

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
FALCON HIGHLANDS METROPOLITAN DISTRICT
HELD
APRIL 8, 2024

A regular meeting of the Board of Directors of the Falcon Highlands Metropolitan District (referred to hereafter as the “Board”) was convened on Monday, April 8, 2024 at 5:30 p.m. The District Board meeting was held at the Falcon Fire Department Community Room, 7020 Old Meridian Road, Peyton, Colorado, 80831 as well as virtually via Microsoft Teams. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Tonia Joyner, President
Erin Ganaway, Treasurer/Assistant Secretary
Tim Dickey, Secretary
Leo Schumacher, Director
Joshua Whittle, Director

Also, In Attendance Were:

Josh Miller and Korben Heim; CliftonLarsonAllen, LLP (“CLA”)
Barbara Vander Wall, Esq.; Seter, Vander Wall & Mielke, P.C.
Ryan Mangino and John McGinn; RESPEC
Wayne Williams; Designated Election Official
Kayla Higbee, Elizabeth Geitzenauer, Kyle Geitzenauer, Susanne Pestcoe, Jason Pestcoe, Jason Johnson, Robert Aamodt, Cristina Welch, Debbie Shay, Bertha MacMillan, Donald McNeil, and other Members of the public

ADMINISTRATIVE MATTERS

Call to Order and Agenda: Upon a motion duly made by Director Joyner, the Board called the meeting to order at 5:34 p.m.

The Board reviewed the agenda. Following review, upon a motion duly made by Director Ganaway, seconded by Director Joyner and, upon vote, unanimously carried, the Board approved the agenda, as amended, with amending the language of Item VI.B. to remove the reference to “Phase 4” and adding Item VI.C regarding a proposal for the excavation and cleanout at 7745 Antelope Meadows Circle.

Quorum, Director Qualifications, Disclosure Items: It was noted that a quorum of the Board was present. The Board discussed the requirements of Colorado law to disclose any potential conflicts of interest or potential breaches of fiduciary duty of the Board of Directors to the Secretary of State. The members of the Board were requested to disclose any potential conflicts of interest regarding any matters scheduled for discussion at this

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meeting and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with statute. It was noted that disclosures of potential conflicts of interest were filed with the Secretary of State for all Directors; no additional conflicts were disclosed.

EXECUTIVE SESSION

Pursuant to Section 24-6-402(4)(b) and (e), C.R.S., for the purpose of (1) receiving legal advice related to questions concerning construction, conveyance, ownership, liability and related matters involving underdrain improvements and groundwater issues; and (2) determining positions relative to underdrain and groundwater issues that may be subject to negotiations and developing strategy for negotiations: Upon a motion duly made by Director Joyner, seconded by Director Schumacher, upon a vote, unanimously carried, the Board entered into executive session pursuant to Section 24-6-402(4)(b) and (e), C.R.S., for the purpose of (1) receiving legal advice related to questions concerning construction, conveyance, ownership, liability and related matters involving underdrain improvements and groundwater issues; and (2) determining positions relative to underdrain and groundwater issues that may be subject to negotiations and developing strategy for negotiations at 5:36 p.m.

Upon a motion duly made by Director Joyner, seconded by Director Dickey and, upon vote, unanimously carried, the Board exited out of executive session at 7:05 p.m. No action was taken.

CONSENT AGENDA

The Board considered the following items under the Consent Agenda:

- March 11, 2024 regular Board meeting minutes.
- Previous Claims and Current Claims.
- Unaudited Financial Statements dated February 29, 2024.

Upon a motion duly made by Director Joyner, seconded by Director Schumacher and, upon vote, unanimously carried, the Board approved the Consent Agenda, as presented.

FINANCIAL MATTERS

None.

MANAGER MATTERS

Public Comment:

- Robert Aamodt: Mr. Aamodt requested assurance for the property owners that the lateral lines will not be compromised due to the ongoing work. He discussed his view of the message to the Ground Water Commission prepared by counsel engaged by the District as not taking responsibility on the underdrain. Mr. Aamodt requested

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the Board to consider a second comment period.

- Jason Pestcoe: Mr. Pestcoe reported his concerns for the District responsibility being in place regarding the underdrain. He stated he is considering obtaining legal advice and possibly taking legal action against the District. Ms. Vander Wall responded on the question of District responsibility, noting that no position has been made by the District at this time. Discussion ensued regarding acknowledgement of several parties, such as the District, El Paso County, Ground Water Commission and homeowners, are involved and the ongoing question of what taking on underdrain maintenance responsibility means for any party to do so. Mr. Pestcoe requested to be provided more information as appropriate and available. Mr. Miller stated this will be the case at future District meetings.
- Cristina Welch: Ms. Welch inquired about the manager resolution. Mr. Miller noted it was approved with certain edits approved by the Board during the previous meeting.

Manager Report: None.

ENGINEERING MATTERS

Engineer Report: Mr. Mangino reviewed the report that was enclosed in the packet, noting next steps for the underdrain progress is excavating around 7745 Antelope Meadows Circle to investigate the remaining pumping.

Agreement for Services at 7745 Antelope Meadows Circle between the District and UMI: Following discussion, upon a motion duly made by Director Joyner, seconded by Director Schumacher and, upon vote, unanimously carried, the Board approved the Agreement for jetting and three CCTV inspections of 7745 Antelope Meadows Circle between the District and UMI.

Agreement for Services at 7745 Antelope Meadows Circle between the District and Beers Construction LLC: Following discussion, upon a motion duly made by Director Joyner, seconded by Director Schumacher and, upon vote, unanimously carried, the Board approved the Agreement for cleanout installation at 7745 Antelope Meadows Circle between the District and Beers Construction LLC.

Discussion ensued regarding Phase 3 work, noting the sinking in the excavation site, and that the signage is still in place. Traffic damage and/or wear and tear concerns were noted. Follow up is needed with the County.

LEGAL MATTERS

Recall Election: Mr. Williams presented the next steps for the recall election, noting he has met with the County regarding ballot coordination. The County

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declined with facilitating in the election. He noted timing concerns due to the ongoing primary and voter confusion. Discussion ensued regarding the challenges and recounts. Preference to request permission to use the County drop boxes was noted. Discussion ensued regarding resignations during the election process, replacement of directors/successor candidates. The self-nomination form deadline is May 13th, with the Director statements as to why not to hold a recall election due by May 17th. Discussion ensued regarding what happens if the public asks board members under recall to resign but none do so.

The election date was discussed. Attorney Vander Wall acknowledged Mr. Williams suggestion that it be held after the primary election to avoid ballot confusion. Following discussion, upon a motion duly made by Director Joyner, seconded by Director Dickey and, upon vote, unanimously carried, the Board scheduled a special meeting for April 22nd at 6:00 p.m., to be held virtually, to set a mail ballot recall election date of July 16, 2024.

DIRECTOR
MATTERS

None.

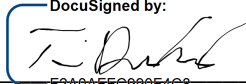
OTHER BUSINESS

None.

ADJOURNMENT

There being no further business to come before the Board at this time, the Board adjourned the meeting at 8:11 p.m.

Respectfully submitted,

By  _____
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Secretary