



**FALLBROOK PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS
SPECIAL BOARD MEETING / PUBLIC HEARING**

MINUTES

**WEDNESDAY, NOVEMBER 16, 2022
9:00 A.M.**

**FALLBROOK PUBLIC UTILITY DISTRICT
990 E. MISSION RD., FALLBROOK, CA 92028
PHONE: (760) 728-1125**

I. PRELIMINARY FUNCTIONS

CALL TO ORDER / ROLL CALL / ESTABLISH A QUORUM

President Baxter called the November 16, 2022 Special Meeting of the Board of Directors of the Fallbrook Public Utility District to order at 9:00 a.m.

Special Counsel Kharuf announced that this meeting was being conducted by web and teleconference pursuant to Government Code Section 54953(e)(1)(A), which waives certain Brown Act teleconferencing requirements in certain circumstances, including the current state of emergency declared by Governor Newsom, in order to promote social distancing during the evolving COVID-19 pandemic and allows some or all of the members of the Board of Directors to attend this meeting telephonically or via video conference. He announced, to this end, the first item on the agenda pertains to Board action to make the required findings pursuant to Government Code Section 54953(e). This item would occur prior to the Pledge of Allegiance.

Special Counsel Kharuf also announced the agenda provided notice to members of the public on how they may participate in this meeting – either by attending in person, or by using the call-in and weblink information included on the agenda. In addition, the agenda provided notice to members of the public on how they may submit comments in advance of the meeting to be read at the appropriate portion of the meeting up to a limit of three minutes per comment. Mr. Kharuf announced there were zero written public comments submitted in advance of the meeting, for general public comment or for any agenda items submitted prior to the submission deadline. Additionally, if any Director was participating from a remote location, all votes would be done by roll call. Additionally, if the findings were not made for agenda item A, any Director participating remotely would not be permitted to participate in this meeting.

A quorum was established, and attendance was as follows:

Board of Directors

Present: Dave Baxter, Member/President
Charley Wolk, Member/Vice President
Ken Endter, Member
Don McDougal, Member

Absent: Jennifer DeMeo, Member

General Counsel/District Staff

Present: Jack Bebee, General Manager
Dave Shank, Assistant General Manager/CFO
Lutfi Kharuf, Special Counsel
Jodi Brown, Management Analyst
Isabel Casteran, Safety & Risk Officer
Mick Cothran, Engineering Technician
Noelle Denke, Public Affairs Specialist
Veronica Tamzil, Accounting Manager
Lauren Eckert, Executive Assistant/Board Secretary

Also present were others, including, but not limited to: Erik Helgeson, Alex Handlers, Kirk Dulin, Frank Frazer, Pam Eskue, Jennifer Jeffries, Kathleen Snow, Dan Cox, Eugene McComb, and others.

- A. CONSIDER FINDINGS TO CONTINUE HOLDING REMOTE/ TELECONFERENCE MEETINGS PURSUANT TO ASSEMBLY BILL 361

Recommendation:

1. *That the FPUD Board of Directors make the following findings by majority vote:*
 - a. *The Governor-declared COVID-19 State of Emergency remains in effect and the Board of Directors has reconsidered the circumstances of the COVID-19 State of Emergency; and*
 - b. *State or local officials continue to impose or recommend measures to promote social distancing.*
2. *That the FPUD Board of Directors determine that, for the next thirty (30) days, the meetings of the Board and committees shall be held pursuant to the provisions of Government Code section 54953(e), allowing legislative body members and members of the public to participate in meetings remotely in accordance with that section.*

MOTION: Director Wolk moved to find that the Governor-declared COVID-19 State of Emergency remains in effect and the Board of Directors has reconsidered the circumstances of the COVID-19 State of Emergency; and State or local officials continue to impose or recommend measures to promote social distancing and that meetings of the Board of Directors and Committees shall be held pursuant to provisions of the Government Code section 54953(e), allowing legislative body members and members of the public to participate in meetings remotely in accordance with that section; Director Endter seconded. Motion passed; VOTE:

AYES: Directors Baxter, Endter, McDougal and Wolk
NOES: None
ABSTAIN: None

ABSENT: Director DeMeo

PLEDGE OF ALLEGIANCE

President Baxter led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION: Director McDougal moved to approve the agenda, as presented;
Director Endter seconded. Motion carried; VOTE:

AYES: Directors Baxter, Endter, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: Director DeMeo

PUBLIC COMMENT

Members of the public are invited to address the Board of Directors on any item that is within the subject matter jurisdiction of the legislative body. The Board President may limit comments to three (3) minutes.

Kathleen Snow stepped to the podium to ask who the CEO of Fallbrook Public Utility District was and if the District's Articles of Incorporation were available for viewing. General Manager Bebee responded that he was the General Manager appointed by the Board and explained FPUD's Administrative Code was available online and identified how the District was governed. He went on to explain FPUD was a Special District organized by the State and that the Public Utilities Act outlined how FPUD was required to operate. Additionally, FPUD did not report to the County of San Diego. Ms. Snow announced that FPUD was a private, for-profit corporation. General Manager Bebee announced that was incorrect, as FPUD is a public agency, and there is no money that comes in that goes to profit. General Manager Bebee offered Ms. Snow a one-on-one meeting to discuss her questions further.

Eugene McComb stepped to the podium to ask if water was more expensive due to the scarcity. President Baxter invited Dee to check out the FPUD website to learn about upcoming meetings hosted by various agencies related to the issues he brought up. Mr. McComb also inquired about a past due balance he inherited from a previous property owner. General Manager Bebee invited him to set up a one-on-one meeting to discuss his questions further.

II. PUBLIC HEARING -----(ITEM B)

- B. PUBLIC HEARING ON THE IMPOSITION OF PROPOSED INCREASED RATES FOR WATER AND RECYCLED WATER SERVICE CHARGES, AND RATES FOR WASTEWATER SERVICE CHARGES

Recommendation: *That the Board open a public hearing to allow the public an opportunity to address the Board concerning the proposal to increase rates for water and recycled water service charges, and rates for wastewater service charges, and, upon hearing all such oral protests and receiving written protests, close the public hearing.*

President Baxter welcome everyone to the Fallbrook Public Utility District Public Hearing on proposed increases to the water, wastewater, and recycled water rates. He asked Special Counsel Kharuf to explain the requirements of Proposition 218, governing this Public Hearing and the proposed adoption of the water, wastewater, and recycled water rates.

Special Counsel Kharuf announced this Public Hearing was set in compliance with Proposition 218. The District mailed a notice of this Public Hearing to the record owners of property subject to the imposition of the proposed water, wastewater, and recycled water rates and to tenants directly liable for the payment of such rates – i.e., customers of record who were not property owners. The date and time of this public hearing is not less than 45 days after the District mailed the water, wastewater, and recycled water rates public hearing notices.

He went on to explain the purpose of the Public Hearing was for the Board of Directors to hear all oral testimony and consider all written protests concerning the proposed water, wastewater, and recycled water rate increases. It was also held to determine whether there was a majority protest to the proposed rates and whether to proceed with the adoption of the proposed rates. Additionally, property owners and tenants were not required to provide oral testimony at today's hearing. He reported they may simply submit a written protest directly to the Board Secretary indicating their opposition to the proposed water, wastewater, and recycled water rate increases. However, if they wished their protest to be counted, they must submit a written protest prior to the close of the Public Hearing. Written protests may be submitted during the hearing by delivering the written protest to the Board Secretary prior to the close of the public comment portion of the Public Hearing. All valid protests submitted to the District by mail and received by the District since the Notice of Public Hearing was sent out will also be counted. The Public Hearing would be closed after the Board of Directors has heard and considered all oral testimony on these items. Special Counsel Kharuf announced oral comments would not qualify as written protests and that in order to be counted, the protest must be in writing, state whether it is in opposition to the water and recycled water rate increase or wastewater rate increase, must include the location of the identified parcel (by address or assessor's parcel number), and include the name and signature of the person submitting the written protest. Any protest submitted by email or other electronic means would not be accepted as a formal written protest. He explained if written protests against any of the proposed water/recycled water rate or wastewater rate increases are presented by a majority of the owners of the identified parcels upon which the charges were to be imposed or tenants directly liable for the payment of the charges, the Board of Directors

may not impose the respective rate increases. If there was no majority protest for any of the proposed rates, the Board of Directors may impose the rate increases.

Pursuant to State law governing Proposition 218, in determining whether a majority protest exists, only one written protest per parcel may be counted.

President Baxter announced the Public Hearing would be conducted in the following manner. First, District Staff would provide a presentation explaining the proposed rate increases. After the presentation, the Board of Directors would open the Public Hearing for any person wishing to speak on this item. After all oral testimony has been heard, the Board of Directors would close the Public Hearing and, if needed, have a short recess to determine if a majority protest to either of the proposed rate increases had been received. Only those written protests submitted prior to the close of the Public Hearing would be counted. He announced that if any members of the public wished to speak on this item, they would be given a maximum of 3 minutes, so the Board asked that they keep their comments brief and to the point so that the Board could allow everyone a chance to speak. The Board Secretary would be keeping time for each speaker, and speakers would be notified when they had reached their maximum allowed time. To facilitate the discussion, any questions from the speakers would not be answered during the Public Hearing.

AGM/CFO Shank presented a slideshow outlining the proposed increases rates for water and recycled water service charges and rates for wastewater service charges.

President Baxter opened the public hearing at 9:48 a.m.

Jennifer Jeffries stepped to the podium to thank the District for their continued diligence for efforts on detaching from the San Diego County Water Authority. She went on to report her personal experience in dealing with the District and thanked the District for their due diligence used in determining the future rates. She expressed her support of the rate increases.

Frank Frazer spoke via Zoom to inquire if these rate increases were due to catching up on infrastructure that was not maintained previously. General Manager Bebee responded later in the meeting that the rate increase was in part driven by the cost of infrastructure, as well as an increase in the cost of water. He explained infrastructure was the biggest challenge in Fallbrook, noting the early infrastructure was focused on farming.

Dan Cox spoke via Zoom regarding his three inch meter charge increases compared to smaller sized meters. General Manager Bebee responded later in the meeting that the fixed fee is assigning a certain capacity to the size of the meter. He also explained the larger the meter, the more expensive it would be, reporting the District will exchange a meter for a smaller one at no cost. The speaker also inquired about a rate decrease in fixed meter charges due to the Conjunctive Use

Project. General Manager Bebee responded the Districts with the lowest water rates have their own water supply. Fortunately for Fallbrook, we have built the groundwater treatment plant and have an agreement with Camp Pendleton to send us a certain amount of water at a minimum. If there were a few years of above average water, we would be receiving less water from the SDCWA.

Hearing no additional public comments, President Baxter closed the public hearing at 9:58 a.m.

President Baxter asked Board Secretary Eckert to provide the Board with the tabulation results for all valid written protests submitted prior to the close of the Public Hearing.

Board Secretary Eckert announced that prior to the close of the Public Hearing, a total of 30 written protest letters regarding the water and recycled water rates were received. For the proposed water and recycled water rates, a majority of the owners of the identified parcels or tenants directly liable for such charges, for example, the number required to constitute a majority protest, would equal 4,660. Therefore, a majority protest did not exist for the proposed water and recycled water rates.

Board Secretary Eckert also announced that prior to the close of the Public hearing, a total of 30 written protest letters regarding the wastewater rates were received. For the proposed wastewater rates, a majority of the owners of the identified parcels or tenants directly liable for such charges, for example, the number required to constitute a majority protest, would equal 2,516. Therefore, a majority protest did not exist for the proposed wastewater rates.

President Baxter confirmed that, based on the number of valid written protests submitted prior to the close of the Public Hearing, a majority protest did not exist for the adoption of the proposed water rates, proposed wastewater rates, or proposed recycled water rates. Therefore, the Board of Directors could now proceed to consider the proposed resolution to adopt the increases to the District's water rates, wastewater rates, and recycled water rates. He reminded participants that the time for public comment had ended, and the Board of Directors would not engage directly with any individual customer or member of the public.

President Baxter asked if any members of the Board wished to speak or needed clarification with respect to the proposed water, wastewater, and recycled water rate increases.

Director McDougal clarified that when Fallbrook was originally founded, a lot of the pipeline that was installed were used pipelines from a military base. Now those pipelines are failing, and therefore we need to stay on top of that infrastructure. The money is being spent to keep the water supply running.

President Baxter thanked the members of the public who showed up and participated in the meeting. He explained the District was looking at ways to conserve and save water where they could. He touched on detachment with the San Diego County Water Authority, noting it was currently in LAFCO's hands, but will eventually come to a vote from the FPUD and RMWD ratepayers.

Director McDougal briefly addressed the issue of new property owners inheriting past due bills and reported that the District was currently working through this issue.

III. ACTION / DISCUSSION CALENDAR -----(ITEM C)

C. CONSIDER ADOPTING RESOLUTION NO. 5036 SETTING THE MAXIMUM APPROVED RATES AND CHARGES FOR CY 2023 – CY 2027 FOR WATER AND RECYCLED WATER SERVICE CHARGES, AND RATES FOR WASTEWATER SERVICE CHARGES AND APPROVING THE CY 2023 RATES FOR WATER AND RECYCLED WATER SERVICE CHARGES, AND RATES FOR WASTEWATER SERVICE CHARGES AND TAKING OTHER RELATED ACTIONS

Recommendation: That the Board adopt Resolution No. 5036 setting the maximum rates and charges and adopting calendar year 2023 rates and charges for water, recycled water and wastewater services.

MOTION: Director McDougal moved to adopt Resolution No. 5036 setting the maximum rates and charges and adopting calendar year 2023 rates and charges for water, recycled water and wastewater services; Director Wolk seconded. Motion carried; VOTE:

AYES: Directors Baxter, Endter, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: Director DeMeo

IV. ADJOURNMENT OF MEETING

There being no further business to discuss, President Baxter adjourned the November 16, 2022 special meeting of the Board of Directors of the Fallbrook Public Utility District at 10:23 a.m.



President, Board of Directors

ATTEST:


Secretary, Board of Directors