

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE FALCON HIGHLANDS METROPOLITAN DISTRICT HELD APRIL 6, 2013

A special meeting of the Board of Directors of Falcon Highlands Metropolitan District was held on Saturday, April 6, 2013 at the Water Treatment Plant, 7464 Antelope Meadows Circle, Peyton, CO 80831 at 10:00 a.m. The meeting was open to the public.

Attendance Directors in attendance were:

Al Smith
Timothy Ladd
Mark Albright
Heather Knuffke

Others in attendance:

David Peak; CliftonLarsonAllen LLP
Carrie Bartow; CliftonLarsonAllen LLP
Barbara Vander Wall, Esq.; Seter & Vander Wall, P.C.
Jeffrey Erb, Esq.; Seter & Vander Wall, P.C.
Tom Napolilli; Kennedy / Jenks Consultants
Leo Winner; Resident

**Call to Order /
Verify Quorum**

Director Albright called the meeting to order and confirmed a quorum.

**Approval of
Agenda**

Following review, upon a motion duly made by Director Albright, seconded by Director Ladd and, upon vote, unanimously carried, the Board approved the agenda as amended, adding an Executive Session to discuss certain water negotiations and to receive legal advice.

**Community
Comment**

Mr. Winner addressed the Board. He discussed his concerns regarding new homes being built by Campbell Homes in Filing 1, the roads, monuments, and communication to the community about Board activities.

The Board members discussed with Mr. Winner their concerns about these topics. First, the Board reminded Mr. Winner that the District does not have authority over construction and platting issues. These are issues that should be addressed by El Paso County or by the community's approving authority. The Board also discussed the potential for increased home density in Filing 3, which is being

RECORD OF PROCEEDINGS

explored by Challenger Homes. The Board suggested that Mr. Winner follow up with the County regarding his concerns about this possibility.

In response to the roadway concerns, the Board stated that it has hired an engineer to evaluate the roads. Costs to make repairs have been estimated to exceed \$1 million which the District does not have available at this time. Further, the roads were built by the former developer and some money was placed with El Paso County as a bond to help ensure completion. The District is concerned about spending its revenues on repairs that could be paid for by subdivision improvement bond funds, but needs help from El Paso County to obtain the funds. Nevertheless, the District is proceeding with some small repairs in the next month or two and hopes to have a portion of the roads transferred to El Paso County for ownership and future maintenance.

The District has explored possibilities for installing monuments in the past, but was challenged in finding an appropriate parcel of land where a monument may be located. The Board has currently put the project on hold due to more pressing issues.

Regarding improved communication, the Board noted that it hopes to have a new website available by mid-April, which will contain updated information about upcoming Board meetings, agendas, and approved meeting minutes for review by the residents.

Mr. Winner left the meeting at this time.

Executive Session

Upon approval by a vote of two-thirds of a quorum of the Board, the Board determined to go into Executive Session for the purpose of consulting with the attorney on specific issues and developing negotiating positions relative to certain water matters, pursuant to C.R.S. § 24-6-402(4)(b) and (e), at approximately 10:45 a.m.

The Board reconvened at approximately 12:02 p.m. and affirmed that no actions had been taken during the Executive Session.

Administrative Matters

A. Consider Approval of January 26, 2013 Special Board Meeting Minutes

Following review and discussion, upon a motion duly made by Director Smith, seconded by Director Ladd, upon vote, unanimously carried, the Board approved the January 26, 2013 special board meeting minutes as presented.

RECORD OF PROCEEDINGS

Manager Items

A. Engineer's Report / Tom Napolilli

Mr. Napolilli reported that the District's third well, the Laramie-Fox Hill Well No. 2, should be approved for use by the State of Colorado shortly. He noted that this is good news considering the arrival of the summer and irrigation season.

B. Water Plant Operations

Nothing further to report at this time.

Legal Matters

A. Legal Report

Ms. Vander Wall directed the Board members to her written legal report included in the meeting materials.

B. Review and Consider Accepting Well Easements

Mr. Erb updated the Board on the status of the easement negotiations with Cygnet Land, LLC related to the Laramie-Fox Hills Well No. 2. He noted that the easements are ready to be signed, subject to final review by legal counsel, but that Cygnet is still working with its bank to obtain the bank's consent to the easements. He recommended that the Board approve the easements now in anticipation of obtaining Cygnet's signature in the near future. Following review and discussion, upon a motion duly made by Director Smith, seconded by Director Knuffke and, upon vote, unanimously carried, the Board approved the well easements with Cygnet, subject to final review by counsel.

C. 2013 Water Restrictions / Penalties

1. Review and Consider Adopting 2013 Mandatory Watering Restrictions Resolution

Mr. Erb distributed a proposed resolution adopting water restrictions for 2013 and penalties for violation. He noted that most of the Front Range is entering into its second year of drought and that almost all water providers are enacting some level of water restrictions for the summer. The Board discussed the restrictions and requested a clarification that the restrictions are for outdoor irrigation. Following review and discussion, upon a motion duly made by Director Ladd, seconded by Director Knuffke and, upon vote, unanimously carried, the Board adopted the 2013 Mandatory Watering Restrictions Resolution as amended, including a clarification that the special use permit for the establishment of landscaping is only available in April, May, September and October.

RECORD OF PROCEEDINGS

2. Review and Consider Adopting 2013 Drought Surcharge Resolution

Mr. Erb presented a proposed resolution adopting a drought surcharge for 2013. Mr. Erb noted that the surcharge should help encourage water conservation and will help replace some of the District's lost revenues due to the lower water consumption. Mr. Napolilli suggested that the Board adopt different surcharges for residential, commercial and irrigation customers, noting that irrigation/outdoor use is the area where water conservation is the easiest. The Board discussed various surcharge options and noted that the irrigation taps are very high water users during irrigation season. Following review and discussion, upon a motion duly made by Director Smith, seconded by Director Ladd and, upon vote, unanimously carried, the Board adopted the 2013 Drought Surcharge Resolution as amended.

3. Review and Consider Adopting 2013 Penalties for Violation of Mandatory Water Restrictions

Mr. Erb presented a proposed resolution adopting penalties for violation of the 2013 watering restrictions, noting that the District needs to be able to enforce the restrictions to help ensure compliance. The Board discussed the various penalties and enforcement. Following review and discussion, upon a motion duly made by Director Ladd, seconded by Director Knuffke and, upon vote, unanimously carried, the Board adopted the 2013 Penalties for Violation of Mandatory Water Restrictions Resolution as amended.

The Board authorized the posting of water restrictions and penalties on the District's new website – www.falconhighlandsmetro.org and approved mailing of the notice of mandatory watering restrictions to the residents of the District.

Financial Matters

A. Ratify Approval of Claims Totaling \$64,299.10, Represented by Check Numbers 1629 through 1665

Upon a motion duly made by Director Smith, seconded by Director Albright and, upon vote, unanimously carried, the Board ratified approval of claims totaling \$64,299.10, represented by check numbers 1629 through 1665.

B. Review and Consider Approval of Current Claims

Mr. Peak presented the current claims to the Board. Following review and discussion, upon a motion duly made by Director Albright, seconded by Director Smith and, upon vote, unanimously carried, the Board approved the claims totaling \$5,442.50, represented by check numbers 1666 through 1672.

RECORD OF PROCEEDINGS

- C. Review and Consider Approval of Unaudited Financial Statements as of December 31, 2012

Ms. Bartow reviewed the unaudited financial statements as of December 31, 2012 with the Board. The Board accepted as presented.

- D. Briefly Discuss Information Found in Files from Former Bond Counsel

Ms. Vander Wall reported to the Board on the boxes of bond documents received from the District's former bond counsel. The boxes appear to contain some documents supporting the District's debt issuance and also various copies of bond documents. The documents will need to be more thoroughly reviewed to determine their usefulness in unraveling the District's debt history.

Director Items

Director Smith inquired about the status of the \$50,000 in road repairs. Mr. Peak informed the Board that Mr. Barnett would be meeting with the County and the contractor to get the work scheduled to begin this month.

Other Business

- A. Set Next Board Meeting – Monday, May 6, 2013 at 6:00 p.m.

The Board confirmed a quorum for the next meeting.

Adjournment There being no other business to come before the Board, upon a motion duly made by Director Albright, seconded by Director Smith and, upon vote, unanimously carried, the Board adjourned the meeting at 1:50 p.m.

Respectfully submitted,

By: 

Secretary for the Meeting