

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

MINUTES

**MONDAY, MAY 22, 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 4:00 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
Jason Cavender, System Operations Manager
Antonio Campos, Plant Maintenance Worker II
Marcie Eilers, Administrative Services Manager / Treasurer
Jeff Marchand, Engineering Technician III
Mary Lou West, Secretary

Also present were others, including, but not limited to: Helene Brazier, Peter Colby of Western Rivers Conservancy, Joe Comella, Donna Gebhart, Zach Kantor-Anaya and Paul Melzer of The Wildlands Conservancy, and Steve Lopardo of the Law Offices of Stephen V. Lopardo.

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

Director Gebhart requested that Item H be removed from the agenda and postponed to the next meeting.

MOTION: Director Davies moved to approve the agenda as revised, with the removal of Item H; Director Gebhart 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.

There were no comments from members of the public on items within the subject matter jurisdiction of the legislative body and not listed on the agenda.

A. EMPLOYEE OF THE QUARTER FOR MAY 2017
1. Antonio Campos

The Board commended Antonio Campos for being chosen as the Employee of the Quarter for May 2017 by Jamison Davis, the previous Employee of the Quarter.

Mrs. Denke took a photograph of President Wolk congratulating Mr. Campos.

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

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. APPROVAL OF MINUTES
1. Regular Board Meeting of April 24, 2017

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

C. NOTICE OF COMPLETION – PLANT 2 FORCE MAIN REPLACEMENT

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

D. NOTICE OF COMPLETION – 1 MG RESERVOIR

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

E. ADOPTION OF RESOLUTION NO. 4912 SETTING THE 2017-18
APPROPRIATION GROWTH RATE

Recommendation: The Board adopt Resolution No. 4912 setting the tax appropriation limit for 2017-18 at \$2,933,265, which includes the Fallbrook and DeLuz service areas and Improvement District "S".

MOTION: Director McDougal moved to approve the Consent Calendar as presented and adopt Resolution No. 4912; Director DeMeo seconded. Motion carried; VOTE:

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

NOES: None

ABSTAIN: None

ABSENT: None

III. **INFORMATION**----- (ITEMS F – G)

President Wolk announced that Item F 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 if it involves the contract for sale of the Santa Margarita River property, with respect to Item F, 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 meeting at 4:06 p.m.

F. UPDATE ON THE SANTA MARGARITA RIVER PROPERTY

Presented by: Jack Bebee, Assistant General Manager

Mr. Bebee announced the Santa Margarita River property purchase agreement term ends at the end of June and representatives from Western Rivers Conservancy

(Western Rivers) and The Wildlands Conservancy (Wildlands) would be providing the Board with a status update concerning the transaction.

Mr. Peter Colby of Western Rivers stepped to the podium. Mr. Colby referenced his letter dated May 16, 2017, which was included in the board packet, requesting a one-year extension of the purchase agreement from June 30, 2017. Mr. Colby stated Western Rivers' focus has been to develop and revise the management plan to form a consensus among the parties, which includes the Fallbrook Trails Council, community members, and the agencies. Mr. Colby further stated that within the next few months a revised management plan would be developed and will provide the predicate for all of the acquisition funding and the management funding to complete the project.

Mr. Zach Kantor-Anaya of Wildlands stepped to the podium. Mr. Kantor-Anaya explained the parties recently made significant progress as set forth in the May 16, 2017 letter from Western Rivers. The parties have been working with the United States Fish and Wildlife Service (USFWS) on measures that will facilitate acquisition funding, and meetings have been held in the field with the Fallbrook Trails Council and the District towards those efforts. Once the revised management plan has been developed, it will be presented to the Board for approval.

Mr. Paul Melzer of Wildlands stepped to the podium and on behalf of their Executive Director, expressed support of the extension requested by Western Rivers. Mr. Melzer reported that progress has been made, most recently through the Carlsbad meeting and the site visit that followed, and the resource agencies have shown a willingness to work with the stakeholders.

Mrs. Donna Gebhart stepped to the podium on behalf of the Fallbrook Trails Council and expressed concern with comments made by the state and federal agencies and a remark made by a state staff member at the May 12 meeting. Mrs. Gebhart stated she received Mr. Colby's letter and discussed the letter with Western Rivers and Wildlands. Mrs. Gebhart further stated she was agreeable to a 60-day extension of time contingent upon something in writing on letterhead.

Director DeMeo asked Mrs. Gebhart what the state said that caused concern, and Mrs. Gebhart stated she asked the state's staff member how they felt "about what Pete Beck was saying" and the staff member said they "would probably follow the feds."

Mr. Bebee explained the federal agency has a stronger stake in the matter since it affects the project on Base. As a result, the feds are leading the way and although the state's comments have caused concerns, subsequent interactions and discussions have been positive.

Director McDougal asked Mrs. Gebhart for clarification concerning 1) why a 60-day extension and 2) what is being requested in writing and from whom. Mrs. Gebhart suggested they could do something in 60 days and would like something in writing on letterhead from the state and the feds prior to a long extension. Director McDougal

emphasized the District retains the option of not following through with the sale if any terms are found unacceptable by the Board.

Director Gebhart returned to the meeting at 4:29 p.m.

G. UPDATE ON THE SAN DIEGO COUNTY WATER AUTHORITY (SDCWA)
EMERGENCY AND CARRYOVER STORAGE PROJECT

Presented by: Jack Bebee, Assistant General Manager

Mr. Bebee reported the SDCWA has been working on the Emergency and Carryover Storage Project (E&CSP) for years, which involves Olivenhain Reservoir and a number of pump stations. The E&CSP provides water to member agencies during a major disruption to the aqueduct, and the E&CSP does not have the facilities to provide water to the northern portions of Fallbrook during an emergency. The SDCWA has proposed a pump station be built near Red Mountain Reservoir that would provide water to those areas during an emergency. The SDCWA would fund the project and the District would own and operate the pump station, as more fully described in the "Principles of Understanding" document. Additionally, the pump station would benefit the District during non-emergency operations.

Dr. Brady provided an overview of the costs and emphasized the "Principles of Understanding" document would not commit the District to the project. In response to questions, Dr. Brady clarified that signing the "Principles of Understanding" is an initial step and the formal agreement would be reviewed by General Legal Counsel and brought to the Board for approval.

Item H was removed from the agenda at the request of Director Gebhart.

IV. ACTION / DISCUSSION CALENDAR -----(ITEMS H – O)

I. PARTICIPATION IN THE UNIFORM PUBLIC CONSTRUCTION COST
ACCOUNTING ACT PROCEDURES

Recommendation: The Act offers significant benefits to the District's procurement methods. It is recommended that the Board direct staff to proceed with formalizing this process with legal counsel for consideration at the next Board meeting.

Mr. Bebee reported that District staff and General Legal Counsel have been working on a comprehensive update to the Administrative Code relative to procurement methods. As a result, the procurement processes in the Public Utility District Act (PUD) that were adopted in the 1940s were reviewed and found to be archaic and difficult to comply with. Moreover, municipal water districts do not experience compliance issues because their code has been updated. By opting into the Uniform Public Construction Cost Accounting Act (Act) procedures, the District would have the flexibility in

procurement similar to a municipal water district. Mr. Bebee recommended the District opt into the Act.

Mrs. de Sousa Mills described the purchasing process required by the PUD and noted that most purchases require a formal notice by publication in a newspaper of general circulation for 10 days. The Act would provide the District with flexibility in advertising and limits, would streamline the process, and would be less costly than the current process. Mrs. de Sousa Mills noted that many agencies have opted into the Act and it works well for them.

Mr. Bebee reported that although the District posts bids on its website and through other sources, those methods do not meet the noticing requirements of the PUD.

Mrs. de Sousa Mills discussed the legal definition of a newspaper of general circulation as prescribed by law. Those newspapers are adjudicated by the court and included on a "List of Approved Newspapers."

Discussion ensued concerning the requirements of the Act, specifically job cost accounting processes. Mrs. de Sousa Mills reported that Mrs. Eilers reviewed the job cost accounting requirements of the Act and determined the District has the ability to comply with those requirements.

MOTION: Director Gebhart 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

J. MANHOLE REHABILITATION SERVICES PROJECT AWARD

Recommendation: That the Board authorize award of the Manhole Rehabilitation Services Project to the apparent lowest responsible bidder of Zebron Contracting at an amount of \$23,925.

Mr. Bebee reported that staff is recommending award of the rehabilitation of 11 manholes to Zebron Contracting for \$23, 925, which is less than the amount budgeted. Mr. Bebee explained the rehabilitation of manholes has been included in each year's budget and will also be included in next year's budget. The work consists of resurfacing and recoating the inside of manholes that will maintain the integrity of the sewer collections system.

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

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

President Wolk announced that Item K 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 if it involves the contract for sale of the Santa Margarita River property, with respect to Item K, 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 meeting at 4:57 p.m.

K. FIRE MANAGEMENT PLAN FOR THE SANTA MARGARITA RIVER PROPERTY

Recommendation: If the Board wishes to pursue this effort, that the Board direct staff to solicit for professional services to prepare a Fire Management Plan for the Santa Margarita River Property. Staff will bring back their recommendation for award to the Board for approval.

Mr. Bebee reported the Board directed staff to gather information relative to the development of a Fire Management Plan. Mr. Bebee provided an overview of the potential tasks that could be included in a Fire Management Plan and the estimated cost to develop a plan. Mr. Bebee stated that if the property sale was finalized, the new property owner would have the option of implementing some or all of a plan developed by the District. If the property sale fell through and a Fire Management Plan was in place, there would be costs associated with performing the tasks outlined in the plan. Mr. Bebee asked if the Board would like staff to solicit for professional services to prepare a Fire Management Plan for the Santa Margarita Property.

MOTION: Director McDougal moved to "move forward" with a Fire Management Plan; Director Davies seconded.

Director McDougal inquired if there were legal issues associated with not having a Fire Management Plan and suggested it could cost \$50,000 to develop the plan and hundreds of thousands of dollars to implement it. Director McDougal asked if in the event of a fire, the District could be held negligent for not having a Fire Management Plan. He also suggested the Board review existing plans to determine the need of developing a plan.

Director Davies remarked he was in favor of issuing a request for proposals, and Mr. Bebee suggested holding off on issuing a request for proposals unless the Board was certain it wished to move forward with developing a Fire Management Plan.

In response to President Wolk, Mr. Bebee explained the Board requested information on a Fire Management Plan and a plan is part of the Long Term Steward Agreement. Discussion ensued, and it was noted the long term steward would have the option of implementing a plan that was developed by the District.

As a result of questions surrounding potential liability issues, Mrs. de Sousa Mills proposed to review the Purchase and Sale Agreement and speak with Mr. Lopardo relative to the Board's concerns.

Director McDougal questioned if implementing a Fire Management Plan would disrupt the environment and create problems with governmental agencies.

Director Davies reiterated he would like to see a request for proposals and pointed out that discussion of a Fire Management Plan began with a proposal to establish three refuge areas at Sandia, the pit, and Willow Glen.

President Wolk stated he was not in favor of issuing a request for proposals if the Board was not committed to the development of a Fire Management Plan.

Director McDougal suggesting limiting the current action to gathering samples of plans for review by the Board. Director McDougal withdrew his motion.

By consensus, the Board directed staff to return with samples of Fire Management Plans.

Director Gebhart returned to the meeting at 5:15 p.m.

L. N. BRANDON AND E. ALVARADO SEWER REPLACEMENT PROJECT

Recommendation: That the Board authorize award of the N. Brandon and E. Alvarado Sewer Replacement Project to the lowest responsible bidder of CCL Contractors at an amount of \$1,379,000 to replace the deficient sections of the sewer line in Brandon Road and in Alvarado Street.

Mr. Bebee stated the sewer line that runs down Brandon and Alvarado requires replacement due to its age and composition. The line begins at Mission Road and ends across Main Street. As a result, construction will impact traffic and a number of businesses along that route. The lowest bidder was CCL Contractors in the amount of \$1,379,000, and CCL Contractors has satisfactorily performed work for the District in the past. The FY 2017-18 draft budget includes \$1.5 million for the project, and the contract term is 240 calendar days.

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

M. DEVELOP A POLICY FOR CLOSING THE FISCAL YEAR

Recommendation: *No action at this time. Staff to report back in June with information from other agencies on their closing procedures and timelines.*

Mrs. Eilers reported that due to the Springbrook conversion and the three general ledger account numbers that were not in balance, the most recent audit was delayed. Consequently, the Fiscal Policy & Insurance Committee requested that staff develop a written policy to close the month and year in preparation of the audit. Mrs. Eilers further reported she polled other North County agencies concerning their policies and four agencies have responded thus far. The responses from those four agencies indicated none had a written policy to close their year.

President Wolk commented that the Board, the Fiscal Policy & Insurance Committee, and staff should work together to make the process faster.

Director Gebhart stated the Fiscal Policy & Insurance Committee brought this item to the full Board to assist staff with the process and to develop a written policy with guidelines. Director Gebhart suggested that if additional support was needed to close the year in a timely manner, temporary staff or an auditor could be retained to fill that need.

Director McDougal asked if the delay was due to Springbrook; and if so, how long did it take to close the year in the past.

Mrs. Eilers explained the delay was due to Springbrook and in prior years, the close was done by mid to late August and the audit was presented to the Board in October or November.

Director McDougal remarked the close should take no longer than 60 days and footnotes could be utilized for items that require additional information.

Dr. Brady pointed out that closing by August would meet a 60-day goal; however, a qualified report would be prevented by taking the extra time to resolve outstanding items.

President Wolk emphasized the goal should be to identify problems and have those problems fixed, or identify the process to have them fixed, soon after the 4th of July holiday.

Director McDougal proposed developing a policy that would require the year be closed within 60 days, and if the deadline was not met, staff would return to the Board with an explanation and solutions to resolve the delay.

Dr. Brady remarked the item would be brought back to the Board at the next regular board meeting.

N. ACCEPTANCE OF DEBT MANAGEMENT POLICY

Recommendation: That the Board accept the Debt Management Policy as recommended by the Fiscal Policy & Insurance Committee.

Dr. Brady reported that a Debt Management Policy (Policy) is required as part of the application process for the State Revolving Fund loan for the Santa Margarita Conjunctive Use Project. Dr. Brady further reported PFM has done the majority of the work to develop the Policy for the District. The Policy was reviewed by the Fiscal Policy and Insurance Committee last week.

Director Gebhart asked if the fee to develop the Policy was part of PFM's monthly fee for services, and Mrs. Eilers stated it was an additional cost. Director Gebhart pointed out the importance of the Policy since the District would be prevented from borrowing money without it.

MOTION: Director Davies moved to approve staff's recommendation pending review by General Legal Counsel; and if any substantive changes are made by General Legal Counsel, the Debt Management Policy will be brought back to the Board for approval; Director Gebhart seconded. Motion carried;
VOTE:

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

O. REPLACEMENT OF ONE CONSTRUCTION CREW TRUCK

Recommendation: That the Board approve the purchase of one Ford F550 4x2 for \$75,325.19 from North County Ford in Vista, the lowest responsive bidder, in order to maintain a reliable District fleet to complete necessary infrastructure repairs and replacement.

Mr. Bebee reported that staff is requesting the replacement of a construction crew truck that is 24 years old and in poor condition. The District went out for bids, and North County Ford was the lowest responsive bidder in the amount of \$75,325.19, which was below the amount budgeted. Mr. Bebee pointed out the vehicle was

identified for replacement in the Fleet Replacement Program, which was previously reviewed by the Board, and the evaluation form was included in the staff memo.

Discussion ensued concerning the District's fleet and the types of trucks needed by the crews in the field. President Wolk inquired if additional trucks were scheduled for replacement in the near future. Mr. Bebee referenced the Fleet Replacement Program that includes the scheduled replacement dates and noted a number of vehicles were allowed to age-out in the past several years.

President Wolk commended the progress made to date, but requested the point score card be included for the public record. Mr. Bebee noted the score card was included in the staff memo and the points were explained on the last page; however, the card could be expanded and improved. President Wolk requested that the Diagnosis Code and Code Description columns also be clarified.

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

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 provided an overview of the current status of the SDG&E rate case, specifically as it applies to solar rates.

3. Administrative Services Manager/Treasurer

- Mrs. Eilers pointed out an additional \$500,000 was transferred to PARS, per the Board's action, and the transfer is shown on page 87 of the board packet. Mrs. Eilers also pointed out that investment returns continue to climb.

4. Assistant General Manager

- There was no oral report presented by Mr. Bebee.

5. Public Affairs Specialist

- The Fallbrook Chamber of Commerce recognized the District for being the longest serving member of 51 years.
- President Wolk was bestowed with a Lifetime Achievement award by the Fallbrook Chamber of Commerce.
- Mrs. Denke obtained free home test kits from the Home Depot as a giveaway to customers.

6. Director Comments/Reports on Meetings Attended

- Director McDougal announced the Grand Tradition would be hosting a campaign fundraiser for Jim Desmond who is running for Seat 5 on the Board of Supervisors for the County of San Diego.
- President Wolk announced he approved his and Director DeMeo's attendance to a Santa Margarita River property meeting on April 25, 2017, which arose after the March board meeting.

7. Log of Board Requests

Mrs. de Sousa Mills, General Legal Counsel, announced Closed Session Item VI.(1) and Closed Session Item VI.(3) by reading the agenda descriptions out loud.

Mrs. de Sousa Mills noted that Closed Session Item VI.(2) was included on the agenda as a placeholder and would not be discussed during Closed Session.

ADJOURN TO CLOSED SESSION

The Board adjourned to Closed Session at 5:55 pm.

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
3. 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 6:10 p.m.

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 6:11 p.m.



President, Board of Directors

ATTEST:



Secretary, Board of Directors