



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

NOTICE AND AGENDA

**WEDNESDAY, DECEMBER 13, 2023
3:30 P.M.**

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

THIS MEETING WILL BE HELD AT THE ABOVE DATE, TIME, AND LOCATION AND MEMBERS OF THE PUBLIC MAY ATTEND IN PERSON AT THE DISTRICT OFFICE LOCATED AT 990 E. MISSION RD., FALLBROOK, CA 92028. FOR THE CONVENIENCE OF MEMBERS OF THE PUBLIC WHO DO NOT WISH TO ATTEND IN PERSON, FALLBROOK PUBLIC UTILITY DISTRICT PROVIDES A MEANS TO OBSERVE AND PROVIDE PUBLIC COMMENTS AT THE MEETING VIA WEB CONFERENCE USING THE BELOW CALL-IN AND WEBLINK INFORMATION. PLEASE NOTE THAT IN THE EVENT OF TECHNICAL ISSUES THAT DISRUPT THE ABILITY OF MEMBERS OF THE PUBLIC TO VIEW THE MEETING OR PROVIDE PUBLIC COMMENTS THROUGH THE WEB CONFERENCE OPTION, THE MEETING WILL CONTINUE.

TELECONFERENCE LOCATIONS

In addition, Vice President McDougal will be teleconferencing pursuant to Government Code section 54953 from the following location:

Emerald Point Marina, 5973 Hilina Road, Slip D-3, Austin, TX 78732

Join Zoom Meeting

<https://us06web.zoom.us/j/83540911389?pwd=aj0xph0CPKEa5iuvWT6YX418oUqoCB.1>

MEETING ID: 835 4091 1389

AUDIO PASSCODE: 770463

Dial by your location

+1 346 248 7799 US (Houston); +1 720 707 2699 US (Denver); +1 253 215 8782 US (Tacoma);

Find your local number: <https://us06web.zoom.us/j/83540911389?pwd=aj0xph0CPKEa5iuvWT6YX418oUqoCB.1>

Members of the public may participate in the meeting from any of the above locations.

PUBLIC COMMENTS: Members of the public may submit public comments and comments on agenda items in one of the following ways:

SUBMIT COMMENTS BEFORE THE MEETING:

- By emailing to our Board Secretary at leckert@fpud.com
- By mailing to the District Offices at 990 E. Mission Rd., Fallbrook, CA 92028
- By depositing them in the District's Payment Drop Box located at 990 E. Mission Rd., Fallbrook, CA 92028

All comments submitted before the meeting by whatever means must be received at least 1 hour in advance of the meeting. All comments will be read to the Board during the appropriate portion of the meeting. Please keep any written comments to 3 minutes.

REMOTELY MAKE COMMENTS DURING THE MEETING: The Board President will inquire prior to Board discussion if there are any comments from the public on each item.

- Via Zoom Webinar go to the "Participants List," hover over your name and click on "raise hand." This will notify the moderator that you wish to speak during oral communication or during a specific item on the agenda.
- Via phone, you can raise your hand by pressing *9 to notify the moderator that you wish to speak during the current item.

MAKE IN-PERSON COMMENTS DURING THE MEETING: The Board President will inquire prior to Board discussion if there are any comments from the public on each item, at which time members of the public attending in person may make comments.

If you have a disability and need an accommodation to participate in the meeting, please call the Secretary at (760) 999-2704 for assistance so the necessary arrangements can be made.

I. PRELIMINARY FUNCTIONS

CALL TO ORDER / ROLL CALL / ESTABLISH A QUORUM

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

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.

II. ACTION/DISCUSSION CALENDAR -----(ITEM A)

- A. CONSIDER RESOLUTION NO. 5065 RECITING THE FACT OF THE SPECIAL DISTRICT ELECTION HELD ON NOVEMBER 7, 2023, DECLARING AND CERTIFYING THE RESULT, AND SUCH OTHER MATTERS AS PROVIDED BY LAW REGARDING MEASURE "A" RELATED TO DETACHING THE DISTRICT FROM THE SAN DIEGO COUNTY WATER AUTHORITY

Recommendation: Staff defers to the Board.

ADJOURN TO CLOSED SESSION

III. CLOSED SESSION -----(ITEMS 1-2)

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

NAME OF CASE: *San Diego County Water Authority v. San Diego Local Agency Formation Commission, Fallbrook Public Utility District, et al. (37-2023-000036018-CU-TT-CTL)*

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION INITIATION OF LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (d)(4):

One (1) potential case

RECONVENE TO OPEN SESSION

REPORT FROM CLOSED SESSION (*As Necessary*)

IV. ADJOURNMENT OF MEETING

DECLARATION OF POSTING

I, Lauren Eckert, Executive Assistant/Board Secretary of the Fallbrook Public Utility District, do hereby declare that I posted a copy of the foregoing agenda in the glass case at the entrance of the District Office located at 990 East Mission Road, Fallbrook, California, at least 24 hours prior to the meeting in accordance with Government Code § 54956.

I, Lauren Eckert, further declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

December 12, 2023
Dated / Fallbrook, CA

/s/ Lauren Eckert
Executive Assistant/Board Secretary

M E M O

TO: Board of Directors
FROM: Jack Bebee, General Manager
Lauren Eckert, Board Secretary
DATE: December 13, 2023
SUBJECT: Resolution No. 5065 Reciting the Fact of the Special District Election Held on November 7, 2023, Declaring and Certifying the Result, and Such Other Matters as Provided by Law Regarding Measure “A” Related to Detaching the District from the San Diego County Water Authority

Purpose

To consider adoption of the above referenced resolution regarding the results of the Special District Election held on November 7, 2023 on Measure “A” related to detaching the Fallbrook Public Utility District (District) from the San Diego County Water Authority (County Water Authority).

Summary

On November 7, 2023, a Special District Election was duly held, at which time one ballot measure for the District was voted upon, regarding detachment of the District from the County Water Authority – Measure “A.” The election was held and conducted in accordance with the California Elections Code and the County Water Authority Act.

As authorized by law and requested by the Board pursuant to actions it took on August 11, 2023 related to the Special District Election, a count of all ballots cast in the District was made by the office of the San Diego County Registrar of Voters. Upon completion, the Certificate of Votes Cast and Canvass of the Votes was prepared and issued by the County. The Certificate of issued by the San Diego County Registrar of Voters is included as Exhibit “A” to Resolution No. 5065. The County Registrar of Voters has confirmed that Measure “A” passed with nearly 95% voter approval.

Under applicable provisions of law, the Board is required to conclude the election process by adopting Resolution No. 5065 to officially declare and certify the results of the Special District Election. With the adoption of Resolution No. 5065, Measure “A” will be deemed valid and binding and shall be considered as adopted. Pursuant to law, and as stated in Measure “A” the detachment of the District from the County Water Authority (and simultaneous annexation into the Eastern Municipal Water District) will not be effective until the San Diego Local Agency Formation Commission (SDLAFCO) executes and records a certificate of completion confirming its order of the change of organization after all terms set forth in the SDLAFCO Resolution have been completed as attested by the SDLAFCO Executive Officer.

California Environmental Quality Act

As part of its action to approve the Resolution of Application on December 9, 2019, the Board of the District found the proposed Reorganization (the detachment/exclusion of the District from the San Diego County Water Authority and annexation into the Eastern

Municipal Water District) exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines section 15320 and 15061(b)(3) and the District filed a Notice of Exemption on December 24, 2019. Thereafter, the Otay Water District brought a CEQA action challenging the District’s exemption determination. The CEQA action/ challenge was resolved through a stipulated judgment that left the District’s exemption determination intact. As part of its approval of the District’s Reorganization Application on July 10, 2023, LAFCO independently concurred with the District’s exemption finding, and found that the annexation of the District’s territory to the Eastern Municipal Water District and detachment from the County Water Authority is exempt from CEQA under CEQA Guideline section 15320 and LAFCO filed a Notice of Exemption on July 17, 2023. Accordingly, no further review under CEQA is required for this action.

Recommended Action

Staff defers to the Board.

Attachments

Attachment A Resolution No. 5065

Attachment A

RESOLUTION NO. 5065

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FALLBROOK PUBLIC UTILITY DISTRICT, SAN DIEGO COUNTY, CALIFORNIA RECITING THE FACT OF THE SPECIAL DISTRICT ELECTION HELD ON NOVEMBER 7, 2023, DECLARING AND CERTIFYING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW REGARDING MEASURE “A” RELATED TO DETACHING THE DISTRICT FROM THE SAN DIEGO COUNTY WATER AUTHORITY

WHEREAS, a Special District Election was held and conducted in the Fallbrook Public Utility District (“District”), San Diego County, California, on Tuesday, November 7, 2023, for District voters to cast votes on the ballot measure (“Measure “A”) described below to detach the District from the San Diego County Water Authority, as required by law; and

WHEREAS, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in special districts; and

WHEREAS, the San Diego County Registrar of Voters, on behalf of the District, canvassed the returns of the election and has certified the results as attached hereto as “Exhibit A” and by this reference made an operative part hereof.

NOW, THEREFORE, BE IT RESOLVED, DECLARED, DETERMINED, CERTIFIED AND ORDERED BY the Board of Directors of the Fallbrook Public Utility District as follows:

1. The Board of Directors of the Fallbrook Public Utility District finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the Board of Directors as if fully set forth herein.
2. That the whole number of votes cast regarding Measure “A” was **5,948**.
3. That the results of the vote on Measure “A,” which measure was voted upon at the election is as follows:

“FALLBROOK PUBLIC UTILITY DISTRICT DETACHMENT MEASURE:	YES – 5,610
Shall the detachment of Fallbrook Public Utility District from San Diego County Water Authority, as approved by the San Diego Local Agency Formation Commission on July 10, 2023 by adoption of Resolution No. 2023-11 - “Fallbrook PUD Reorganization,” subject to the terms and conditions specified	NO – 338

<p>in the Resolution, which terms and conditions include payment of an exit fee by Fallbrook Public Utility District to San Diego County Water Authority, all as more particularly described and set forth in the Resolution, be confirmed?</p>	
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4. The Board of Directors of the Fallbrook Public Utility District does declare, determine, and certify that as a result of the election, a majority of the voters voting on Measure “A” relating to detachment of the District from the County Water Authority did vote in favor of it and that Measure “A,” attached hereto as Exhibit “B” and by this reference made an operative part hereof, was carried and shall be deemed adopted and ratified.

5. The District Secretary shall enter on the records of the District, a statement of the result of said election, showing:

- a. The whole number of votes cast in the District for and against the Measure.
- b. The Measure voted upon.
- c. The number of votes given at each precinct for and against the Measure.

6. The District and San Diego Local Agency Formation Commission made separate determinations that the Fallbrook Reorganization (which includes the detachment of the District from the San Diego County Water Authority and annexation of the District into the Eastern Municipal Water District) is exempt from the California Environmental Quality Act, with the District filing a Notice of Exemption on December 24, 2019 and San Diego Local Agency Formation Commission filing a Notice of Exemption on July 17, 2023.

7. That the District’s Secretary shall certify to the passage and adoption of this resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the Board of Directors of the Fallbrook Public Utility District at a special meeting of the Board held on the 13th day of December, 2023, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

 President, Board of Directors

ATTEST:

 Secretary, Board of Directors

**FALLBROOK PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS**

CERTIFICATE

I, Lauren Eckert, Executive Assistant/Board Secretary of the Board of Directors of the Fallbrook Public Utility District, do hereby certify that the attached and foregoing is a full, true, and correct copy of Resolution No. 5065 of said Board passed and adopted at a special meeting of the Board of Directors of the Fallbrook Public Utility District on the 13th day of December, 2023.

Executed this 13th day of December, 2023, at Fallbrook, California.

Executive Assistant/Board Secretary
Fallbrook Public Utility District

EXHIBIT "A"

**San Diego County Registrar of Voters
Certification of the Special Election Held on November 7, 2023**

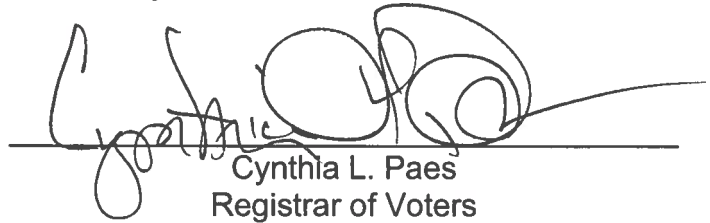
CERTIFICATE

STATE OF CALIFORNIA }
 } ss.
COUNTY OF SAN DIEGO }

I, Cynthia L. Paes, Registrar of Voters for the County of San Diego, do hereby certify that I have conducted the official canvass of the returns from the Special Election held on November 7, 2023, in the County of San Diego. The following is a statement of the results showing the total number of ballots cast and the total number of votes for each candidate and each measure.

Witness my hand and official seal this 28 day of November 2023.





Cynthia L. Paes
Registrar of Voters

**County of San Diego
Special Election
November 7, 2023
Official Results**

	Registered Voters	Turnout
Total Registration and Turnout	596,002	135,566
Mail		131,829
Vote Centers		3,737

MEMBER, BOARD OF SUPERVISORS DISTRICT NO.
4

MONICA MONTGOMERY STEPPE	60,383	61.58%
AMY REICHERT	37,681	38.42%
Total	98,064	

CITY OF CHULA VISTA CITY ATTORNEY

MARCO VERDUGO	9,733	39.02%
BART MIESFELD	9,430	37.80%
DAN SMITH DIAZ	5,783	23.18%
Total	24,946	

FALLBROOK PUBLIC UTILITY DISTRICT
DETACHMENT – MEASURE A

YES	5,610	94.32%
NO	338	5.68%
Total	5,948	

RAINBOW MUNICIPAL WATER DISTRICT
DETACHMENT – MEASURE B

YES	6,034	94.87%
NO	326	5.13%
Total	6,360	

EXHIBIT “B”

RESOLUTION NO. 5066

MEASURE “A”

**A RESOLUTION OF THE PEOPLE OF THE FALLBROOK
PUBLIC UTILITY DISTRICT, CALIFORNIA, APPROVING THE
DETACHMENT/EXCLUSION OF THE DISTRICT’S TERRITORY
FROM THE SAN DIEGO COUNTY WATER AUTHORITY.**

**NOW, THEREFORE, BE IT RESOLVED BY THE PEOPLE OF THE
FALLBROOK PUBLIC UTILITY DISTRICT AS FOLLOWS:**

1. **Voter Approval of Detachment/Exclusion of Territory.** The proposition of detaching all territory within the boundaries of the Fallbrook Public Utility District (“District”) from the San Diego County Water Authority (“CWA”) is hereby approved by the voters, subject to the terms and conditions imposed by the San Diego County Local Agency Formation Commission (“SDLAFCO”), as set forth in its Resolution Making Determinations, Approving, And Ordering A Reorganization (Resolution No. 2023-11) adopted July 10, 2023 (“SDLAFCO Resolution”).

2. **SDLAFCO Terms and Conditions of Detachment/Exclusion of Territory.** The following terms and conditions of the detachment shall be satisfied as required by the SDLAFCO Resolution by July 10, 2024 unless otherwise specified in the SDLAFCO Resolution:

- A. The 30-day reconsideration period provided under Government Code 56895 was completed on August 9, 2023;
- B. District shall submit to SDLAFCO a final map and geographic description of its territory;
- C. District shall submit checks made payable to SDLAFCO for the reimbursement of various fees, and to the State Board of Equalization for processing fees, as required by the SDLAFCO Resolution;
- D. District executed an obligation to indemnify and hold harmless SDLAFCO, its officers, agents, employees and volunteers in the manner required by the SDLAFCO Resolution on July 31, 2023; and
- E. District shall pay an exit fee of \$8,506,750.00 to CWA in five annual installments of \$1,701,350.00, with the first installment to be paid within 30 days of the certification of the results of the election, and the remaining installments to be paid on the anniversary of the initial payment.

3. **Effective Date.** Pursuant to California Water Code Appendix section 45-11(a)(2) and California Elections Code section 9320, if a majority of the qualified voters voting in the election on Measure “A” vote in favor of the adoption of such Measure, this Resolution shall be deemed valid and binding and shall be considered as adopted upon the date that the vote is declared by the Board of Directors. Pursuant to the SDLAFCO Resolution and Government Code section 57202, the detachment/exclusion shall not be effective until the San Diego Local Agency Formation Commission executes and records a certificate of completion confirming its order of the change of organization after all terms set forth in the SDLAFCO Resolution have been completed as attested by the SDLAFCO Executive Officer.

4. **California Environmental Quality Act Compliance.** The District and LAFCO made separate determinations that the proposed Reorganization is exempt from the California Environmental Quality Act, with the District filing a Notice of Exemption on December 24, 2019 and SDLAFCO filing a Notice of Exemption on July 17, 2023.

5. **Severability.** If any section, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution. The People of the Fallbrook Public Utility District hereby declare that they would have adopted this Resolution and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

6. **Certification/Summary.** Following the certification by the Registrar of Voters/Elections Official that the voters of the District have approved this Resolution, the President shall sign this Resolution and the District Secretary shall cause the same to be entered in the book of original resolutions of said District.

APPROVED and **ADOPTED** this 7th day of November, 2023.

President of the Board of Directors
Fallbrook Public Utility District

ATTEST:

Secretary, Board of Directors
Fallbrook Public Utility District

**FALLBROOK PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS**

CERTIFICATE

I, Lauren Eckert, Executive Assistant/Board Secretary of the Board of Directors of the Fallbrook Public Utility District, do hereby certify that the attached and foregoing is a full, true, and correct copy of Resolution No. 5066 of said Board passed and adopted at a special meeting of the Board of Directors of the Fallbrook Public Utility District on the 13th day of December, 2023.

Executed this 13th day of December, 2023, at Fallbrook, California.

Executive Assistant/Board Secretary
Fallbrook Public Utility District