

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

MINUTES

MONDAY, NOVEMBER 21, 2016
4:00 P.M.

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

I. PRELIMINARY FUNCTIONS

CALL TO ORDER

President Davies called the Special Meeting of the Board of Directors of the Fallbrook Public Utility District to order at 4:00 p.m. The following statement was read into the record by President Davies:

"Prior to roll call, I would like to make clear for the record of this meeting, and it should be reflected in the minutes, that at least a portion of this meeting of the Fallbrook Public Utility District is being conducted pursuant to California Government Code Section 54953, in that Director Wolk is participating by teleconference from 11679 River Bend Drive, Leavenworth, Washington 98826. Director Wolk is participating by speaker phone. In accordance with the Ralph M. Brown Act, the teleconference location was identified in the notice and agenda for this meeting."

ROLL CALL / ESTABLISH A QUORUM

Secretary Boultinghouse conducted attendance by roll call. Directors Anderson, Davies, Gebhart, and McDougal were present at the meeting, and Director Wolk was present by speaker phone at the teleconference location identified on the notice and agenda.

The members of the Board of Directors acknowledged they were able to hear Director Wolk clearly and no member expressed doubt that Director Wolk was the party participating by teleconference.

Board of Directors

Present: Bob Anderson, Member
Milt Davies, Member / President
Al Gebhart, Member
Don McDougal, Member
Charley Wolk, Member / Vice-President (*via teleconference*)

Absent: None

District Staff

Present: Arlene Prater, General Counsel
Brian J. Brady, General Manager
Jack Bebee, Assistant General Manager
Mary Lou Boultinghouse, Secretary
Jason Cavender, System Operations Manager
Noelle Denke, Public Affairs Specialist
Marcie Eilers, Administrative Services Manager / Treasurer
Jeff Marchand, Engineering Supervisor
Larry Ragsdale, Safety & Risk Administrator

Also present were others, including, but not limited to: Kirk Dulin, Donna Gebhart, Patricia McPhee, Jiri Nemecek, and Vera Nemecek.

PLEDGE OF ALLEGIANCE

President Davies led the Pledge of Allegiance.

ADDITIONS TO AGENDA PER GC § 54954.2(b)

There were no additions to the agenda.

APPROVAL OF AGENDA

MOTION: Director McDougal moved to approve the agenda as presented; Director Gebhart seconded. Motion carried; ROLL CALL 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.

There were no members of the public who wished to speak during the Public Comment portion of the meeting.

II. CONSENT CALENDAR----- (ITEMS A – B)

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. APPROVAL OF MINUTES

1. Regular Board Meeting of October 24, 2016

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

Item B was pulled from the Consent Calendar for discussion.

MOTION: Director McDougal moved to approve the Consent Calendar as revised with the removal of Item B for discussion; Director Anderson seconded. Motion carried; **ROLL CALL VOTE:**

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

NOES: None

ABSTAIN: None

ABSENT: None

B. CLAIM FOR DAMAGES BY JIRI NEMECEK

Recommendation: Staff recommends denying the Claim and forwarding to the ACWA/JPIA for resolution.

Dr. Brady reported that Mr. Nemecek filed a Claim for Damages to repair the private road that services his home allegedly damaged by District staff during the course of repair work on Lindy Lane. Dr. Brady further reported that Mr. and Mrs. Nemecek were present and submitted a Request to Speak form in order to present testimony in support of their Claim.

President Davies invited Mr. and Mrs. Nemecek to the podium. Mr. Nemecek stepped to the podium and claimed the District damaged the pavement on his private road by releasing water from a fire hydrant that flowed for seven hours while District crews worked on a nearby construction project and stated an estimate for repairs to the road was submitted with his Claim. Mrs. Nemecek asserted his road was in better condition prior to the damages caused by the water released by District staff.

President Davies stated that in order for the insurance carrier to make a determination on the Claim, the Board must deny the Claim and forward the Claim to

the insurance carrier for resolution. President Davies asked if any Director had a question of Mr. and Mrs. Nemecek and hearing none, called for the motion.

MOTION: Director Wolk moved to deny the Claim for Damages and forward the Claim to the District's insurance carrier for resolution; Director Anderson seconded. Motion carried; ROLL CALL VOTE:

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

NOES: None

ABSTAIN: None

ABSENT: None

III. INFORMATION----- (ITEM C)

C. RECYCLED WATER MASTER PLAN

Presented by: Jack Bebee, Assistant General Manager

Mr. Bebee presented a slide show with an overview of the District's Recycled Water Master Plan and pointed out that recycled water service was recently expanded to reach four additional nurseries in the Green Canyon Road area through the construction of a pipeline extension. Mr. Bebee described other potential uses for recycled water that have been discussed, as follows: (1) further expansion of service, (2) potable recharge with aquifer storage and recovery, and (3) direct potable reuse. Mr. Bebee emphasized that the current focus is to expand recycled water service to nurseries in the area of Burma Road; and stated if that were to occur, the District would utilize most of its available recycled water.

IV. ACTION CALENDAR----- (ITEMS D – I)

D. SANTA MARGARITA RIVER CONJUNCTIVE USE PROJECT

Status Update.

Dr. Brady announced the purpose of agenda Item D was to provide an update on the Santa Margarita River Conjunctive Use Project (SMRCUP) and did not concern the trails or pending sale of the property.

Mr. Bebee provided an update on the SMRCUP with discussion of environmental permitting, water rights permitting, the settlement agreement, the design and construction of the project facilities, and project funding.

Mr. Bebee reported the updated water rights permits were submitted to the State Water Resources Control Board, to conform those permits to the SMRCUP, and those permits are expected to be finalized in four-to-six months. The settlement agreement is

going through the federal process and once the EIS is certified, the process will move quickly through the Department of the Navy and the Department of Justice. In January or February the settlement agreement will be submitted to the Board for adoption. Following adoption of the settlement agreement, the construction of the facilities can take place. The final design phase is expected to be finished by the end of January, when the set of plans will be complete. Currently, Camp Pendleton is in the process of awarding construction of their facilities, pending the Record of Decision on the EIS, and funding has been set aside for their project. Following completion of the final design, the District will explore funding options and evaluate the impact to the District's rates and finances.

Mr. Bebee pointed out that the District is in the process of applying for an SRF loan, which has a 2% interest rate, and the head of the program assured him they were committed to funding the project.

President Davies asked what the consequences would be if the project were not built. Mr. Bebee remarked the State Water Resources Control Board would revoke the water rights permits, which could potentially jeopardize the physical solution required by US vs. FPUD. Most likely, Camp Pendleton would build its facilities and the District would be without a physical solution to US vs. FPUD.

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

Status Update.

Dr. Brady reported a meeting was held on September 15, 2016, with Brian Albright, the Executive Director of the County of San Diego Parks and Recreation Department. At that time, Mr. Albright stated his office would be scheduling a workshop in Fallbrook relative to public discussion of a Lighting and Maintenance District. To date, the workshop has not been scheduled.

F. AWARD OF 1 MG RESERVOIR RECOATING

Recommendation: That the Board authorize award of the 1 MG Reservoir Recoating Project to the lowest responsible bidder of Simpson Sandblasting and Specialty Coatings at an amount of \$332,285.

Mr. Bebee explained the District is in the process of recoating its tanks to extend their service life and to retain structural integrity in accordance with a maintenance schedule, and the process is currently 50% complete. A Notice Inviting Bids was released for recoating the 1 MG Reservoir, which is located in De Luz, and the apparent low bidder was Simpson Sandblasting who has performed work in the past for the District. The award amount is slightly more than budgeted due to structural issues that

were encountered, but the capital budget will be adjusted to accommodate the cost difference. Staff is recommending the project be awarded to Simpson Sandblasting and Specialty Coatings in the sum of \$332,285.

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

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

NOES: None

ABSTAIN: None

ABSENT: None

G. AWARD OF REPLACEMENT WASHER/COMPACTOR FOR WRP

Recommendation: That the Board authorize award of a contract to JBI Water and Wastewater Equipment for the sole source procurement of a Duperon Washer/Compactor for \$40,000 to replace the Washer/Compactor at the WRP to protect downstream equipment at the Water Reclamation Plant.

Mr. Bebee reported the existing washer/compactor at the Wastewater Reclamation Plant, which was purchased as part of a Duperon flex rake and washer/compactor system in 2008, requires replacement due to reliability issues experienced over the past few years. Because the system was purchased less than 10 years ago and the washer/compactor is a component of the existing system, the manufacturer has reduced the price of the replacement washer/compactor. In addition, JBI Water and Wastewater Equipment is the sole source provider of replacement equipment that is compatible with the existing Duperon flex rake and washer/compactor system. Accordingly, staff was unable to utilize a competitive bidding process for the purchase.

Mr. Bebee further reported the project was budgeted in this year's Wastewater Capital Budget.

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

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

NOES: None

ABSTAIN: None

ABSENT: None

H. PAVING OF PORTION OF BEAVER CREEK LANE FOR BEAVER CREEK PIPELINE REPLACEMENT PROJECT

Recommendation: That staff follow the no-cut policy for construction in private roads. Staff will verify the extent of sealing that was completed within the last three (3) years and seal these sections with an approximate additional cost of \$15,000. The finalized additional amount will be included in a subsequent change order to the project for Board approval.

Mr. Marchand reported the Beavercreek Homeowners Association (HOA) has requested the District fog seal Beavercreek Lane, which is a private road maintained by the HOA, in conjunction with the Beavercreek Pipeline Replacement Project. As part of the project, the road was trenched and subsequently repaired with an asphalt patch. The HOA has expressed their dissatisfaction with the appearance of the asphalt patch and in order to restore the road to its former appearance, the HOA has requested the application of a fog seal that will cost approximately \$15,000.

Mr. Marchand described the County of San Diego's policy, which is to fog seal a road following construction if the road had been paved or sealed within the past three years. Director Gebhart asked if Beavercreek Lane had been paved or sealed within the past three years, and Mr. Marchand responded the HOA represented it seals the road regularly and the last fog seal was done two years ago.

Discussion ensued relative to requiring the HOA to submit proof the road had been sealed two years ago by producing a receipt. Discussion also included potential future liability issues for the District.

Mr. Bebee suggested adopting a policy of sealing roads following construction if the road had been paved or sealed within the past three years--like the County of San Diego's.

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

Director Gebhart expressed concern with establishing a policy that potentially has a "trickle-down" effect negatively impacting the budget.

Director McDougal expressed support of restoring roads to their former condition and that road repairs, whether done on public or private roads, should be done to set standards.

Director Wolk pointed out the District has an obligation to restore a road to its former condition, but cautioned repairs should be done in the context of rules.

President Davies supported fog sealing Beavercreek Lane, but felt a waiver should be obtained from the HOA.

Director Gebhart discussed amending the motion to require from the HOA (1) a release from future liability and (2) a receipt proving the road had been paved or sealed within the past three years.

Discussion ensued relative to the ability of the District to require a party to sign a release. Mr. Bebee suggested limiting the release to the fog seal.

AMENDED

MOTION: Director McDougal moved to approve staff's recommendation, to include (1) verification the road had been sealed or paved within the past three years and (2) agreement by the HOA that the District has completed the project and is not liable for any future sealing or minor surface repairs; Director Anderson seconded. Motion carried; ROLL CALL VOTE:

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

I. CONTRACT FOR EXECUTIVE SEARCH SERVICES

***Recommendation:** It is recommended that the Board of Directors authorize a contract between the Fallbrook Public Utility District (FPUD) and a selected Executive Recruitment firm to be named not to exceed \$30,000 total. This level of recruitment should be handled by an outside recruiter and coordinated by FPUD's Human Resources Manager to ensure national exposure and build a strong candidate pool.*

President Davies reported that due to Dr. Brady's potential resignation to accept another position, this item is to discuss recruitment options for the position of General Manager.

Dr. Brady suggested the Board may wish to consider authorizing a contract for executive search services as a result of his potential resignation and the cost would be approximately \$22,000 to \$30,000. The search would be coordinated through the Human Resources Manager and the Personnel Committee. Although an executive recruitment firm has not been named, Bob Murray & Associates has been used in the past, and the Board may wish to consider Bob Murray & Associates as well as three or four other highly qualified firms.

MOTION: Director Gebhart moved to approve staff's recommendation, to include the Personnel Committee as the governing body for the process; Director Wolk seconded.

Director McDougal suggested prior to hiring an executive recruitment firm, an internal search be conducted to review the top five candidates from the last General

Manager recruitment and consult with the General Manager for recommendations of other potential candidates. If those persons were not interested or qualified, the District could then spend \$30,000 for a search firm.

Director Wolk supported exploring other alternatives before hiring an executive recruitment firm.

Mrs. Prater suggested the Personnel Committee meet in January, following the informal work discussed that will be done in December.

Director McDougal suggested postponing selection of an executive recruitment firm until January pending review in December of the previous candidates for General Manager. Brief discussion followed.

AMENDED

MOTION: Director Gebhart moved to consult with the General Manager concerning potential candidates for the position, conduct a review of the top five candidates from the previous recruitment for General Manager, and obtain quotes for various services from Bob Murray & Associates; Director Wolk seconded. Motion carried; **ROLL CALL VOTE:**

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

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

1. General Legal Counsel
 - Mrs. Prater announced that BB&K will be holding a webinar on new employment law and cases on December 8, 2016, and registration can be done online.
 - There is no change to employment law from the legalization of marijuana and employees cannot report to work under the influence of marijuana even if it has been prescribed.
 - There has been some expansion of discrimination and retaliation laws, and the equal pay provisions in California will expand in 2017 to include gender, race, and ethnicity.
 - Effective January 1, 2017, elected officials are required to have mandatory sexual harassment avoidance training.
 - Single use bathrooms cannot be made gender specific.
 - BB&K will provide an update of new laws that will take effect in 2017.
2. SDCWA Representative / General Manager

- The District has received a letter from the SDCWA acknowledging the District has passed its agricultural water rate analysis and use figures.
- 3. Administrative Services Manager / Treasurer
- 4. Assistant General Manager
 - Recently, it has been found by crews working on emergency repairs that valves installed in the 1980s are not working, which impairs staff's ability to repair leaks in a timely manner and negatively impacts the valve replacement program.
- 5. Public Affairs Specialist
- 6. Director Comments/Reports on Meetings Attended
 - Director Anderson thanked the Board and staff for their help and assistance during his time serving on the Board of Directors.
 - President Davies suggested paving the property adjacent to Santa Margarita Road, installing a drop box for customers, and fencing the parking lot for increased security.
 - President Davies met with a battalion chief from the North County Fire Protection District (NCFPD) relative to fire hydrant maintenance. NCFPD is currently responsible for the maintenance of fire hydrants pursuant to an agreement that was made in the 1960s. Mr. Bebee remarked that he has been in discussions with NCFPD relative to fire hydrant maintenance.

ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 5:50 p.m.

VI. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION PER GC § 54956.9 (d)(2):
 - ONE (1) POTENTIAL CASE
2. PUBLIC EMPLOYEE APPOINTMENT PER GC § 54957:
 - TITLE: GENERAL MANAGER

RECONVENE TO OPEN SESSION

The Board returned from Closed Session and reconvened to Open Session at 6:34 p.m.

REPORT FROM CLOSED SESSION (*As Necessary*)

The Board met in Closed Session regarding an item of potential litigation under Agenda Item VI. (1), and rejected a Government Claim related to a motorcycle

accident. There was no reportable action taken by the Board of Directors for Agenda Item VI. (2).

MOTION: Director Anderson moved to reject a Government Claim related to a motorcycle accident; Director McDougal seconded. Motion carried; ROLL CALL VOTE:

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

NOES: None

ABSTAIN: None

ABSENT: None

VII. ADJOURNMENT OF MEETING

There being no further business to discuss, President Davies adjourned the Special Meeting of the Board of Directors of the Fallbrook Public Utility District at 6:35 p.m.



President, Board of Directors

ATTEST:



Secretary, Board of Directors