

**FALLBROOK PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS
REGULAR BOARD MEETING**

MINUTES

**MONDAY, JULY 25, 2016
BEGIN: 2:30 P.M.**

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

CALL TO ORDER / ROLL CALL / ESTABLISH A QUORUM

President Davies called the regular meeting of the Board of Directors of the Fallbrook Public Utility District (FPUD) to order at 2:31 p.m. A quorum was established with attendance as follows:

Board of Directors

Present: Bob Anderson, Member
Milt Davies, Member / President
Al Gebhart, Member
Don McDougal, Member
Charley Wolk, Member / Vice-President

Absent: None

District Staff

Present: Brian J. Brady, General Manager
Robert James, General Counsel
Steve Lopardo, Special Counsel
Jack Bebee, Assistant General Manager

President Davies announced the items for Closed Session. Following President Davies' announcement, Director Gebhart read the following statement out loud:

"Because I have a conflict of interest under the Political Reform Act (Government Code section 87100) and under Government Code section 1090 with respect to two of the three agenda items just announced to be discussed in closed session, closed session items numbers 2 and 3 regarding anticipated litigation and real property negotiations, I am recusing myself from participating in any way in the closed session during the discussion and any action taken on those agenda items."

ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 2:32 p.m.

I. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PER GC § 54956.9(A)(D)(1): US v. FPUD SETTLEMENT DISCUSSIONS
2. CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION PER GC § 54956.9(D)(2), (E)(1)
3. CONFERENCE WITH REAL PROPERTY NEGOTIATIONS PER GC § 54956.8

Property: Santa Margarita River Property (about 1,380 acres of wild watershed land north of Fallbrook around the Santa Margarita River Preserve)

Agency negotiators: Brian Brady and Robert James

Negotiating parties: Western Rivers Conservancy

RECONVENE TO OPEN SESSION

The Board returned from Closed Session and reconvened to Open Session at 4:10 p.m.

Director Gebhart was present for Open Session and announced he had recused himself from Closed Session at 3:22 p.m.

REPORT FROM CLOSED SESSION (As Necessary)

President Davies announced there was no reportable action taken in Closed Session.

Additional District Staff (present for Open Session at 4:10 p.m.)

Present: Mary Lou Boultinghouse, Secretary
Jason Cavender, System Operations Manager
Noelle Denke, Public Affairs Specialist
Kyle Drake, Collection Supervisor
Marcie Eilers, Administrative Services Manager
Jeff Marchand, Engineering Supervisor
Larry Ragsdale, Safety & Risk Administrator

Also present were others, including, but not limited to: Helene Brazier, Peter Colby, Donna Gebhart, and Patricia McPhee.

II. PRELIMINARY FUNCTIONS

PLEDGE OF ALLEGIANCE

President Davies led the Pledge of Allegiance.

ADDITIONS TO AGENDA PER GC § 54954.2(b)

MOTION: Director McDougal moved that there is an immediate need to take action and the need to take action came to the attention of the Board subsequent to the agenda being posted; Director Anderson seconded. Motion carried; VOTE:

AYES: Directors Anderson, Davies, Gebhart, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: None

MOTION: Director McDougal moved to add *Information Item H, Update by Western Rivers Conservancy* to the agenda; Director Anderson seconded. Motion carried; VOTE:

AYES: Directors Anderson, Davies, Gebhart, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: None

APPROVAL OF AGENDA

MOTION: Director McDougal moved to approve the agenda as revised to add Item H to the agenda; Director Anderson seconded. Motion carried; VOTE:

AYES: Directors Anderson, Davies, Gebhart, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: None

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.

III. CONSENT CALENDAR----- (ITEM A)
All items appearing on the Consent Calendar may be disposed of by a single motion. Items shall be removed from the Consent Calendar if any member of the

Board of Directors or the public requests removal prior to a vote on a motion to approve the items. Such items shall be considered separately for action by the Board.

A. CONSIDER APPROVING MINUTES

1. Special Board Meeting / LAFCO Workshop of June 16, 2016

Recommendation: The Board approve the minutes of the aforementioned meeting of the Board of Directors of the Fallbrook Public Utility District.

MOTION: Director McDougal moved to approve the Consent Calendar as presented; Director Wolk seconded. Motion carried; VOTE:

AYES: Directors Anderson, Davies, Gebhart, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: None

IV. ACTION CALENDAR -----(ITEMS B – G)

B. CONSIDER KHOURY QUITCLAIM REQUEST AND RESOLUTION NO. 4888

Recommendation: That the Board authorizes the quitclaim and adopts Resolution No. 4888.

Mr. Marchand reported that the property owner of APN# 124-040-35-00 has made a request to the District to quitclaim a portion of the District's easement on his property. The section of the easement that the property owner has requested to be quitclaimed is currently not in use and will not be used in the future by the District. Mr. Marchand stated that staff performed a site visit and determined that a fire hydrant and meter service will remain within the District's easement. Staff is recommending the District quitclaim the unused portion of the easement to the property owner as requested.

MOTION: Director McDougal moved to approve staff's recommendation; Director Anderson seconded. Motion carried; VOTE:

AYES: Directors Anderson, Davies, Gebhart, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: None

C. CONSIDER AWARD OF SOLAR MIXER FOR WATER RECLAMATION PLANT (WRP)

Recommendation: That the Board authorize award of the Solar Mixing System to Medora Corporation for \$39,978 at the WRP in order to reduce electrical operating costs at the WRP.

Mr. Bebee reported that a recycled storage pond was built during the upgrades to the wastewater treatment plant. The pond was designed to provide for the flow of water through the pond to reduce algae growth. Mr. Bebee further reported that although mixing off the high pressure line was implemented, algae growth continues to be higher than anticipated and has increased energy costs. This project would replace the current method with a solar mixer that will float in the pond and mix the water, and the solar mixer will save the District approximately \$100 per day in energy costs with a one-year payback period. Mr. Bebee stated the project has been included in the budget and the recommendation is to award the project to Medora Corporation in the sum of \$39,978.

Director Wolk inquired if there were other improvements to the wastewater treatment plant that would be needed in the future. Mr. Bebee remarked there were items, such as, window and door replacements, equipment systems that need overhaul, and other miscellaneous items, that were not included in the upgrades but have been budgeted. Mr. Bebee offered to review the capital budget with the Board to provide a more detailed explanation of projects projected over the next 5 to 10 years.

MOTION: Director Anderson moved to approve staff's recommendation; Director Gebhart seconded. Motion carried; VOTE:

AYES: Directors Anderson, Davies, Gebhart, McDougal, and Wolk

NOES: None

ABSTAIN: None

ABSENT: None

D. CONSIDER CHANGE ORDER FOR PLANT 2 FORCEMAIN REPLACEMENT PROJECT

Recommendation: That the Board approve the attached Change Order #2 for the Plant 2 Forcemain Replacement Project to address changes required for differing existing utility locations and additional paving required by the county and increase the contract amount for JR Filanc Construction Co. to \$703,347.52.

Mr. Bebee reported that during the course of construction of the Plant 2 Forcemain Replacement Project, field modifications were required to reroute around existing utilities that resulted in additional work for the contractor. Additionally, construction took place in South Mission Road requiring repaving to the section of South Mission Road affected by construction. Mr. Bebee indicated the County of San Diego is requiring paving beyond its standards due to high use and speeds on South Mission Road that will result in additional paving. Mr. Bebee emphasized that the County of San Diego will not close the permit unless the additional paving is done. Mr.

Bebee explained that half of the change order is for the field modifications and the other half is for the additional paving required by the County of San Diego and that \$150,000 for the change order was included in the budget. Mr. Bebee further explained that the paving could be pulled from the project and funded in other ways if needed.

Director Wolk asked if the extra work in the change order has been completed by the contractor, and Mr. Bebee noted the field modifications have been done but the paving has not.

MOTION: Director Gebhart moved to approve staff's recommendation; Director McDougal seconded. Motion carried; VOTE:

AYES: Directors Anderson, Davies, Gebhart, McDougal, and Wolk
NOES: None
ABSTAIN: None
ABSENT: None

E. CONSIDER EARLY PRE-PAYMENT OPTION OF ANNUAL EMPLOYER PORTION OF CALPERS UNFUNDED LIABILITY

Recommendation: Staff supports Board direction.

Mrs. Eilers reported the District will save \$16,918 in interest if the District prepays the annual employer portion of the CalPERS unfunded liability before July 31, 2016, which will reduce the amount to \$459,468, or the total amount of \$476,386 could be paid over 12 months. Mrs. Eilers explained that until last year the unfunded liability was previously imbedded in the employer rate.

Director Gebhart inquired why the District is required to pay \$100,000 more than was projected last year.

Mrs. Eilers remarked she could ask the actuary at CalPERS and noted a new actuarial report would be released in early August.

Director Gebhart requested that staff explain the \$100,000 increase at the August or September board meeting and also include the written report in the board packet.

MOTION: Director Gebhart moved to approve the early pre-payment option of the annual employer portion of the CalPERS unfunded liability to take advantage of the discount; Director Anderson seconded. Motion carried; VOTE:

AYES: Directors Anderson, Davies, Gebhart, McDougal, and Wolk
NOES: None

ABSTAIN: None
ABSENT: None

F. CONSIDER FORMING AN AD HOC CONSERVATION COMMITTEE

Recommendation: *Staff supports the Board's direction.*

Dr. Brady reported that Director Anderson suggested forming an ad hoc conservation committee that would work with staff to develop communication, education, and programs to promote conservation and plan for future drought years.

Director Anderson asserted grants were available to assist with funding the District's conservation and outreach efforts.

President Davies announced the formation of an ad hoc Conservation Committee, appointed Directors Anderson and Gebhart as members, and designated Director Anderson as Chair.

G. SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION (LAFCO):
DISTRICT LATENT POWERS ACTIVATION, EXPANSION, AND/OR
DIVESTITURE

Recommendation: *Staff supports the Board's direction.*

Director McDougal reported that he, Director Gebhart, and Dr. Brady met with Chris Livoni of Supervisor Horn's office last Thursday concerning the District's interest in potentially activating latent powers for parks and recreation. Director McDougal further reported that Mr. Livoni suggested meeting with Brian Albright, the Director of Parks and Recreation for the County of San Diego, and that meeting will be scheduled in the near future. Director McDougal added that Mr. Livoni commented that if the County of San Diego did not support the District's plans, there would be no need to move forward.

President Davies reiterated that *Information Item H, Update by Western Rivers Conservancy*, was added to the agenda and would be next.

Director Gebhart recused himself and left the room at 4:32 p.m.

H. UPDATE BY WESTERN RIVERS CONSERVANCY

Presented by: *Peter Colby, Western Rivers Conservancy*

Mr. Colby stepped to the podium and stated he would provide an update of the efforts of Western Rivers Conservancy (WRC) relative to the purchase and sale agreement and would discuss three key challenges of the agreement: (1) finding funding for the purchase, (2) finding a long-term owner for the property, and (3) putting together a management plan on how the property would be managed for the long-term.

Mr. Colby stated the due diligence period for the contract ended and due diligence is now complete; however, there were minor issues with the title that are being resolved. Mr. Colby further stated a report was done on the environmental condition of the property and there were no significant issues found. Mr. Colby advised that the closing was to occur by December 31, 2016, but WRC plans to exercise its option to extend the closing date by six months and will place an additional deposit for the extension.

Mr. Colby continued with discussion of the first key challenge--finding funding for the purchase. Mr. Colby stated that WRC is anticipating grant funding in the sum of \$1 million from the EMP Program of the California Resources Agency and \$2.5 million from the Wildlife Conservation Board. In addition to those monies, WRC is anticipating the Department of Defense (DoD) will provide \$5 million in funding under their REPI Program. Mr. Colby explained that the current appraisal has aged-out and is being updated and the new appraisal could potentially increase the contribution from the DoD to \$6.5 million. Moreover, County Service Area No. 81 has discussed contributing \$500,000 towards funding. Those funds along with WRC's contributions will total the full amount for the acquisition. Mr. Colby noted the REPI money is available now and other funding will be available in the first quarter of next year.

Mr. Colby continued with discussion of the second key challenge--finding a long-term owner for the property. Mr. Colby reported that the Parks & Recreation Department for the County of San Diego (County) in a recent meeting confirmed they have no funds for the acquisition or management of the property. Mr. Colby further reported that WRC has recently begun discussions with The Wildlands Conservancy (Wildlands). Mr. Colby explained that Wildlands has a system of preserves throughout California and claim to be the largest private, non-profit land owner and provider of environmental education services in California. Mr. Colby emphasized that all of Wildlands' preserves are open to the public and are free of charge and said, "They are very excited about taking this on and bringing it into their preserve system, and again, opening it to the public." Mr. Colby pointed out Wildlands is willing to use their resources to manage the property for the long term and will help get funding if there were a shortfall. Mr. Colby asserted that Wildlands is impressed with the amount of public access and the amount of public support and said, "They are anxious to work with community members, here, to find the best way to manage the property for public access and to preserve the resources that are out there." Mr. Colby continued to say, "...this looks like a good partnership and that it's a partnership that can provide the long-term stewardship and the kind of management of that property and the open access that everybody here wants to have."

Mr. Colby concluded his presentation with discussion of the third key challenge--putting together a management plan on how the property would be managed for the long-term. Mr. Colby asserted that a management plan is a requirement of the contract and is also required by most funders. Mr. Colby explained that under the contract, WRC must present to the Board a long term steward, how the property will be

managed, and how public access will be provided. Mr. Colby described that a process must be developed to identify how resources and public access would be preserved and stated he met with Wildlands earlier in the day for discussion of the contract and moving forward with the management planning process. In the meeting, it was discussed that the management plan would be a joint effort led by the Wildlands Conservancy and the Fallbrook Trails Council would lead the trails element of the plan. Mr. Colby affirmed that WRC, the District, the Department of Fish and Wildlife along with other resource agencies, and members of the community would be involved in the process. Mr. Colby explained that as part of the process, the plan will look at how access will be managed and will determine whether any changes need to be done in the public access that exists today. Mr. Colby acknowledged that he was aware community members would like to see no changes at all in the level of access. Mr. Colby said, "Our goal would be to present a plan that does exactly that--that maintains every bit of access, every bit of openness that's there today." Mr. Colby added, "To the extent that can't be accommodated fully by our funders, by the restrictions that come from our funders, or by just simply what we learn as we talk through the management process and what the property has to offer, then we will bring it as close to that as we can...what we'll bring will be as close to what we have today as possible..." Mr. Colby pledged that WRC, as an organization, is committed to doing the best they can and added that if the Board were to reject WRC's proposal, the contract would be terminated. Mr. Colby explained that the management planning process would be done in two to three months and once done, would provide a better idea of how to move forward.

Director Wolk inquired if a new appraisal would change the amount of money to the District, and Mr. Colby replied it would not. Mr. Colby explained the appraiser will appraise the fair market value of the property as a whole and the market value with the DoD restricted use easement (RUE) on it.

Donna Gebhart of the Fallbrook Trails Council stepped to the podium and distributed handouts to the Board relative to educational and volunteer opportunities available at the Santa Margarita River trails. Mrs. Gebhart reported that representatives from the Fallbrook Trails Council, Western Rivers Conservancy, and The Wildlands Conservancy met earlier in the day to discuss the continuance of multi-use trails, including equestrian use, in the Santa Margarita Valley.

Director Gebhart returned to the meeting at 4:58 p.m.

V. ORAL / WRITTEN REPORTS----- (ITEMS 1 – 6)

1. General Legal Counsel
2. SDCWA Representative / General Manager
 - Dr. Brady reported that the SDCWA passed its budget last Thursday.
 - Dr. Brady further reported there have been discussions concerning whether or not contractors within California will make a deal with the federal government to voluntarily give away, during certain times,

California's allotment to the Colorado River that will have big implications for agencies using Colorado River water.

3. Administrative Services Manager / Treasurer
4. Assistant General Manager
5. Public Affairs Specialist
6. Director Comments/Reports on Meetings Attended
 - Director Gebhart asked when the warrants, financial reports, and investment reports would be included in the board packet.
 - Director Wolk requested the trails easement be placed on the agenda to follow up his previous request made in May.
 - President Davies requested that full attribution of discussion during Item H be included in the minutes.

President Davies announced a brief recess at 5:02 p.m.

ADJOURN TO CLOSED SESSION

The Board returned from recess and adjourned to Closed Session at 5:07 p.m.

VI. CLOSED SESSION

4. PUBLIC EMPLOYEE PERFORMANCE EVALUATION PER GC § 54957 (B) (1): TITLE – GENERAL MANAGER

RECONVENE TO OPEN SESSION

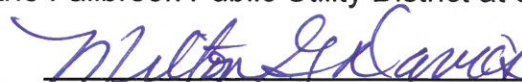
The Board returned from Closed Session and reconvened to Open Session at 5:26 p.m.

REPORT FROM CLOSED SESSION (As Necessary)

The Board took no reportable action in Closed Session.

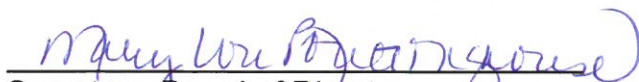
VII. ADJOURNMENT OF MEETING

There being no further business to discuss, President Davies adjourned the regular meeting of the Board of Directors of the Fallbrook Public Utility District at 5:27 p.m.



President, Board of Directors

ATTEST:



Secretary, Board of Directors