



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

MINUTES

**MONDAY, AUGUST 22, 2022
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 / ROLL CALL / ESTABLISH A QUORUM

President Baxter called the August Regular Meeting of the Board of Directors of the Fallbrook Public Utility District to order at 4:00 p.m. President Baxter deferred to General Counsel de Sousa to make the following statements on the record regarding the proceedings for this meeting:

General Counsel de Sousa announced, for the record that, this meeting was being conducted by web and teleconference pursuant to Government Code Section 54953(e)(1)(A), which waives certain 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. She noted the first item on the agenda pertained to Board action to make the required findings pursuant to Government Code Section 54953(e).

General Counsel de Sousa also announced the agenda provided notice that members of the public may participate in this meeting by attending in person, and that members of the public who did not wish to attend in person were encouraged to participate in the Board meeting electronically using the call-in and weblink information included on the agenda. Additionally, 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 3 minutes per comment). There were no written public comments submitted in advance of the meeting, for general public comment or for any agenda items submitted prior to the submission deadline.

General Counsel de Sousa announced that President Baxter would ask the Board Secretary if there were any members of the public who wished to make comments on the item either in person or through Zoom webinar or Zoom teleconference. After public comments, President Baxter would then call on staff to make a presentation for the item on the agenda. After the presentation was made, to avoid everyone speaking at once, President Baxter would then call on each Director to see if there were questions for staff regarding their presentation. After the round of questions, President Baxter would then ask for a motion and request that each Director identify themselves when making a motion or seconding a motion. Next, President Baxter would call on each Director to see if there

were any comments. General Counsel de Sousa announced, since there were Directors participating remotely, all votes would need to be done by roll call.

A quorum was established, and attendance was as follows:

Board of Directors

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

Absent: None

General Counsel/District Staff

Present: Jack Bebee, General Manager
Dave Shank, Assistant General Manager/CFO
Paula de Sousa, General Counsel
Jodi Brown, Management Analyst
Nick Cannata, Utility Worker I
Devin Casteel, System Operations Supervisor
Aaron Cook, Engineering Manager
Mick, Cothran, Engineering Technician II
Jamison Davis, Utility Worker II
Noelle Denke, Public Affairs Specialist
Kyle Drake, Collections Supervisor
Ken Hubbard, Warehouse/Purchasing Specialist
Tyrese Powell-Slotterbeck, Plant Operator I
Eddie Rodriguez, Meter Services Supervisor
Steve Stone, Field Services Manager
Lauren Eckert, Executive Assistant/Board Secretary

Also present were others, including, but not limited to: Jacqueline Howells, Craig Balben, Ross Pike, Stephani Baxter, Eileen Delaney, Princess VanKnap, Richard Wall, Lutfi Kharuf, and Roy Moosa

I. PRELIMINARY FUNCTIONS

CALL TO ORDER / ROLL CALL / ESTABLISH A QUORUM

- 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 Endter 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 Wolk seconded. Motion passed; VOTE:

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

PLEDGE OF ALLEGIANCE

President Baxter led the Pledge of Allegiance.

APPROVAL OF AGENDA

General Manager Bebee reported the District received a bid protest for agenda item N, and therefore staff recommended that this item be pulled from the agenda.

MOTION: Director Endter moved to approve the agenda, removing item N from the Action/Discussion Calendar; Director Wolk seconded. Motion carried; VOTE:

AYES: Directors Baxter, DeMeo, Endter, 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.

B. EMPLOYEE OF THE QUARTER FOR AUGUST 2022

1. Ken Hubbard

There were no public comments on agenda item B.

The Board recognized Ken Hubbard as Employee of the Quarter for August 2022.

C. YEARS OF SERVICE

1. Jamison Davis – 15 years

There were no public comments on agenda item C.

The Board recognized Jamison Davis for his 15 years of service to the District.

D. CERTIFICATIONS

1. Nick Cannata – Distribution Operator Grade II
2. Jake Robinson – Distribution Operator Grade IV

The Board recognized Nick Cannata for receiving his Distribution Operator Grace II certification and Jake Robinson for receiving his Distribution Operator Grace IV certification.

II. CONSENT CALENDAR----- (ITEMS E-I)

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.

E. CONSIDER APPROVAL OF MINUTES

1. July 25, 2022 Regular Meeting

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

F. CONSIDER PUBLICATION OF ANNUAL FINANCIAL STATEMENT

Recommendation: That the Board approve the draft financial statement developed by staff for publication in the Village News in accordance with Section 6066 of the Government Code.

G. COMMUNITY BENEFIT WATER USERS FY 2021-22 ANNUAL REPORT

Recommendation: This item is for information purposes, no action is required.

H. ANNUAL STATUS REPORT OF PARCELS WITH DEFERRED WATER AVAILABILITY / STANDBY CHARGES

Recommendation: This item is for information only; no action is required of the Board.

I. CONSIDER NOTICE OF COMPLETION – 3141 GUM TREE

Recommendation: The Board authorize staff to file the attached Notice of Completion with the San Diego County Recorder

There were no public comments on Consent Calendar items.

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

AYES: Directors Baxter, DeMeo, Endter, McDougal, and Wolk

NOES: None

ABSTAIN: None

ABSENT: None

III. **INFORMATION**-----**(ITEMS J-L)**

J. ENGINEERING & OPERATIONS KEY PERFORMANCE INDICATORS PRESENTATION

*Presented by: Carl Quiram, Operations Manager
Aaron Cook, Engineering Manager*

There were no public comments on agenda item J.

Staff presented a slide show on the Engineering and Operations key performance indicators, which included a discussion on capital improvement projects, wastewater and water operations, meter exchanges, wastewater collections, valve replacements, and customer service.

President Baxter asked if we were still doing the molier air pilot project. General Manager Bebee explained the pilot was completed, but we were unsure if it saved any energy.

Director Endter announced he had a water leak, and it was nice to receive an email alerting him of the week.

President Baxter asked if there were any supply chain issues when it came to valve replacements. Field Services Manager Stone responded that there were significant supply chain issues.

Vice President Wolk asked how the total number of broken valves was derived. Field Services Manager Stone explained the criteria for considering a valve broken, including the number of times each valve is turned. Vice President Wolk asked what the goal is per year for replacing the valves. Field Services Manager Stone reported that goal is 100 valve replacements per year.

K. FY 2021-22 YEAR-END BUDGET STATUS REPORT

Presented by: *Dave Shank, Assistant General Manager/CFO*

There were no public comments on agenda item K.

AGM/CFO Shank provided an overview of how the District performed financially for fiscal year 2021-22. He reported there was a change of the way grant funds were allocated. The total amount was \$213,000, which shows up in the non-operating revenue. AGM/CFO Shank also reported the Board decided to use the \$1.7 million from the SDCWA for legal damages to pay down the SMRCUP loan.

L. SMRCUP FINAL CONSTRUCTION COSTS UPDATE

Presented by: *Aaron Cook, Engineering Manager*

There were no public comments on agenda item L.

Engineering Manager Cook provided an update on the final construction costs for the SMRCUP project. He also provided an overview of the final state revolving loan amount, taking into consideration the settlement funds received from SDCWA.

IV. ACTION / DISCUSSION CALENDAR ----- (ITEMS M-Q)

M. CONSIDER RESOLUTION NO. 5034 ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974

Recommendation: That the Board adopt Resolution No. 5034 adopting the amended Conflict of Interest Code pursuant to the Political Reform Act of 1974.

There were no public comments on agenda item M.

General Manager Bebee explained this was largely a cleanup of the existing Conflict of Interest code to make the listed job titles consistent.

Vice President Wolk requested a summary of changes be added to the Board packet memo when there are many pages of text without changes.

MOTION: Director Endter moved to adopt Resolution No. 5034 adopting the amended Conflict of Interest Code pursuant to the Political Reform Act of 1974; Director McDougal seconded. Motion carried; VOTE:

AYES: Directors Baxter, DeMeo, Endter, McDougal, and Wolk

NOES: None

ABSTAIN: None

ABSENT: None

N. CONSIDER AWARD OF WATERLINE REPLACEMENT FY23 PROJECT

Recommendation: That the Board award the Waterline Replacement FY23 Project to the lowest responsible bidder after thorough review of the bid package and reference checks.

Item N was pulled from the agenda.

O. CONSIDER UPDATE ON EMERGENCY PIPELINE REPLACEMENTS

Recommendation: That the Board authorize a change order in the amount of \$256,146.05 with SRK Engineering for the installation of the Minnesota Ave pipeline replacement.

There were no public comments on agenda item O.

Engineering Manager Cook explained this item is closing out the emergency pipeline repair work that has taken place over the past three months. Several months ago, this emergency was declared due to the mainline breaks and leaks which occurred in March. On a monthly basis, the Board was reaffirming the emergency until the work was completed. This work was completed in July. He reported this was the final change order to close out this project. The recommendation was to approve the change order for the amount of \$256,146.05.

Vice President Wolk asked if we have to go through this again, if a new emergency will need to be declared. General Manager Bebee explained the goal

going forward is to have a contractor under contract for the large pipeline contract and to have an allowance in that contract in case something like this comes up again. This would allow a change order to be brought to the Board for approval.

MOTION: Director McDougal moved to authorize a change order in the amount of \$256,146.05 with SRK Engineering for the installation of the Minnesota Avenue pipeline replacement; Director Endter seconded. Motion carried; VOTE:

AYES: Directors Baxter, DeMeo, Endter, McDougal, and Wolk

NOES: None

ABSTAIN: None

ABSENT: None

P. CONSIDER ADOPTION OF ARTICLE 23 OF THE ADMINISTRATIVE CODE – COMMUNITY BENEFIT PROGRAM

Recommendation: That the Board adopt Ordinance 354 implementing Article 23 of the Administrative Code

Roy Moosa stepped to the podium to express his concerns about funds allocated for maintenance. He was concerned the Community Benefit Program would be unable to provide those maintenance services. He was also concerned about prevailing wages being a requirement, which would eliminate a lot of the smaller projects.

Director Endter asked if there was a provision for maintenance. General Manager Bebee explained this was a unique situation, as the latent powers were activated for the District. We were trying to take the language written for latent powers in 1914 and tie it into the needs. There would be limits on what projects would be included. He also noted there was not a way to get around prevailing wage due to state law. Part of this program will be figuring out how to structure this work in the most efficient way. We will also need to comply with certain contract requirements and provisions. The intent of the program has always been half providing maintenance and half capital projects.

Director McDougal reported the original goal was to have 50% of the funds used annually for maintenance and 50% annually for capital improvement projects.

President Baxter asked if prevailing wage had ever eliminated any projects the District needed to complete. General Manager Bebee reported there are ways to structure and group projects to satisfy prevailing wage and allow use of local contractors.

Vice President Wolk noted there was a problem with contractors using prevailing of other counties like Los Angeles or Orange instead of San Diego county.

MOTION: Director Endter moved to adopt Ordinance No. 354 implementing Article 23 of the Administrative Code for the Community Benefit Program; Director Wolk seconded. Motion carried; VOTE:

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

Q. CONSIDER AMENDING THE DISTRICT'S RECYCLED WATER CAPITAL IMPROVEMENT BUDGET AND DISTRICT'S ANNUAL APPROPRIATIONS

Recommendation: That the Board adopt Resolution No. 5035 amending the District's annual appropriations.

There were no public comments on agenda item Q.

General Manager Bebee explained this item went through FP&I. Director Wolk pointed out an inconsistency that needed to be addressed. Currently, CIP was being budgeted net of grant funds, which was not how it actually gets booked in the financial system. This needed to be corrected. The bottom line was, it won't change anything overall, but to do it correctly to ensure we were requesting the correct amount of appropriations, we needed to increase the appropriations, so if we did everything that was budgeted we would still stay within the appropriations. Therefore, we needed to increase appropriations by the amount of the grant funds.

MOTION: Director Wolk moved to adopt Resolution No. 5035 amending the District's annual appropriations; Director McDougal seconded. Motion carried; VOTE:

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

V. ORAL/WRITTEN REPORTS------(ITEMS 1-8)

There were no public comments on oral/written reports.

- 1. General Counsel
 - General Counsel de Sousa provided an overview of AB 2449, as it relates to teleconferencing requirements for meetings.

- President Baxter asked about
- 2. SDCWA Representative Report
 - General Manager Bebee provided an overview of the written reports included in the packet.
 - Director Wolk asked how SDCWA got around the cuts to the special ag water rate, nothing from the beginning the special ag water rate was MWD water, therefore if MWD cut back 30% and SDCWA cut back 0%, the special ag users would take a 30% cut. He asked how SDCWA got around saying under these circumstances local water supply had to be used to provide special ag water. General Manager Bebee responded the way it is calculated is confusing, as the loss of local supply adjustment goes to MWD, then goes to the SDCWA, and then is allocated back to us.
- 3. General Manager
 - a. Engineering and Operations Report
- 4. Assistant General Manager/Chief Financial Officer
 - a. Financial Summary Report
 - b. Treasurer's Report
 - c. Budget Status Report
 - d. Warrant List
 - e. Annual Disclosure of Reimbursements over \$100
 - AGM/CFO Shank provided an overview of the written reports included in the packet.
 - AGM/CFO also announced the single audit has been completed and the rate study is ongoing.
- 5. Public Affairs Specialist
 - Public Affairs Special Denke reported drought outreach continues. She also reported the District is repeating the plant giveaway this year.
- 6. Notice of Approval of Per Diem for Meetings Attended
- 7. Director Comments/Reports on Meetings Attended
- 8. Miscellaneous

ADJOURN TO CLOSED SESSION

General Counsel de Sousa announced the Board would be going into Closed Session and that members of the public participating via web or teleconference were welcome to continue to stay on the line while the Board was in Closed Session, however they would only hear silence. Following Closed Session and prior to adjournment, an oral announcement of reportable action, should there be any, would be made to the public on the teleconference line.

There were no public comments on Closed Session items.

The Board of Directors adjourned to Closed Session at 5:39 p.m. following an oral announcement by General Counsel de Sousa of Closed Session Items VI.1.

VI. CLOSED SESSION----- (ITEM 1)

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
SIGNIFICANT EXPOSURE TO LITIGATION PER GC § 54956.9 (d)(2)

One (1) Potential Case

RECONVENE TO OPEN SESSION

The Board came out of Closed Session and reconvened to Open Session at 6:17 p.m.

REPORT FROM CLOSED SESSION (*As Necessary*)

There was no reportable action taken during Closed Session.

VII. ADJOURNMENT OF MEETING

There being no further business to discuss, the August Regular Meeting of the Board of Directors of the Fallbrook Public Utility District was adjourned at 6:17 p.m.



President, Board of Directors

ATTEST:



Secretary, Board of Directors