

PAINT BRUSH HILLS METROPOLITAN DISTRICT
Minutes, Board of Directors Meeting
Falcon High School
Thursday, January 17, 2013

1. **Call to Order** – Meeting called to order by Director Kim Griffin at 7:05 p.m. Directors Doug Burrer, David Dalton, and Calvin Pollard were present, as well as District Administrator Ellen Robley, Operator Steve Knepper, Office Assistant Theresa Jameson, and the District's legal counsel, Pat Hrbacek (Forbush Legal Offices, PC). Bond counsel Brent Kline (Kline Alvarado Veio, PC) was present by phone for a portion of the meeting. Two (2) residents, Floyd Roberts and Rodney Cohrs, were also present as candidates for the vacant board seat. No other public was in attendance at the meeting.

By consensus, the Board agreed to extend professional courtesy to Kline and address item 4.2 at this time.

2. **Public Business** – None.

3. **MONTHLY REPORTS:**

3.1. **January Financial Report (Payables for December)** – Robley provided copies of the Adopted Budget for FY2013 (expanded) to the Board, noting that the Estimates for FY2012 had been updated to reflect year-end figures per the District's books. She added that the anticipated invoices from Layne-Western and Dewberry had not been received, so the ENDING FUND BALANCES (specifically, Remaining cash accounts) was much higher than expected. Dalton moved, Pollard seconded, to approve the payables as presented for December. Motion approved unanimously.

3.2. **Operations Report** – Robley/Knepper noted that staff had temporarily taken Well #1 off-line, awaiting a new chlorine pump that could handle higher system pressures. Well #6 re-equipping and electrical upgrades are nearly complete. Burrer appreciated Robley's decade average and historical distribution data, suggesting that the 'worst' and 'best' years be added to her plot, despite current designations in the chart which note the highest/lowest record-setting months, etc. Since Colorado Springs Utilities was considering water rationing for the upcoming peak demand season, Burrer suggested that the Board could consider water rationing prior to the 2013 peak-use season. Robley reported that the District's current 'demand management' policy, coupled with punitive water rates in the higher-use tiers, had been effective in curbing customer usage over the past several years. She noted that, although the number of customers has nearly doubled over the past decade, the average annual distribution throughout the District had remained relatively constant. When warm weather returns, staff will contact the grounds crew for Falcon Middle School to encourage water conservation efforts. Robley stated that a work session on 'wet' water may be helpful to the Board in the near future.

3.3 **Billing Report (Lien Actions)** – Robley/Jameson presented the billing report for December, noting that most customers receiving late fees are recurrent offenders. Jameson reported that two (2) of the three (3) delinquencies certified to El Paso County this past fall had already been collected, due to recent sales of the properties. The District previously recorded a lien against one of these properties and, since all outstanding fees have now been collected, she requested that the Board authorize the release of this lien. Burrer moved, Pollard seconded, to release the lien against the referenced property. Motion approved unanimously.

3.4. **Parks & Recreation Report** – Work at Drayton Green (including the purchase and installation of trees) will now be delayed until warmer weather returns, as frost is approximately a foot deep. The County has been

slow to correct its construction issues in the Londonderry Entryway, so the District may not complete repairs to the irrigation systems until Spring. Robley paid \$75 on the Mountain View Electric Association (MVEA) account belonging to the resident who allowed the District to use their electricity to power the holiday lights on the Falcon Hills sign on the south side of Londonderry Drive. Staff is hoping to reconnect the District's service at this location in the near future.

3.5. Administrative Update – Robley reported that the contract with Amairitek Services for coating repairs of the 0.5 Mgal water storage tank included a one-year warranty. Work will begin as soon as the contractor can schedule it, provided the temperature is at least 28°F outside. Per staff's suggestion and by consensus, the Board authorized Robley to proceed with having Kevin's Kustom Welding repair the handrail on top of the 1.0 Mgal water storage tank, in addition to adding a man-way 'door' to further limit access to the top of the tank. Staff will obtain an estimate for the construction of an interior ladder in the 1.0 Mgal tank, to be installed when this tank is repaired later in the year. There was brief discussion on the persistent issue with Woodmen Hills Metropolitan District (WHMD) office staff providing both customers, and now title companies, with inaccurate information related to wastewater fees. PBHMD staff has been accused of not keeping WHMD staff informed on property transfers within Falcon Hills, despite no requirement to do so in the Intergovernmental Agreement (IGA). Robley/Jameson regularly refer callers to WHMD for information related to a property's wastewater treatment fee(s). However, they now plan to add highlighted text and contact information to PBHMD's title company statement form. The language is already included in PBHMD's Residential Water/Sewer Service Rates Fee Schedule, which is posted on the District's website and also distributed to new customers. If the problem continues, Robley was encouraged to copy the WHMD board president on any related communication to WHMD staff. The new PC is nearly ready for use. Robley provided an estimate and requested permission to purchase a replacement firewall. Dalton stressed the necessity of a physical firewall, particularly for government applications. Pollard seconded, to authorize expenditure of up to \$1,100 for the purchase of a new firewall and related software. Motion approved unanimously.

4. DISCUSSION and/or ACTION ITEMS:

4.1. Minutes of the December Regular Board Meeting (12/13/12) – Dalton moved, Burrer seconded, to approve the Minutes of the December Regular Board Meeting (12/13/12). Motion approved unanimously, with Griffin abstaining due to his absence. Burrer asked Robley to ensure that a signed copy of the approved minutes for the 12/13/12 board meeting be forwarded to Kim Snell (Farmers State Bank) the next day, to complete the file on the District's new money market account.

4.2. Resolution Authorizing Amendment to the Lease-Purchase Agreement – This item was addressed at the beginning of the meeting. Hrbacek reported that the documents related to the proposed amendment to the lease-purchase agreement had been thoroughly reviewed and were ready for execution. He noted that any and all 'enterprise' language had been removed, as it is no longer considered appropriate. This change required significant redrafting by bond counsel, and Kline had requested an increase in his firm's fee. Burrer stated that he was comfortable with the increased fee, since the District would still realize substantial cost savings at the tail end of the lease-purchase term. Kline gave a brief summary of his work, noting that Brandon DeBenedet (Wells Fargo) would be executing on behalf of the bank. Robley noted that the bank transaction was now considered to be 'riskier' (for the Bank) although the rate had stayed the same – District payments were now subject to annual appropriations. She asked Kline whether or not the District should perhaps seek to get rated, in preparation for any possible future financing opportunities. Kline commented that a banker would be in a better position to provide comment on this topic. Burrer questioned, Hrbacek responded that, he had no additional concerns with the District having any unaddressed exposures related to this transaction. Burrer moved, Pollard

seconded, to adopt the 'Resolution Authorizing the Execution and Delivery by the District of the Amendment to the Lease Purchase Agreement Relating to the Paint Brush Hills Metropolitan District Refinancing Lease Purchase Agreement Originally dated March 29, 2005' and authorize execution of all related documents by Griffin/Burrer, as necessary, and payment of the \$7,500 bond counsel fee. Motion approved unanimously. The documents (executed in five parts) will be signed by Griffin/Burrer at the close of the board meeting.

At the request of Dalton, Hrbacek gave a brief description of the difference between a special district and an enterprise, noting that it is a separate legal entity that, among other things, can enter into multi-year spending commitments. After thanking the Board for its action on the refinancing, Kline exited the meeting at approximately 7:25 p.m.

4.3. Board Vacancy – Each candidate was given the opportunity to introduce himself and provide comments on his desire for appointment to the Board. Cohrs and Roberts each took the floor, summarizing the strengths and skills they would bring to the position, as well as the reason each wanted to serve the local community. Burrer/Dalton/Pollard discussed several of the District's current and anticipated projects, noting areas where each candidate would be of benefit to the Board. Burrer moved, Dalton seconded, the appointment of Floyd Roberts to the Board to assume the position of Secretary. Motion approved unanimously. Griffin asked, Roberts confirmed, his willingness to assume the vacant board seat and serve as Board Secretary. Roberts was then administered an oath, and he then participated as a Board member for the remainder of the meeting. The Board also expressed its gratitude to Cohrs for his interest in the Board position.

4.4. Sunshine Law Compliance – Griffin read aloud the Sunshine Law Compliance, as published on the Agenda, with the noted changes:

- A. Regular meetings of the Board of Directors will be held on the third Thursday of every month at 7:00 p.m. at ~~Falcon High School~~ the District Office, located at ~~10255 Lambert Road~~ 9830 Liberty Grove Drive, in Falcon, Colorado.
- B. Meeting notices will be posted at the El Paso County Clerk & Recorder (1675 W. Garden of the Gods Road, Colorado Springs), Falcon Middle School (9755 Towner Road, Falcon), the District Office (9830 Liberty Grove Drive), and online at *www.pbhmd.com*.
- C. All minutes and other official records of the District will be retained by the PBHMD's District Administrator at 9830 Liberty Grove Drive in Falcon, Colorado.

Dalton moved, Pollard seconded, to approve the Sunshine Law Compliance as read aloud. Motion approved unanimously.

4.5. Review/Revise Board Priorities – Robley stated that Burrer's priority worksheet had been expanded by staff earlier in the day, with several other items to be added. She suggested that the list be split into two (2) categories, at a minimum – capital projects vs. operations/maintenance. By consensus, a special meeting was scheduled for 1/31/13 at 7:00 p.m. at the new District Office for a work session on this topic.

4.6. Staff Contracts – By consensus, the Board agreed to address this item at the special meeting scheduled for 1/31/13.

4.7. Well #8 Pump Proposal – Robley presented an updated proposal from Layne-Western for pulling the downhole equipment from Well #8. She noted that Layne's rig was still onsite at Well #6 and a \$2K cost savings on mobilization charges could be realized, if they are allowed to proceed with work at Well #8 at this time. Since

some of the downhole equipment has a life expectancy of only seven (7) years and the current equipment is over five (5) years old, testing is ill advised, as that money could be put towards replacement equipment. Dalton moved, Pollard seconded, to accept Layne's proposal for pulling the Well #8 downhole equipment, without any testing, up to a maximum of \$9K. Motion approved unanimously.

4.8. 0.5 Mgal Water Storage Tank Repairs – Robley noted that a contract, which includes a one-year warranty, had been executed with Amaritek Services. Work will begin in the near future, weather permitting.

4.9. Office Furniture Purchase/Office Move – Burrer proposed the purchase of \$4,200 in furnishings for the new District office. Pictures of the proposed setup, including the boardroom table, boardroom chairs, boardroom guest chairs, office desks, office desk chairs, and office guest chairs, were shown to the Board. Burrer noted, Pollard confirmed, that the furniture was of sufficient quality to withstand more than one move, with their goal of getting ten (10) years use out of the purchase. Dalton moved, Pollard seconded, to authorize the purchase of the proposed office furnishing, with a 50% downpayment. Motion approved unanimously.

4.10. Bulk/Construction Water Rates – Knepper tabulated local rates for bulk/construction water for local water purveyors. Currently, the District's rate for construction water is \$4.00/Kgal, which is below the residential lowest tier. Construction water may only be used within the District's boundaries. Burrer moved, Dalton seconded, to establish a two-tiered rate structure for construction water for any given project, at \$8.50/Kgal for usage up to 150,000 gallons, and \$10.00/Kgal for usage over 150,000 gallons. Motion approved unanimously.

4.11. PBH Filing #13a Water Supply Report – Robley noted that PJ Anderson (Six Ninety-Nine Properties) was anxious for the District to issue a commitment letter for proposed Paint Brush Hills Filing #13a. She noted that Curt Wells would prepare an updated water supply report, but some direction from the Board was needed on both documents. By consensus, the Board agreed to address this item at the 1/31/13 special meeting.

4.12. Meridian Ranch Surface Water Litigation – Hrbacek gave a brief update on this case, noting that Griffin/Burrer had agreed that the District enter a motion requesting 'limited party status' for the upcoming hearing, scheduled to begin 1/22/13 before Joseph Grantham (Hearing Officer, Colorado Ground Water Commission). The motion was granted, so the District will not be required to participate in this hearing yet will retain party status for any future proceedings or matters related to the case. Dalton moved, Burrer seconded, to ratify the decision to seek limited party status for the hearing. Motion approved unanimously.

4.13. WHMD Communication Follow-Up – There has been no response from WHMD justifying the wastewater treatment fee that is being charged to PBHMD customers. If the situation continues, further correspondence may be sent directly to the WHMD Board of Directors.

5. INFORMATION ITEMS:

5.1. \$100K Capital/Replacement Reserves Account – Burrer reported that the new money market account had been set up at Farmers State Bank, ensuring that \$100K in District funds was 'protected' from being spent on operation and maintenance items. Authorized signers on this account will be Board President and Board Treasurer. Transfers to/from this account will required both signatures, currently, Griffin and Burrer.

5.2. PBHMD's Water Portfolio – Robley detailed the District's water portfolio (i.e., 'paper' water), including the history of water rights/appropriations in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, as well as pending and/or possible future acquisitions. She also noted that the District has a perpetual lease with

Meridian Ranch for 85 AF of 'renewable' water pumped from the Upper Black Squirrel alluvium. Water from non-renewable sources is considered to be 100-year ('renewable') water, whereas, water from renewable sources is considered to be 300-year water. Robley also explained the various calculations related to El Paso County's requirement to prove an adequate water supply prior to committing to serve any new development. PBH Filings #4-9 required only a 100-year supply of water at 0.5 AF per year per single family equivalent (SFE), whereas PBH Filings #10-12 and beyond require a 300-year supply of water at 0.4 AF/yr/SFE. Robley again noted that the Board needed to discuss the District's 'wet' water supplies at the upcoming special meeting, to enable the Board to provide direction with regard to preparation of the water supply report and commit to serve letter(s). She will research current usage patterns, to ensure proper figures for customer base/peak use.

6. **Other Business** – Robley noted that Roberts needed to be added as a signatory to the District's regular bank accounts. Dalton moved, Pollard seconded, to authorize Robley to add Roberts as a signatory to all bank accounts, with the exception of the new \$100K Capital/Replacement Reserves (which is restricted to the President and Treasurer only). Motion approved unanimously.

Robley requested permission to equip the District's wells with timers and/or reprogram pump controllers to support any load management incentives programs for Mountain View Electric Association (MVEA). She reported that MVEA had not yet finalized any incentive programs with regard to demand charges. Dalton moved, Roberts seconded, to authorize staff to add timers and/or updated controllers, as appropriate, on the District's most productive/reliable wells to meet any MVEA incentive program(s).

7. **Adjournment** – There being no further business, Pollard moved, Burrer seconded to adjourn the meeting. Motion approved unanimously and the meeting was adjourned at 9:54 p.m.

Respectfully submitted and so approved,

(Signed copy on file at the PBHMD Office.)

Floyd Roberts, Secretary
PBHMD Board of Directors