

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

MINUTES

MONDAY, APRIL 24, 2017
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 Wolk 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: Milt Davies, Member
Jennifer DeMeo, Member
Al Gebhart, Member / Vice President
Don McDougal, Member
Charley Wolk, Member / President

Absent: None

District Staff

Present: Paula de Sousa Mills, General Legal Counsel
Brian J. Brady, General Manager
Jack Bebee, Assistant General Manager
Marcie Eilers, Administrative Services Manager / Treasurer
Jason Cavender, System Operations Manager
Noelle Denke, Public Affairs Specialist
Todd Lange, System Service / Shop Supervisor
Jeff Marchand, Engineering Supervisor
Mary Lou West, Secretary

Also present were others, including, but not limited to: Helene Brazier, Donna Gebhart, Patricia McPhee, and representatives from the North County Fire Protection District.

PLEDGE OF ALLEGIANCE

President Wolk 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 Davies moved to approve the agenda as presented; Director McDougal seconded. Motion carried; VOTE:

AYES: Directors Davies, DeMeo, 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.

Donna Gebhart stepped to the podium and introduced herself as Chair of the Fallbrook Trails Council. Mrs. Gebhart announced the trails cleanup has been completed, with the exception of a few trails to the east. Mrs. Gebhart reported the first two river crossings have quicksand and signs have been posted on-site and on social media to warn the public of the danger. Mrs. Gebhart further reported she notified the County of San Diego of the quicksand and requested they postpone opening their facilities to the public because of the hazardous conditions.

II. **CONSENT CALENDAR**-----**(ITEM A)**

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 March 27, 2017

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

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

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

NOES: None

ABSTAIN: None

ABSENT: None

III. INFORMATION----- (ITEMS B – E)

B. UPDATE ON CALIFORNIA WATER-RELATED LEGISLATION

Presented by: Brian J. Brady, General Manager

Dr. Brady presented a slide show of (1) the report released April 7, 2017, titled *Making Water Conservation a California Way of Life, Implementing Executive Order B-37-16*, and of (2) water-related legislation. Dr. Brady explained that the Department of Water Resources, the State Water Resources Control Board, the Public Utilities Commission, the Department of Food and Agriculture, and the Energy Commission developed the report as a framework on water use efficiency and drought planning as directed by the Governor's Executive Order. The framework addresses the Executive Order requirements, provides information to the Legislature and other interested parties on the State Agencies' proposed framework for efficient water use, and includes a proposed implementation timeline.

Dr. Brady mentioned that over the past year, the San Diego County Water Authority (SDCWA) and other agencies have identified concerns over the State's recent water use targets. A slide illustrated the concerns in a matrix and whether or not they had been addressed in the framework. Dr. Brady included discussion of recycled water use; provisional standards that will be set for water use; and mandatory water shortage contingency planning, reporting, and enforcement. Dr. Brady pointed out that the components of the framework will restrict water usage, decrease sales, and negatively-impact agencies' finances.

Next, Dr. Brady presented a slide of (1) actions that may be undertaken within existing authorities and (2) recommendations that will require new authorities. In response, a number of bills have been introduced by Assembly Members Rubio, Friedman, Levine, and Weber. The Administration has also introduced two trailer bills that would eliminate legislative oversight and provide the State Water Resources Control Board with full control to develop regulations, standards, and enforcement.

Dr. Brady provided an overview of the key points of each bill and the position taken by the San Diego County Water Authority (SDCWA). Dr. Brady noted the SDCWA is supporting AB 869, AB 968, AB 1323, AB 1654 and opposing AB 1041, AB 1667, AB 1668, AB 1669, and both trailers bills. The SDCWA has not taken a position on AB 1000. Dr. Brady stated AB 1668, AB 1669, and the trailer bills would shift all details relative to long-term water use efficiency standards and performance measures to the State Board; AB 1323 would create a stakeholder working group and provide legislative oversight in codifying recommendations; and AB 968 and AB 1654 would attempt to achieve the water community's preferred approach through legislation enacted this session. Dr. Brady reviewed the timeline for the legislative process and noted the deadline for bills to pass the second House policy committee is July 14.

Dr. Brady concluded the presentation with a summary of ongoing efforts by the San Diego County Water Authority, the Association of California Water Agencies, and other stakeholders concerning water-related legislation.

C. UPDATE ON THE WATER RIGHTS SETTLEMENT BETWEEN UTAH AND THE NAVAJO NATION

Presented by: Brian J. Brady, General Manager

Dr. Brady presented a slide show, at the request of Director Davies, of the Navajo-Utah Water Rights Settlement Act of 2017. Dr. Brady reported the settlement agreement ended 13 years of negotiations over Utah's Colorado River Rights of 1.7 million acre-feet and centered around the Winters Doctrine of 1908 concerning federal reserve rights. The settlement agreement provides that Utah will give up 81,500 acre-feet of water and contribute \$8 million to the Tribe, and the federal government will contribute \$198.3 million for Tribal water projects. Dr. Brady emphasized the Act will not impact other states' rights on the Colorado River.

D. UPDATE ON LANDSCAPE MAINTENANCE DISTRICT, COUNTY OF SAN DIEGO PARKS AND RECREATION DEPARTMENT

Presented by: Brian J. Brady, General Manager

Director McDougal reported that according to the San Diego Assessor / Recorder / County Clerk, there are 18,607 parcels in the 92028 area code. To support a Landscape Maintenance District, each parcel would be assessed approximately \$53.74 per year to collect \$1 million annually through the tax roll. Director McDougal recommended holding another community meeting to identify and prioritize projects and determine the costs to support those projects.

E. DISCUSS FLEET REPLACEMENT PROGRAM APPROACH

Presented by: Todd Lange, System Service/Shop Supervisor

Mr. Lange provided an overview of the District's Fleet Replacement Program (Program). The Program measures vehicles through guidelines, procedures, and a replacement point system to determine the correct time to retire vehicles, plan purchases, and relegate vehicles to lighter duty. Mr. Lange reviewed the replacement point system that evaluates age, miles, hours, types of service, reliability, maintenance costs, and condition used to determine vehicle scores.

In response to Director Davies' inquiry concerning California Air Resources Board (CARB) requirements, Mr. Lange responded that CARB requirements were tracked in a separate document for heavy duty equipment. Director Davies asked if the vehicles listed in the spreadsheet (attached to the staff memo) had been rated, and Mr.

Lange responded the vehicles were rated and a score of 24 points or more qualifies a vehicle for replacement.

Discussion followed concerning the spreadsheet, particularly the replacement years listed in two columns. Mr. Bebee explained the year listed in the "original plan" column represents when vehicles were scheduled for replacement prior to development of the Program, and the year listed in the "updated" column represents when vehicles are scheduled for replacement using the Program's evaluation process. Mr. Bebee pointed out that as a result of the evaluation process, there has been some reordering of vehicles in the replacement schedule.

President Wolk requested the Board be provided scores, as determined by the evaluation process, for vehicles when auctioned or replaced. Mr. Lange noted that vehicles auctioned earlier this year had not been scored at the time because the Program had not been developed until recently. Mr. Bebee stated scores would be provided to the Board at the time of replacement.

Discussion included a comparison of the vehicle makes and models and identified those that performed better than others. Mr. Lange stated that Chevrolet Colorado trucks experienced more maintenance issues than others. Director Gebhart recommended the District avoid purchasing vehicles that are known to have maintenance issues. Mr. Bebee explained the Public Utility District Act requires the District to accept the low bid; however, staff is working on the language in Requests for Proposals to ensure proposals meet the District's specific needs.

Mrs. de Sousa Mills, General Legal Counsel, clarified the District must award based on the low bid; however, when there is only one entity or one manufacturer that can provide specific needs of the District, the District can do a sole source procurement and memorialize the reasons why it would be appropriate.

IV. ACTION / DISCUSSION CALENDAR ----- (ITEMS F – K)

F. KIRK QUITCLAIM REQUEST AND ADOPT RESOLUTION NO. 4910

Recommendation: *That the Board authorize the quitclaim and adopt Resolution No. 4910.*

Mr. Marchand reported that Mark Kirk is developing a 4-lot subdivision on McDonald Road, and District staff has been working with Mr. Kirk on an improvement plan for water and sewer service to the subdivision. The plan has been approved, and staff has determined a 10-foot strip of the existing 30-foot easement is not needed now nor will be in the future. As a result, Mr. Kirk has requested the District quitclaim the 10-foot strip, and staff supports Mr. Kirk's request.

President Davies asked if a 20-foot easement will be sufficient for the District's future needs, and Mr. Marchand explained it would since the easement will be used for sewer only and will not be needed for water service. The sewer pipe will be installed at a depth of 6-to-7 feet and located in the center of the easement.

Director Gebhart asked if a 20-foot easement would provide sufficient room for repair work, and Mr. Bebee responded it would because the sewer pipe will be the only utility in the easement and the pipe is not that large.

MOTION: Director McDougal moved to approve staff's recommendation and adopt Resolution No. 4910; Director DeMeo seconded. Motion carried; VOTE:

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

NOES: None

ABSTAIN: None

ABSENT: None

G. AWARD OF PUMP PARTS FOR LIFT STATION REPAIRS AT THE OVERLAND TRAIL LIFT STATION

Recommendation: That the Board authorize award of the pump replacement parts for the Overland Trail Lift Station for \$32,948.26 to Flo-Systems in order to maintain reliable operation of the collections system and prevent spills.

Mr. Bebee reported the parts recommended for purchase will be used to overhaul two pumps located at the Overland Trail Lift Station in order to maintain sewer system operation and prevent spills. Mr. Bebee further reported there is only one supplier that can provide the pump replacement parts; therefore, the award is a sole source procurement. Mr. Bebee added that staff is currently evaluating long-term options for the pump station, but repairs are required in the interim. Mr. Bebee stated the recommendation is for the Board to award the replacement parts to Flo-Systems in the amount of \$32,948.26.

Brief discussion followed concerning the cost of new pumps, and Mr. Bebee stated new pumps would be considerably more because the pumps required are large, submersible pumps.

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

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

NOES: None

ABSTAIN: None

ABSENT: None

President Wolk announced that Item H would be considered next. Following the announcement, Director Gebhart read the following recusal 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 if it involves the contract for sale of the Santa Margarita River property with respect to Item H, Fire Management Plan for the Santa Margarita River Property, I am recusing myself from participating in any way on this agenda item because of my real property interest and my primary residence, and/or real property interests, and the access easement to the trails system."

Following his statement of recusal, Director Gebhart left the room at 5:06 p.m.

H. FIRE MANAGEMENT PLAN FOR THE SANTA MARGARITA RIVER PROPERTY

Recommendation: Staff supports Board direction.

Dr. Brady reported that Director Davies requested a fire management plan be placed on the agenda for consideration. The Santa Margarita River property is in the initial stages of sale to Western Rivers Conservancy, and as part of the process, a fire management plan is required to be developed within two years of the transfer of ownership, and Director Davies would like the Board to consider the development of the plan now rather than wait two years. Dr. Brady noted that a representative from North County Fire Protection District was present who may wish to provide comments.

Director Davies reiterated the management plan for the Santa Margarita River property requires a fire management plan to be developed within a two-year window. Following a historical overview of the fires that have burned in the Fallbrook region back to the 1950s, Director Davies reported that two burn piles were recently found in separate locations along the Santa Margarita River trails. Because of the approaching fire season and not knowing if the property sale will go through, Director Davies recommended the Board consider developing a fire management plan now rather than wait. Director Davies stated the Fire Safe Council previously created a plan for the whole river bottom, which included input from Cal Fire and other stakeholders.

Director McDougal inquired if developing a fire management plan would impact the property sale that is pending with Western Rivers Conservancy. Mr. Bebee suggested probably not since the buyer would have to develop the plan once the sale is final.

Mrs. Gebhart stepped to the podium and stated Sid Morel, who is a retired firefighter, is familiar with the Santa Margarita River property and does fire plans.

Mr. Bebee suggested staff research the cost of a fire management plan and bring a budget number back to the Board. If the Board directs staff to move forward, staff will initiate the formal request for proposals process and include Mr. Morel on the list.

MOTION: Director McDougal moved to direct staff to return to the Board with a cost estimate for a fire management plan; Director Davies seconded. Motion carried; VOTE:

AYES: Directors Davies, DeMeo, McDougal, and Wolk

NOES: None

ABSTAIN: None

ABSENT: Director Gebhart

Director Gebhart returned to the meeting at 5:20 p.m.

I. RESOLUTION NO. 4911 IN SUPPORT OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES' POLICY STATEMENT ON BAY-DELTA FLOW REQUIREMENTS

Recommendation: That the Board adopt Resolution No. 4911 in support of the Association of California Water Agencies' Policy Statement on Bay-Delta Flow Requirements.

Dr. Brady reported the Association of California Water Agencies (ACWA) has requested the District support the *Policy Statement on Bay-Delta Flow Requirements* to urge the State Water Resources Control Board to set aside its "unimpaired flow" approach to setting new water quality objectives in the Bay-Delta watershed. The proposal to base new water quality objectives on a "percentage of unimpaired flow" could lead to widespread following of agricultural land. Staff is recommending Resolution No. 4911 be adopted in support of ACWA's policy statement.

MOTION: Director Davies moved to approve staff's recommendation to adopt Resolution No. 4911; Director McDougal seconded. Motion carried; VOTE:

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

NOES: None

ABSTAIN: None

ABSENT: None

J. POTENTIAL MODIFICATION OF BOARD STANDING COMMITTEES

Recommendation: Staff supports Board direction.

Dr. Brady reported that staff is recommending the Board alter its standing committee structure, as outlined in the staff memo, as follows: (1) the Fiscal Policy &

Insurance Committee becomes the Finance and Audit Committee, (2) the Personnel Committee becomes the Planning and Administration Committee, and (3) the Water Resources Committee becomes the Engineering and Operations Committee.

Dr. Brady pointed out that in the past six months, the Fiscal Policy & Insurance Committee has met many times on a variety of issues, all with some elements of finance, while the two other standing committees met infrequently because their responsibility is limited to very narrow, specific items. Dr. Brady stated staff is recommending the structure change to three committees that would enumerate issues more clearly than the way they are currently enumerated in the Administrative Code and would afford staff greater flexibility in giving each committee very targeted issues. Dr. Brady further stated the Engineering and Operations Committee would be assigned a variety of capital improvement projects that staff believes should be reviewed at the committee level before being taken to the full Board. Staff is anticipating a number of significant changes to the Administrative Code that would be appropriate for the proposed Planning and Administration Committee to review prior to being taken to the full Board. Although staff supports the Board's direction, staff is recommending the proposed changes in the standing committee structure.

MOTION: Director Gebhart moved to change the name, structure, and responsibilities of the Board's three standing committees; Director McDougal seconded.

Director Davies stated he was not interested in making changes to the existing standing committees.

Mr. Bebee provided examples of three items that staff would like reviewed by a standing committee, as follows: (1) the San Diego County Water Authority agreement on the ESP Pump Station, (2) the Oceanside Outfall agreement, and (3) purchasing provisions. Mr. Bebee noted staff has contemplated having the Water Resources Committee review these items, but the Water Resources Committee's focus is very limited.

Director McDougal remarked he did not have a problem with the proposal and the changes appear to spread out and broaden responsibilities. Director McDougal pointed out the Board would continue to make final decisions on all matters.

Director Gebhart talked about how he was uncomfortable with the changes, such as removing the General Manager's review from the Personnel Committee's responsibilities and including responsibility for review of fiscal policies in the proposed Finance and Audit Committee structure.

Discussion ensued concerning the wording of the committee structure descriptions.

Director DeMeo requested the item be postponed until the next meeting.

Director McDougal suggested renumbering the descriptions of the proposed committees to track with the current committees and specify the net changes between the two for clarity.

Director Gebhart requested that staff include related policies that are being addressed to assist with comprehension of the proposed changes.

Director Gebhart withdrew his motion; Director McDougal withdrew his second.

President Wolk announced that Item J was continued to the next regular board meeting with staff to return with the additional information requested by the Board.

K. GENERAL MANAGER PERFORMANCE EVALUATION FORM

Recommendation: It is the recommendation of the Personnel Committee to adopt the use of the attached evaluation form during the annual General Manager Evaluation process to be completed June of each calendar year.

Director Davies, as Chair of the Personnel Committee, reported that Director DeMeo provided the evaluation form (attached to the staff memo) that she brought back from a California Special Districts Association conference. Out of the three or four evaluation forms reviewed by the Personnel Committee, this form was found to be the most robust. Director Davies further reported he made a composite form that totals the scores, provides signature lines for the Board President and the General Manager, and includes an area for the General Manager's comments.

Brief discussion ensued concerning errors in the evaluation form. It was noted the sections were not enumerated consecutively, and staff was directed to correct the evaluation form as discussed.

Director Gebhart asked to be reminded as a Board to do the evaluation each year. President Wolk noted the existing contract requires written evaluations in June. Director Davies recommended beginning the process in April.

Mrs. de Sousa Mills stated she would email the Board President on May 1 as a reminder to begin the evaluation process of the General Manager.

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

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

Director McDougal suggested the evaluation form be revised, as discussed, and provided to the Board Members within the next one-to-two weeks. The Board Members will complete the evaluation form and return the completed form to the Board President by the end of May.

Director Davies recommended the matter be discussed in closed session in May and June.

Mrs. de Sousa Mills clarified the General Manager's contract provides the evaluation to be done annually by June 30.

V. ORAL / WRITTEN REPORTS----- (ITEMS 1 – 7)

1. General Legal Counsel

- Mrs. de Sousa Mills provided an overview of bills affecting special districts.

2. SDCWA Representative/General Manager

- Dr. Brady reported the District will begin using FedEx to deliver 48-hour notices that will provide the District with a verified receipt as proof the notice was delivered. InfoSend, the District's billing service provider, has partnered with FedEx to offer this service to water agencies, and many agencies using the service have reported they are pleased with the results. The District currently charges customers \$30 per notice, and FedEx will charge a \$25 delivery fee per notice.
- Dr. Brady further reported that Director Gebhart has requested the Directors be provided the board packet electronically. To facilitate the request, the District would be required to purchase tablets for the Directors. Director Gebhart suggested the Directors also be provided with an email address for District business.

3. Administrative Services Manager/Treasurer

- Mrs. Eilers provided an overview of the financial and investment reports in the board packet.
- Mrs. Eilers reported that one of the corporate notes in the Investment Portfolio is a Wells Fargo. The Office of the Comptroller of the Currency gave Wells Fargo an overall Community Reinvestment Act rating of "needs to improve," and PFM is holding those securities pending input from legal counsel.

4. Assistant General Manager

- Mr. Bebee reported the County of San Diego will begin repaving South Mission Road tomorrow.
- Mr. Bebee further reported a meeting with resources agencies will take place tomorrow concerning the Santa Margarita River property. Initial feedback from the U.S. Fish and Wildlife Service indicates there may be some challenges to overcome that may cause delays.
- Mr. Bebee pointed out that professional service vendors are listed on page 98 of the board packet.
- Mr. Bebee remarked nine valves were replaced during the recent emergency repairs at Alvarado Street.
- Mr. Bebee added the new website provides a tool for District staff to notify ratepayers of emergency repairs, outages, and other service-related news.

5. Public Affairs Specialist

- Mrs. Denke reported the website launched in early April and has received a very positive response. The new site has a section whereby construction projects are being posted and whether or not they have traffic impacts. There is also a robust Human Resources page and job seekers can request to receive an email when a job they are interested in becomes available. Specialized maps expand and contract to show every street in our service area, as well as an overall birds-eye view of our district boundaries. All posts and updates are being done in-house; several employees are posting in their appropriate areas: Noelle (main content, verbiage and images; general oversight), Mary Lou (board materials), Ace Rule (human resources), Kelly and Joye from engineering are posting Bids and RFPs, Mick Cothran is posting emergency notifications -- including weekends and after-hours.

6. Director Comments/Reports on Meetings Attended

- Director DeMeo reported she attended the Council of Water Utilities meeting and Gary Arant, the general manager of the Valley Center Municipal Water District, spoke on the history of water regulations in California.
- President Wolk reported a memo was distributed from the Water Resources Committee concerning the Cadiz Project in the Mojave Desert. At this time, the committee is not recommending the District enter into an agreement, but staff will continue to monitor the project.
- President Wolk further reported a handout titled "Auditor Rotation Requirements for Annual Audits of Local Governments" was distributed.

7. Log of Board Requests

- President Wolk noted the Log of Board Requests was included in the board packet.

Mrs. de Sousa Mills, General Legal Counsel, announced Closed Session Item VI.(1) and Closed Session Item VI.(2) by reading the agenda descriptions out loud.

Following Mrs. de Sousa Mills announcement, Director Gebhart read the following recusal 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 the Closed Session Item under "Conference with Real Property Negotiators" just announced to be discussed in Closed Session, I am recusing myself from participating in any way in that Closed Session item during the discussion or any action taken on the agenda item."

ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 6:19 p.m.

VI. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION SIGNIFICANT EXPOSURE TO LITIGATION PER GC § 54956.9 (d)(2): ONE POTENTIAL CASE
2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PER GC § 54956.8: PROPERTY: 1492 NORTH STAGECOACH LANE, FALLBROOK, CA; AGENCY NEGOTIATOR: JACK BEBEE; NEGOTIATING PARTIES: BRUCE E. SCHWANDT, TRACEY L. SCHWANDT; UNDER NEGOTIATION: PRICE AND TERMS OF PAYMENT

RECONVENE TO OPEN SESSION

The Board returned from Closed Session and reconvened to Open Session at 6:43 p.m. Director Gebhart left Closed Session at 6:32 p.m. after discussion on Closed Session Agenda Item VI.(1) had concluded and prior to the Board discussing Closed Session Agenda Item VI.(2).

REPORT FROM CLOSED SESSION (*As Necessary*)

President Wolk announced there was no reportable action taken in Closed Session.

VII. ADJOURNMENT OF MEETING

There being no further business to discuss, President Wolk adjourned the Regular Meeting of the Board of Directors of the Fallbrook Public Utility District at 6:44 p.m.



President, Board of Directors

ATTEST:



Secretary Board of Directors