

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

MINUTES

**MONDAY, AUGUST 22, 2016
BEGIN: 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 Davies called the Regular Meeting of the Board of Directors of the Fallbrook Public Utility District to order at 4:02 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 (*left at 5:29 p.m.*)
Charley Wolk, Member / Vice-President

Absent: None

District Staff

Present: Robert James, General Legal Counsel
Steve Lopardo, Special Legal Counsel (*left at 5:00 p.m.*)
Jack Bebee, Assistant General Manager and Acting General Manager
Mary Lou Boultinghouse, Secretary
Jason Cavender, System Operations Manager
Soleil Develle, Engineering Technician III
Kyle Drake, Collection Supervisor
Marcie Eilers, Administrative Services Manager / Treasurer
Jeff Marchand, Engineering Supervisor
Larry Ragsdale, Safety & Risk Administrator

Also present were others, including, but not limited to: Helene Brazier, Peter Colby, Jennifer DeMeo, Lee DeMeo, Donna Gebhart, Bert Hayden, Marilee Lowe, Patricia McPhee, Paul Melzer, and Lita Tabish.

PLEDGE OF ALLEGIANCE

Bert Hayden, former member of the Board of Directors, led the Pledge of Allegiance at the request of President Davies.

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; **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.

A member of the public stepped to the podium and stated the acoustics in the boardroom were awful. She requested that Board Members and staff speak into their microphones so audience members could hear what was being.

President Davies acknowledged her concerns and stated the District is in the process of upgrading its audio-visual equipment.

A. EMPLOYEE OF THE QUARTER FOR AUGUST 2016

1. Austin Wendt

President Davies announced that Austin Wendt was unable to attend the board meeting due to work commitments and would be recognized as the Employee of the Quarter for August 2016 at the next regular board meeting.

II. **CONSENT CALENDAR**-----**(ITEMS B - C)**

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.

B. CONSIDER APPROVING MINUTES

1. Regular Board Meeting / Public Hearing of June 27, 2016
2. Special Board Meeting / Public Hearing of July 14, 2016
3. Regular Board Meeting of July 25, 2016

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

C. CONSIDER ADVANCE APPROVAL TO ATTEND MEETINGS

Recommendation: That the Board authorize Directors' attendance to the California Special District's Association '16 CSDA Annual Conference for October 10-13, 2016, in San Diego, California.

Director Wolk requested that the minutes of the Regular Board Meeting / Public Hearing of June 27, 2016, be pulled for discussion.

MOTION: Director McDougal moved to approve the Consent Calendar as revised to exclude approval of the June 27, 2016 minutes; Director Gebhart seconded. Motion carried; VOTE:

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

Director Wolk stated the initial motion made for Item K was not recorded accurately in the June 27, 2016 minutes. Director Wolk clarified the motion was made to adopt summary minutes for board meetings, which he seconded. Following the motion and second, a question arose concerning how long the recordings would be kept. At that point, the motion was modified to add the recordings be kept for one year, which is when Director Wolk withdrew his second. Director Wolk requested that the minutes be corrected to accurately reflect the motion and second.

Brief discussion ensued, and the Board directed the Secretary to make the corrections as requested.

MOTION: Director McDougal moved to approve the minutes of June 27, 2016, to be revised by the Secretary with the corrections requested by Director Wolk; Director Gebhart seconded. Motion carried; VOTE:

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

III. INFORMATION ----- (ITEMS D – F)

D. STATUS REPORT ON PARCELS WITH DEFERRED WATER AVAILABILITY / STANDBY CHARGES

E. STATUS REPORT ON COMMUNITY SERVICE WATER USAGE

Mr. Bebee provided a brief overview of Items D and E. President Davies remarked that both items were reported to the Board on an annual basis.

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

Mr. Bebee reported that a meeting has been scheduled in September with the Director of Parks and Recreation for the County of San Diego and an update would most likely be provided following that meeting.

President Davies announced that Item G would be considered next. Following the 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 Item G, Consider Finalizing the Recreational Trails Easement for the Santa Margarita River Property, I am recusing myself from participating in any way during the discussion and any action taken on that agenda item."

Following his statement of recusal, Director Gebhart left the room at 4:11 p.m.

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

G. CONSIDER FINALIZING THE RECREATIONAL TRAILS EASEMENT FOR THE
SANTA MARGARITA RIVER PROPERTY

Recommendation: That the Board instruct staff to continue to negotiate the Long Term Steward Agreement consistent with Option (2) as required under the PSA. Option (2) will, of course, require (i) further ongoing negotiations with Western, The Wildlands Conservancy, and The Fallbrook Trails Council, and (ii) written mutual agreement of all four parties before the Close of Escrow.

Mr. Bebee reported that Western Rivers Conservancy identified the long term steward and the parties are forming an approach that will (1) get value from the property for the ratepayers, (2) bring in a long term partner that plans to enhance the property, and (3) provide some local control by having a trails easement record and transfer to the Fallbrook Trails Council.

Director McDougal asked General Legal Counsel if Director Gebhart was required to leave the room while recused, and Mr. James advised it was preferable.

Mr. Lopardo stated that at the last meeting, Mr. Colby set forth the proposal by Western Rivers Conservancy (Western Rivers) that provides for the property to be sold for the value of the contract and to retain equestrian use forever. Mr. Lopardo further stated that all parties--the District, Western Rivers Conservancy, The Wildlands Conservancy, and the Fallbrook Trails Council--must mutually agree to the proposal and the proposal would be finalized through a series of recordable documents and contracts.

Mr. Bebee noted if an easement were recorded before the Camp Pendleton easement, the valuation of the property and Camp Pendleton's funding would be reduced. Mr. Bebee stated the current proposal preserves the valuation and allows finalization through a single escrow. The District had previously discussed unilaterally placing an easement on the property prior to the close of escrow, but elected to proceed with an approach to obtain the easement as part of the long term stewardship agreement.

Mr. Lopardo cautioned that the District entered into a contract with Western Rivers for the sale of the property and has no business recording an easement during the pendency of the contract. Mr. Lopardo asserted that the contract states an easement cannot be recorded on the property without the consent of the buyer and Western Rivers would not consent to an easement.

Mr. Bebee explained that pursuant to the contract, the District will receive \$9.975 million from the sale of the property and Western Rivers will be required to find funding for the purchase and will receive roughly half from Camp Pendleton and the remainder from other sources. Mr. Bebee added that if Western Rivers were unable to pay the contract amount, the sale would not move forward and the District will keep the earnest money.

Discussion ensued concerning Camp Pendleton's funding, and Mr. Bebee stated that Camp Pendleton has time restrictions on its funding from the Department of Defense and there would be a point in time when the money would no longer be allocated.

Mr. Bebee emphasized that the Santa Margarita River Conjunctive Use Project (SMRCUP) and the sale of the Santa Margarita River property were not interdependent. The current idea is to use the property sale proceeds to offset the cost of construction; however, the Board could choose to not use the sale proceeds to offset the cost and fully fund the project through other sources. Or, the Board could choose to not move forward with the SMRCUP and still sell the property. Brief discussion followed concerning the District's water rights permits and that if the District did not move forward with the SMRCUP in a timely manner, the permits could be revoked.

Peter Colby of Western Rivers Conservancy stepped to the podium and represented that Western Rivers was comfortable with the proposal discussed by Mr.

Lopardo and would continue to negotiate along the path that has been taken with the easement at the back end of the transaction.

President Davies asked a number of questions of Mr. Colby relative to improving the property, expanding the trails, and identifying a floating trails system.

Mr. Colby stated discussions with Camp Pendleton have included a proposal to make minor improvements to the property and to add a residence for a full-time staffer and that Camp Pendleton was not opposed to minor improvements but was uncertain if a residence could be placed on the property. Mr. Colby added that the Fallbrook Trails Council (Trails Council) and The Wildlands Conservancy (Wildlands) are currently working together on developing the map for the trails system.

President Davies asked if there would be a problem riding on the south side of the river, and Mr. Colby responded that Western Rivers did not have a conflict. Mr. Colby mentioned the new appraisal was finalized and set the value of the property at \$10.5 million, which was the same amount set in the previous appraisal.

Paul Melzer stepped to the podium and stated he represented The Wildlands Conservancy and worked in mission advancement. Mr. Melzer discussed other properties owned by Wildlands and emphasized that those properties were open to the public and included equestrian use. Mr. Melzer remarked that the trails easement fit perfectly with their organization.

At the request of President Davies, Mr. Melzer provided a brief overview of The Wildlands Conservancy and its history. Mr. Melzer stated that David Myers is the executive director and co-founder and that Wildlands recently celebrated its 20th anniversary as California's largest non-profit land conservancy. Wildlands stewards approximately 150,000 acres throughout the state, which includes 15 preserves and reserves. Mr. Melzer emphasized that the founding members recognized the importance of providing outdoor educational opportunities for children and passive recreational use for the public.

Marilee Lowe stepped to the podium and stated she is a candidate for the Board of the Directors, has been a community volunteer for over 32 years, and is an avid equestrian. Mrs. Lowe expressed concern over the sale of the Santa Margarita property and the future of the trails and suggested keeping a close eye on things as they move forward.

Donna Gebhart stepped to the podium and provided an update from the Fallbrook Trails Council as follows:

- The Trails Council met with Wildlands, Western Rivers, and Camp Pendleton last week concerning questions the Trails Council had.

- The Wildlands Conservancy appears to be a great fit with the Trails Council and both share the common goal of providing opportunities in recreation, education, and conservation.
- Mr. Lopardo suggested including a public access plan as part of the long term steward agreement and the plan should be all encompassing and include a floating trails easement to the Trails Council.
- Mr. Lopardo also suggested the Trails Council include a successor non-profit in the final documents in order to keep the easements in the event the Trails Council ceased to exist.
- The Trails Council will be responsible for maintaining the trails, and Wildlands would help if needed.
- The Trails Council informed Wildlands they will not be able to police the trails or enforce rules.
- The Trails Council and Wildlands will do a site visit of the trails to discuss future planning.
- District staff has been working with the Trails Council to create a map of the trail system.
- Wildlands has plans to enter the trails system into a Geographic Information System that will be accessible by the North County Fire Protection District in the event of an emergency.

Mrs. Gebhart requested there be full disclosure in advance of any restrictions that may be placed on the property.

Lita Tabish stepped to the podium and stated she is a resident of Fallbrook, a citizen of the community, part of the Trails Council, and on the Board of the Live Oak Park Coalition. Mrs. Tabish represented she speaks on behalf of over 2,000 people that signed a petition in favor of the trails and requested the trails easement record concurrently with closing.

Director Wolk suggested substituting the term "equestrian trail" with "recreational trail" in everything that is done because the trails are for use by hikers, non-motorized cycles, and horses.

MOTION: Director Wolk moved to write a letter to Western Rivers signed by the President that asks specifically for an explanation of (1) why the value of the property would be diminished because of a trails easement and (2) what is the rationale that impairs the ability of Western Rivers to solicit funds because a trails easement is on the property; President Davies seconded.

Mr. Bebee explained that the valuation and funding concerns were relative to the Camp Pendleton easement and the Department of Defense's appraisal process would have reflected the trails easement as an encumbrance on the property. In accordance with the federal process, the easement would have devalued the property in an amount

determined by the appraiser and would have reduced the amount Camp Pendleton could contribute.

President Davies asked if there were any further questions and hearing none, called for the vote.

Motion failed; VOTE:

AYES: Directors Davies and Wolk
NOES: Director McDougal
ABSTAIN: Director Anderson
ABSENT: Director Gebhart

President Davies stated the motion passed and directed staff to prepare the letter for his signature.

Director McDougal called a Point of Order and noted there must be three Ayes in order to move forward.

President Davies requested that District General Legal Counsel research an abstention and that it was to the affirmative. Mr. James opined it depended on the rules of operation. President Davies suggested the Board revote if needed following Mr. James' opinion.

MOTION: Director McDougal moved to continue on with the agreement that is in place; Director Anderson seconded. Motion carried; VOTE:

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

At 5:00 p.m., President Davies announced the Board would take a recess, and Mr. Lopardo left the meeting.

The Board returned from recess and reconvened to Open Session at 5:08 p.m.

Director Gebhart returned to the meeting at 5:09 p.m.

H. CONSIDER AWARD OF CORROSION CONTROL SYSTEM FOR SACHSE TANK

Recommendation: That the Board authorize award of the Corrosion Control System to GMC Electric Inc., the lowest bidder, for \$24,103 at the Sachse Tank.

Mr. Cavender reported that as part of the coating and corrosion control inspection program, staff determined that many of the components were not functioning in the system. A Request for Proposals was issued; and in response, the District received two proposals and the lowest bid was submitted by GMC Electric, Inc.

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

I. CONSIDER AS-NEEDED SCADA SUPPORT SERVICES

Recommendation: That the Board authorize the General Manager to enter into the attached three year agreement with SCADA Integrations at \$75,000 per year to provide necessary SCADA support services to facilitate continued reliable operation of the water and wastewater systems.

Mr. Cavender reported the request is for as-needed SCADA support services and proposes a three-year contract for an amount not-to-exceed \$75,000 per year. Mr. Cavender explained that the District has one internal position that provides SCADA support and due to increased automation processes and recent upgrades to the wastewater treatment plant, the demands for SCADA support have increased. The additional support would provide emergency assistance and technical expertise on an as-needed basis.

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

J. CONSIDER AS-NEEDED WATER RECLAMATION PLANT OPERATIONS SUPPORT SERVICES

Recommendation: That the Board authorize the General Manager to enter into the attached agreement with Black and Veatch for not to exceed amount of \$40,000 to provide Operational support at the Water Reclamation Plant to reduce long-term operating costs.

Mr. Bebee reported that processes have changed at the wastewater treatment plant following the recent upgrades and as a result, energy usage has increased. Black

and Veatch would provide support services to develop protocols to reduce energy usage and optimize operations. Mr. Bebee added that Black and Veatch is currently working with staff and this would expand those services.

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

Mr. Bebee explained the District spends approximately \$360,000 per year in energy and \$120,000 per year in chemicals and if those amounts were reduced by \$40,000 per year over the life of the facility, the District would save money.

Director McDougal remarked that technology constantly changes and the need to bring in outside technical assistance makes sense. Director Wolk suggested that staff report to the Board quarterly on the status of the work performed.

AMENDED

MOTION: Director Gebhart moved to amend Director McDougal's motion to approve staff's recommendation to add that staff report to the Board on a quarterly basis of the work performed under the contract; Director Anderson seconded. Motion carried; VOTE:

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

K. CONSIDER APPOINTING MEMBER TO THE AD HOC CONSERVATION COMMITTEE

Recommendation: Staff supports the Board's direction.

President Davies announced that Director Gebhart was unable to serve on the ad hoc Conservation Committee due to time constraints and asked if there were any volunteers to fill the vacancy left by Director Gebhart's resignation. There were no volunteers, and the position remained unfilled.

Director McDougal left the meeting at 5:29 p.m.

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

1. General Legal Counsel
2. SDCWA Representative / General Manager
3. Administrative Services Manager / Treasurer
 - Mrs. Eilers distributed handouts and provided a brief overview of each.
 - Mrs. Eilers reported the Fiscal Policy & Insurance Committee will meet in September to discuss the format of financial reports.

4. Assistant General Manager
 - Mr. Bebee reported that paving on South Mission Road was to begin the following week and the school districts were notified, an article would be in the newspaper to notify the public, and an electronic sign would be on display to alert motorists.
 - Mr. Bebee reported that Camp Pendleton has the environmental documents for the Santa Margarita Conjunctive Use Project and as a result, the EIR / EIS will be presented to the Board in September for adoption.
5. Public Affairs Specialist
6. Director Comments/Reports on Meetings Attended
 - Director Wolk requested the following items be agendized for September: (1) the 5-year capital budget and (2) the status of tree removal in the medians.
 - President Davies introduced Jennifer DeMeo as a new Member on the Board of Directors for next term beginning in December.

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ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 6:00 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 7:22 p.m.

REPORT FROM CLOSED SESSION (*As Necessary*)

The Board took no reportable action in Closed Session.

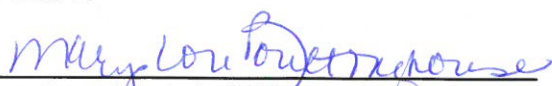
VII. ADJOURNMENT OF MEETING

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 7:23 p.m.



President, Board of Directors

ATTEST:



Secretary, Board of Directors