

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

MINUTES

**MONDAY, SEPTEMBER 26, 2016
4:00 P.M.**

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

If you have a disability and need an accommodation to participate in the meeting, please call the Secretary at (760) 728-1125, ext. 1130 for assistance so the necessary arrangements can be made.

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I. PRELIMINARY FUNCTIONS

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 to order at 4:01 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: Robert James, General Counsel
Brian J. Brady, General Manager
Jack Bebee, Assistant General Manager
Mary Lou Boultinghouse, Secretary
Mick Cothran, Drought Management Coordinator
Noelle Denke, Public Affairs Specialist
Marcie Eilers, Administrative Services Manager / Treasurer

Also present were others, including, but not limited to: Pat Bennie, Helene Brazier, Donna Gebhart, Candice Gunther, Michael Gunther, Patricia McPhee, Paula de Sousa Mills, and Steve Martin.

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 Wolk 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.

There were no members of the public who wished to speak on items not on the agenda.

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. CONSIDER APPROVING MINUTES

1. Special Board Meeting of August 17, 2016
2. Regular Board Meeting of August 22, 2016
3. Special Board Meeting of September 7, 2016

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

B. CONSIDER ADVANCE APPROVAL TO ATTEND MEETINGS

Recommendation: That the Board authorize Directors' attendance to Ensuring the Financial Health of Your Utility After California's Historic Drought, How to Be an Effective New Board Member, and Advanced Water Purification: The Road to Resilience.

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

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

President Davies announced that Items E and F would be considered prior to Items C and D.

III. INFORMATION ----- (ITEMS C – D)

C. CAPITAL PROGRAM SUMMARY FOR FISCAL YEAR 2016-17

Presented by: Jack Bebee, Assistant General Manager

Mr. Bebee provided a slide show of the Capital Program Summary for fiscal year 2016-17 for water, wastewater, and recycled capital projects.

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

Dr. Brady reported that District staff, Director Anderson, and Director Gebhart met with Brian Albright, the Executive Director of Parks and Recreation for the County of San Diego, on September 15, 2016, relative to activating latent powers for parks and recreation. As an alternative, the County of San Diego proposed potentially establishing a lighting and maintenance district that would be an umbrella over Community Service Area No. 81.

Director Gebhart remarked that the County of San Diego is planning to hold a public workshop at the end of October in Fallbrook relative to the proposal.

IV. ACTION CALENDAR ----- (ITEMS E – L)

**E. CONSIDER CUSTOMER REQUEST TO ADDRESS BOARD REGARDING
WATER BILL**

Recommendation: That the Board review the customer bill and provide a one-time adjustment of \$82.81 as a result of the unanticipated equipment failure in accordance with District Policy.

Dr. Brady reported that Mrs. Pat Bennie, a customer, requested she be placed on the agenda in order to address the Board concerning the District's inclining block rate structure. Mrs. Bennie recently experienced issues with irrigation valves that resulted in excessive water usage and two elevated bills. Staff offered a one-time adjustment of \$82.81 to her account.

Mrs. Bennie stepped to the podium, thanked the Directors for their time, and pointed out that her concerns with the tiered water rate structure were summarized in the handout she distributed. Mrs. Bennie stated that irrigation leaks on her property caused a spike in her water usage for two months that resulted in higher than usual bills and suggested the District consider an alternative to tiered pricing due to the cost.

President Davies asked Mrs. Bennie if she wished to take advantage of the \$82.81 adjustment to her bill; Mrs. Bennie declined the offer asserting her primary concern was with the rate structure.

F. CONSIDER CLAIM FOR DAMAGES

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

Mr. Michael Gunther and Mrs. Candice Gunther stepped to the podium concerning water damages to their home following the replacement of their water meter by District staff. Mr. Gunther stated that written notice was not provided by the District prior to the start of work.

Mr. Bebee reported that notification is normally provided to customers that their water will be off while staff is working nearby. Additionally, staff approached the home to notify the occupants their water would be off; however, there was no response. Prior to the start of work, staff observed the existing meter was in the off position, the cover was off, and a tool was nearby. Staff replaced the meter and following the completion of work, left the new meter in the off position, which was the same position the old meter was in prior to the start of work.

Mr. Gunther explained he had worked on an irrigation valve the day before, but had turned the water back on since his wife would be home during the day. He agreed that the main cover was off and the tool was nearby because he had been working on the valve. Mrs. Gunther alleged that because the water was off, water overflowed from the dishwasher damaging the floor and expressed concern that mold would grow negatively impacting their health.

Discussion ensued, and Dr. Brady stated staff would request that the claim be expedited through the District's insurance carrier, ACWA / JPIA.

MOTION: Director Wolk moved the Claim be denied and expedited through the District's insurance carrier; Director Gebhart seconded. Motion carried;
VOTE:

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

G. CONSIDER APPROVING AGREEMENT FOR GENERAL COUNSEL LEGAL SERVICES BETWEEN FALLBROOK PUBLIC UTILITY DISTRICT AND BEST BEST & KRIEGER LLP

Recommendation: That the Board approve the Agreement for General Counsel Legal Services between Fallbrook Public Utility District and Best Best & Krieger LLP and authorize the General Manager to execute said Agreement and the conflict waiver letter relative to BB&K's representation of Rancho California Water District as provided for by Resolution No. 4889.

Dr. Brady reported the request is for approval of the final Agreement for General Counsel Legal Services with Best Best & Krieger LLP (BB&K) that designates Paula de Sousa Mills as General Counsel and Steven Martin as Assistant General Counsel. The request also includes authorization for the General Manager to execute the Agreement for General Counsel Legal Services and execute a conflict wavier letter relative to BB&K's representation of the Rancho California Water District. Moreover, Mr. James' status would change to "Of Counsel to the District" and he would be involved in the transition of duties.

Mrs. de Sousa Mills pointed out that the conflict of interest waiver letter with Rancho California Water District recognizes that BB&K would change their role from Special Counsel to General Counsel.

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

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

H. CONSIDER CREATING A PARS 115 TRUST FOR OPEB AND PENSION LIABILITIES

RESOLUTION NO. 4891

Recommendation: That the Board approve creation of an irrevocable 115 Combination Trust with PARS using existing funds set aside by the board and adopt Resolution No. 4891. The trust will provide a better return on the funds and provide long term rate stability to offset anticipated funding shortfalls from CalPERS and establish an OPEB trust to fund retiree medical benefits.

Dr. Brady reported that the Fiscal Policy & Insurance Committee met and has recommended that the Board approve the creation of a PARS 115 trust for OPEB and pension liabilities. At the meeting, Mitch Barker of PARS presented the advantages of managing unfunded liabilities with a 115 trust that has fewer restrictions on investments resulting in a higher rate of return, which would benefit ratepayers.

Discussion ensued, and the committee members emphasized that the return on investments would be greater by using a 115 trust. Furthermore, PARS could potentially make payments on behalf of the District.

MOTION: Director McDougal moved to approve the Fiscal Policy & Insurance Committee's recommendation and adopt Resolution No. 4891; Director Anderson seconded. Motion carried; VOTE:

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

I. CONSIDER IMPLEMENTATION OF RATE STUDY AND LONG-TERM FINANCIAL PLAN

Recommendation: That the Board authorize the award of the attached contract with Raftelis Financial Consultants, Inc. for an amount not-to-exceed \$105,162 for completion of a rate study and a 10-year financial plan for the District to help ensure long-term financial stability for ratepayers and authorize up to \$30,000 for additional short-term staffing support for the effort if necessary.

Mr. Bebee reported the Board expressed concerns with the budget process and to address those concerns, staff revised the budget format but it appeared there were still underlying structural concerns that needed to be addressed. A key part of the proposal is a rate study to ensure rate compliance with Proposition 218. The proposal would also analyze other components of the District's financial structure and long-term planning including rate impacts of the Santa Margarita River Conjunctive Use Project. As recommended by the Fiscal Policy & Insurance Committee, staff approached Raftelis Financial Consultants, Inc. for a proposal based on their expertise. As part of their proposal, Raftelis provided a schedule for the completion of tasks by June 2017

that includes a 10-year financial plan, cost of service analysis, rate model development and rate design, Proposition 218 support, and budget format review and enhancement.

Dr. Brady pointed out the recommendation also includes an additional \$30,000 for short-term staffing or additional work by Raftelis at the request of the Fiscal Policy & Insurance Committee.

MOTION: Director McDougal moved to approve the Fiscal Policy & Insurance Committee's recommendation; Director Anderson seconded. Motion carried; **VOTE:**

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

Director Wolk requested that staff provide progress reports of consultants' work.

J. CONSIDER APPROVING FINAL BUDGET FOR FY 16-17

Recommendation: That the Board approve the final FY 16-17 budget now that the updated summary is prepared and the process in place to prepare a completely revised budget approach and format for FY 17-18.

Mrs. Eilers reported the updated summary and a chart that illustrates increases to the wholesale cost of water for the period of 2007 through 2016 was included in the board packet as requested by the Fiscal Policy & Insurance Committee.

Director Gebhart pointed out the chart illustrates that the wholesale cost of water has almost doubled in less than 10 years.

Discussion ensued concerning the updated summary, and Director Wolk requested that staff revise the format for clarity.

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

K. CONSIDER IMPLEMENTATION OF KEY PERFORMANCE INDICATORS FOR ENGINEERING AND OPERATIONS

Recommendation: That the Board authorize the award of the attached contract with Westin Engineering, Inc. for an amount not-to-exceed \$80,000 for development of key performance metrics for engineering and operations to help the District monitor and continuously improve performance.

Mr. Bebee reported that a Request for Proposals was issued and the responses were reviewed by staff. Westin Engineering, Inc. was determined to be the most qualified bidder, and their proposal is for an amount not-to-exceed \$80,000. The services proposed would develop metrics for the operations and engineering departments to ensure maximum efficiency of staff by using tools to monitor and measure performance. Mr. Bebee pointed out the proposal is a best practice for agencies and was postponed until the accounting system could be upgraded.

Director McDougal questioned if the process could be developed internally or obtained through other agencies.

Mr. Bebee emphasized that Westin does similar work for other entities and has a wide range of experience in this field. Westin's services would be required once, would establish standards, and would ensure goals are appropriate, trackable, and measurable. Mr. Bebee added that when filling out a national benchmarking survey, it was found the District lacked tracking information in areas and needed help in developing underlying systems to extract information to measure performance.

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

AYES: Directors Anderson, Gebhart, McDougal, and Wolk

NOES: Director Davies

ABSTAIN: None

ABSENT: None

President Davies remarked he was opposed and preferred to wait six-to-eight months.

L. CONSIDER SANTA MARGARITA CONJUNCTIVE USE APPROVAL OF ENVIRONMENTAL IMPACT REPORT / ENVIRONMENTAL IMPACT STATEMENT AND APPROVAL OF DESIGN AMENDMENT 2 RESOLUTION NO. 4890

Recommendation: That the Board certify the Final EIR, approve the California Environmental Quality Act (CEQA) Findings of Fact, and adopt the Mitigation Monitoring and Reporting Program (MMRP) to complete the CEQA process for the Santa Margarita Conjunctive Use Project (SMRCUP) per Resolution No 4890. That the Board approve design Amendment No. 2 to improve the operation of the SMRCUP facility and reduce operating costs and any impacts to adjacent residents and provide additional consulting

services to complete associated permitting and reduce unknowns and associated costs during construction.

Mr. Bebee reported in order to move forward with the Santa Margarita Conjunctive Use Project (SMRCUP), the Board is required to approve and certify the final EIR / EIS since the District is the lead agency for the Project. Once the Board certifies the EIR / EIS, the water rights petitions can be processed and the settlement agreement can be finalized. Additionally, the Department of the Navy can certify the EIR / EIS for its facilities. Mr. Bebee emphasized that millions of dollars have been spent by multiple entities thus far in order to finalize the SMRCUP and resolve ongoing litigation.

President Davies asked if any members of the Board wished to hold a workshop relative to this matter. Director McDougal suggested not delaying approval since other entities would be affected. Director Gebhart noted that environmental concerns were with Camp Pendleton's facilities and not the District's.

Various members of the Board expressed concern with the volume of the material presented, and Mr. Bebee asserted the document is relatively the same as the draft that has been out for two years.

MOTION: Director McDougal moved to adopt Resolution No. 4890 certifying the final Environmental Impact Report / Environmental Impact Statement, adopting the Project Mitigation Monitoring and Reporting Program and Findings of Fact, and approving the Santa Margarita Conjunctive Use Project; Director Anderson seconded. Motion carried; VOTE:

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

Mr. Bebee further reported additional design services are required to complete the final design and associated permitting as more fully described in Amendment No. 2 included in the board packet. Additional services include noise mitigation measures, permitting assistance, and analysis of other systems. Mr. Bebee pointed out the original contract was reduced by elimination of some items; however, the amendment would increase the contract by almost the same amount as the previous reduction for a total of \$3,207,759.

Director McDougal inquired if a connecting pipeline would be placed in a road he owns and the District has an easement in. Mr. Bebee responded it would. After brief discussion, General Counsel advised Director McDougal to recuse himself. Director McDougal recused himself and left the boardroom at 6:06 p.m.

Director Wolk stated he wished to go on record as saying when a contractor gets a reduction and then subsequently comes back with an amendment that is almost the same number he becomes suspicious.

Mr. Bebee pointed out the amount of the amendment was originally more; however, he eliminated items he felt were not additional costs due by the District to lower the amount.

MOTION: Director Gebhart moved to approve Amendment No. 2; Director Anderson seconded. Motion carried; VOTE:

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

Following the vote, Director McDougal was invited to return to the boardroom and rejoined the meeting at 6:08 p.m.

Mrs. Donna Gebhart of the Fallbrook Trails Council (FTC) provided the following update:

- A cleanup of the trails was completed recently.
- The FTC participated in the Fallbrook community cleanup.
- A member of the FTC and District staff completed a baseline trail map and provided it to The Wildlands Conservancy (TWC) for GIS mapping.
- District staff installed cable to delineate trails and block access to the swimming hole.
- The FTC met with TWC the previous week whose representative, Zach, followed up the meeting with a positive email to Mrs. Gebhart concerning their partnership and common goals with the FTC and the community of Fallbrook relative to the Santa Margarita River Valley.
- The FTC, Camp Pendleton, TWC, Western Rivers Conservancy, and the District will meet during the month of October. Additionally, the draft management plan would be made available by TWC within a week.

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

1. General Legal Counsel
2. SDCWA Representative / General Manager
3. Administrative Services Manager / Treasurer
4. Assistant General Manager
5. Public Affairs Specialist
6. Director Comments/Reports on Meetings Attended

- Director Anderson commended Director Gebhart, Director Wolk, and staff for their progress on the Fiscal Policy & Insurance Committee.
- Director Davies reported he attended the Council of Water Utilities meeting on September 20, 2016.
- Director Wolk inquired on the status of the audio / video equipment upgrades.
- President Davies authorized Director Anderson and Director Gebhart's attendance to a meeting with the County of San Diego, Parks and Recreation Department on September 15, 2016.

ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 6:36 p.m.

VI. CLOSED SESSION

1. 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 7:20 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 7:21 p.m.



President, Board of Directors

ATTEST:



Secretary, Board of Directors