988) (ADM1900-004)

**SALE OF EXCESS PARCEL AND NON-EXCLUSIVE PERMANENT EASEMENT**

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Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve the necessary documents for the sale of the Flood Control District of Maricopa County excess parcel (Parcel No. H-2646-02-EX), and Non-Exclusive Permanent Easement (Easement No. H-2646-PE). Parcel No. H-2646-02-EX is to be sold to the City of Phoenix for approximately \$1,272,000 and Easement No. H-2646-PE to the City of Phoenix for approximately \$1.00. The portion to be sold to the City of Phoenix consists of 15.9572+/- acres of vacant land, and the easement consists of 23.853+/- acres of vacant land. Both are located south of Happy Valley Road and west of Cave Creek Road. The parcels' sale price exceeds the \$250,000 value set by Resolution FCD 1999R016, approved by the Board on November 17, 1999, (C69000916), which authorizes the Chief Engineer and General Manager of the District to dispose of District-Owned property with appraised fair market values less than \$250,000. Therefore, this sale for \$1,272,001 requires this agenda item. (C69802101B) (ADM1903-001)

#### **INTERGOVERNMENTAL AGREEMENT WITH TOWNS OF QUEEN CREEK AND GILBERT**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve the Intergovernmental Agreement (IGA) FCD 2002A002 between the Flood Control District of Maricopa County, the Town of Queen Creek and the Town of Gilbert hereinafter identified as the participants for the design of the Sanokai Wash Channelization Project [Project 480 Queen Creek ADMP]). The purpose of this IGA is to identify and define the responsibilities of the participants for the design of channel improvements, improved road crossings, channel stabilization, channel surface treatments to reduce and/or eliminate erosion and sediment transport, appropriate side drainage inlet structures and connections and appropriate landscaping for channelization of Sanokai Wash from Queen Creek Wash east beyond Power Road. The total estimated cost is \$700,000 for channel design under this IGA. Under the IGA the District will lead the design effort and cost share 50% of the design costs with Queen Creek and Gilbert. Queen Creek and Gilbert will reimburse the District for an estimated amount of \$350,000. (C69021042)

#### **INTERGOVERNMENTAL AGREEMENT WITH MCDOT**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve an Intergovernmental Agreement (IGA) FCD 2002A005 between the Flood Control District of Maricopa County and the Maricopa County Department of Transportation for the sale of Borrow Material from the Trilby-McMicken Flood Control Project. The IGA identifies and defines the responsibilities of both parties for the authorization of MCDOT or its agent to remove up to 400,000 cubic yards of soil. The amounts and locations to be designated by the District in advance. (C69021052)

#### **CONTRACTS FOR ON-CALL GEOTECHNICAL AND MATERIALS TESTING**

Motion was made by Director Kunasek, seconded by Director Wilcox, and unanimously carried (4-0-1) to approve two contracts for On-Call Geotechnical and Materials Testing between the Flood Control District of Maricopa County and the following consultants. Each contract is effective for two years from the date of its execution, or until the expenditure of \$250,000, whichever occurs first. Total dollar amount for both contracts will not exceed \$500,000. The District and the Consultants will mutually agree to a detailed scope of work for each work assignment prior to the commencement of any work. A not-to-exceed fee will be negotiated for each Work Assignment prior to notice to proceed with each assignment. This negotiated fee will be in accordance with the rates included as Exhibit B to the contracts. (C69021065ZZ)

- Terracon Contract FCD 2002C002 (C69021075)
- Fugro South, Inc., Contract FCD 2002C003 (C69021085)

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**MEETING ADJOURNED**

There being no further business to come before the Board, the meeting was adjourned.

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Don Stapley, Chairman of the Board

ATTEST:

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Fran McCarroll, Clerk of the Board