MINUTES OF THE REGULAR BOARD MEETING OF THE BOARD OF DIRECTORS OF THE RAINBOW MUNICIPAL WATER DISTRICT JANUARY 24, 2023

1. CALL TO ORDER - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on January 24, 2023, was called to order by President Hamilton at 12:02 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. (All meetings are being held with in-person attendance following County and State COVID guidelines as well as virtually.) President Hamilton presiding.

2. ROLL CALL

Present: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director

Townsend-Smith.

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant

Washburn, Information Technology Manager Khattab, Engineering and CIP

Manager Williams.

Also Present Via Teleconference or Video Conference:

Human Resources Manager Harp, Legal Counsel Duran-Brown, Consultant Cindy Krebs.

No members of the public were present in person, via teleconference or video conference before Closed Session.

3. ADDITIONS/DELETIONS/AMENDMENTS TO THE AGENDA (Government Code §54954.2)

There were no amendments to the agenda.

4. INSTRUCTIONS TO ALLOW PUBLIC COMMENT ON AGENDA ITEMS FROM THOSE ATTENDING THIS MEETING VIA TELECONFERENCE OR VIDEO CONFERENCE

There were no members of the public in attendance; therefore, the instructions were not read aloud.

5. ORAL/WRITTEN COMMUNICATIONS FROM THE PUBLIC
OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD REGARDING
CLOSED SESSION AGENDA ITEMS (Government Code § 54954.2).

There were no comments.

The meeting adjourned to Closed Session at 12:03 p.m.

6. CLOSED SESSION

- **A.** Conference with Legal Counsel-Anticipated Litigation (Government Code §54956.9(d)(2))
 - * One Item
- **B.** Appointment of Public Employee General Manager (Government Code §54957)
- C. Conference with Legal Counsel Existing Litigation Pursuant to Government Code Section 54956.9(d)(1)
 - * TC Construction Company, Inc. v. Rainbow Municipal Water District, et al.

The meeting reconvened at 1:00 p.m.

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

This item was addressed under Item #12.

Time Certain: 1:00 p.m.

8. REPEAT CALL TO ORDER - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on January 24, 2023, was called to order by President Hamilton at 1:02 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. (All meetings are being held with in-person attendance following County and State COVID guidelines as well as virtually.) President Hamilton presiding.

9. PLEDGE OF ALLEGIANCE

10. REPEAT ROLL CALL

Present: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director

Townsend-Smith.

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant

Washburn, Engineering and CIP Manager Williams, Information Technology Manager Khattab, Operations Manager Gutierrez, Utility Worker Zaragoza, Water Operations Supervisor Coffey, Customer Service and Communications Supervisor Gray, Human Resources Assistant Ramirez.

Also Present Via Teleconference or Video Conference:

Grant Specialist Kim, Administrative Analyst Rubio, Project Manager Tamimi, Administrative Analyst Barrow, Construction and Meters Supervisor Lagunas, Wastewater Superintendent Zuniga, Accounting Supervisor Poole.

Six members of the public were present for Open Session in person, via teleconference or video conference.

*11. BOARD OF DIRECTORS CONSIDER ADOPTING RESOLUTION NO. 23-02 RENEWING STATE OF EMERGENCY FINDINGS FOR ASSEMBLY BILL 361 (AB 361)

Mr. Kennedy pointed out adopting the resolution may not be necessary due to the State of Emergency expiring February 28th and all the Board Members were present; therefore, there is no action required. He noted RMWD will now fall back to the old Brown Act rules on notification or a new set of regulations that may be adopted. He stated the safest bet would be to resort back to the old Brown Act requirements for now.

There was no action taken.

Legal Counsel mentioned CSDA said they were happy with the AB2449 which take away the convoluted processes for the virtual board meetings, so they will be proposing new legislation this session. He stated CSDA wants something sort of similar to what RMWD has been doing under AB361, but without having to adopt a resolution every month.

Mr. Kennedy pointed out RMWD plans to continue providing options for attending its public meetings virtually.

12. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

Legal Counsel reported the Board met in Closed Session to discuss three items and there was no reportable action.

13. REPEAT ADDITIONS/DELETIONS/AMENDMENTS TO THE AGENDA (Government Code §54954.2)

There were no amendments to the agenda.

Discussion went to Item #18D.

14. REPEAT INSTRUCTIONS TO ALLOW PUBLIC COMMENT ON AGENDA ITEMS FROM THOSE ATTENDING THIS MEETING VIA TELECONFERENCE OR VIDEO CONFERENCE

President Hamilton read aloud the instructions for those attending the meeting via teleconference or video conference.

Discussion went to Item #15.

15. ORAL/WRITTEN COMMUNICATIONS FROM THE PUBLIC OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD REGARDING ITEMS NOT ON THIS AGENDA (Government Code § 54954.2).

Barry Willis provided copies of his business card and resume as part of his re-election campaign for the LAFCO position. He thanked Director Gasca for reaching out to him during his Alpine Fire campaign noting it was very thoughtful.

Mr. Willis mentioned it has been four years since he was elected to serve on LAFCO and how it has been a great experience since. He said he is convinced more than ever to reach out to hear what the voters (i.e., board members) have to say. He pointed out he has not missed any LAFCO meetings and that it is his intent to reach out to 58 districts as part of his campaign efforts to meet with the board members face-to-face, especially those who are serving remote, smaller local agencies.

Mr. Willis stated he is here to today to seek the support of the RMWD Board of Directors. He assured the Board that whenever there is a decision to be made, he will try to reach out to get as much information and input as possible for a fair and reasonable decision. He reiterated he was asking for the RMWD's support noting he will continue to encourage Board Members to reach out to him with any concerns as well as continue to make contact with each agency's leadership periodically as a means of doing whatever he can to reason with either side to reach a non-hostile resolve.

Discussion went to Item #16.

16. EMPLOYEE RECOGNITIONS

- **A.** Excellence Coin Awards
 - 1. Ricardo Zaragoza

Mr. Kennedy mentioned Ricardo Zaragoza started at RMWD in 2015 in construction after which he moved into meters and then advanced into water operations. He noted Mr. Zaragoza received eleven excellence coin recognitions to date which includes several honorable mentions in the category of professionalism which mostly came from customers. He stated Mr. Zaragoza goes above and beyond the call of duty as he presented him with a plaque in recognition of his achievement.

Discussion went to Item #17.

*17. APPROVAL OF MINUTES

A. December 6, 2022 - Regular Board Meeting

Motion:

To approve the minutes.

Action: Approve, Moved by Director Moss, Seconded by Director Gasca.

Vote: Motion carried by unanimous vote (summary: Ayes = 5).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director Townsend-Smith.

Discussion went to Item #18.

*18. BOARD OF DIRECTORS' COMMENTS/REPORTS

Directors' comments are comments by Directors concerning District business, which may be of interest to the Board. This is placed on the agenda to enable individual Board members to convey information to the Board and to the public. There is to be no discussion or action taken by the Board of Directors unless the item is noticed as part of the meeting agenda.

A. President's Report (Director Hamilton)

President Hamilton provided background on the Excellence Coin Program noting the five coins to which Mr. Kennedy was referring to are categorized as integrity, responsibility, professionalism, teamwork, and innovation. He pointed out there is also a RMWD Challenge Coin that are given to all staff members including Board Members. He presented Director Townsend-Smith with the RMWD Challenge Coin welcoming her to the RMWD Board of Directors.

Mr. Kennedy added a previous employee started this program and how other agencies have adopted similar challenge coin programs since the inception of RMWD's Excellence Coin Program.

President Hamilton mentioned a Southern California Water Coalition Luncheon being held on January 27, 2023 and anyone be interested in attending should get their name on the list as soon as possible. He noted the 2023 ACWA Spring Conference will take place May 9-11, 2023. He also mentioned SDCWA will be hosting a meet and greet for the new MWD Board Chair on January 26th at 3:00 p.m. which requires RSVP.

President Hamilton stated in discussions with Director Gasca, it was realized RMWD's Strategic Plan does not include any statement relative to community organization support. Mr. Kennedy noted this was on the list that he will work with Ms. Harp on as part of a process of revamping or updating the current Plan.

B. Representative Report (Appointed Representative)

1. SDCWA

Mr. Kennedy talked about the latest version of the progress report received as part of the rate setting workshops which all finance officers, including Ms. Largent, have been attending. He explained the information contained in the charts presented that he created based on the information provided in the report. He pointed out although there were still disagreements about the methodology and that it is unknown exactly what is coming forward, there is a clear indicator and theme as to what RMWD's position will be.

Director Moss asked if any of the other agencies listed on the chart are as big in agriculture as RMWD. Mr. Kennedy answered Valley Center Municipal Water District. President Hamilton pointed out those agencies that are outliers or above the line in the chart are mostly agricultural.

Mr. Kennedy reiterated Ms. Largent attends these meetings doing what she can to try to move this along, but the important thing to remember is that the agencies that are benefiting have the votes RMWD does not have which is challenging. He pointed out these rates have not yet been adopted by SDCWA; however, this is what is being considered according to the latest report provided.

2. CSDA

Director Mack announced there will be a CSDA Quarterly Dinner meeting held on February 16, 2023. Mr. Kennedy pointed out the LAFCO candidate forum will take place at this meeting.

Mr. Kennedy added CSDA was actively working on the Brown Act matter with various state and local representatives in hopes of emphasizing the need for reform.

3. LAFCO

Mr. Kennedy reported LAFCO did not meet in January and will reconvene on February 6, 2023.

4. Santa Margarita River Watershed Watermaster Steering Committee

President Hamilton reported the committee met in January at which time a report from Metropolitan Water District on the reservoir statuses was provided noting the capacities have remained unchanged. He stated other business included the Conjunctive Use Project between FPUD and Camp Pendleton as well as the Watermaster Report which will be distributed electronically within the next week or so.

President Hamilton pointed out he has noticed within interest that this organization does not really do much and consists of a Watermaster, Assistant Watermaster, and secretary who are all being burdened by the participants of the watershed at court expense since it is a court ordered matter. He asked Legal Counsel as to whether meetings held by court-ordered organizations are open to the public according to the definition of California law. Legal Counsel explained that although the court-appointed positions such as the Watermaster fall under the judicial branch of government which are not subject to open and public meetings, some do recognize the Brown Act. President Hamilton stated this one does not.

President Hamilton announced the committee will meet again on April 18, 2023.

5. ACWA

Director Gasca noted there is a regulatory meeting scheduled to be held virtually on February 15, 2023, the annual Washington D.C. Conference will be held February 28-March 2, 2023, and the 2023 Legislative Symposium is scheduled for March 23, 2023 in Sacramento.

Director Gasca asked Mr. Kennedy to talk about the reports RMWD received from JPIA related to risk. Mr. Kennedy stated Ms. Harp met with JPIA following which a written report was sent to the District with a copy to Director Gasca. He noted the report was a very good review on the processes integrated and followed by staff.

Director Gasca mentioned the report included a listing of different outlines that could be utilized to support cooperation by staff whether it be safety reports, analysis, etc. Mr. Kennedy pointed out staff has been tasked with compiling data and policies to include in RMWD's Administrative Code Title 7 – Operations and Safety as well as stated he would send a copy of the report to the Board for their reference.

- **C.** Meeting, Workshop, Committee, Seminar, Etc. Reports by Directors (AB1234)
 - 1. Board Seminar/Conference/Workshop Training Attendance Reports

There were no reports given.

D. Directors Comments

Director Moss wanted to take a moment for the Directors to recognize the Operations Department for their amazing and great work the crews did during the holidays as well as the time they gave from their families. She expressed a great deal of thanks to the operations crew.

Discussion went to Item #14.

Director Gasca mentioned his discussions with North County Fire Protection District (NCFPD) regarding the members of the community losing or paying increased rates for fire insurance. He stated although it is unknown the current status of fire insurance in this area, he did notify the Fire Chief that RMWD was interested in seeing how the District can support NCFPD in working towards the goal of lowering the local ISO rating and how to do so, NCFPD would need to tell RMWD how many hydrants are needed.

Director Gasca noted when discussions took place regarding the recent heli-hydrant installation, ISO does not have this type of infrastructure in their books; thus, RMWD was doing some improvements that have no way or really helping with the fire insurance matter.

Director Gasca said he would draft a letter to the appropriate contact for President Hamilton's signature; however, in the interim he would suggest the team get together at the Board level to discuss establishing goals to discuss plans so that staff can get to work at helping the community.

Discussion followed regarding the District's current ISO rating.

Director Gasca suggested Director Townsend-Smith to review RMWD's Strat Plan, the LAFCO report related to detachment, as well as the Municipal Services Review (MSR) that are utilized to help guide the District.

E. Legal Counsel Comments

Attorney Report: Clean Water Act and Public Records Act Update 501668-0002

Legal Counsel summarized the information contained in the written report noting the Clean Water Act provides an interesting history of the Federal Government's jurisdiction over projects that have impact on water.

Legal Counsel pointed out there were no substantive changes to the Public Records Act; however, all the statutes have been completely reorganized and recodified effective January 1, 2023 resulting in RMWD having to update its policies and templates accordingly.

President Hamilton stated it was his understanding from reading the report is that groundwater has been excluded from the Clean Water Act. Legal Counsel stated Trump did exclude groundwater; however, the new regulations removed the exclusion from groundwater. Discussion followed.

Director Moss expressed cautioned regarding the County has someone walking around various local areas and wading in water to determine what is happening such as whether dumping was occurring.

Discussion went to Item #19.

19. COMMITTEE REPORTS

A. Budget and Finance Committee

Mr. Nelson reported the primary discussion that took place at the January committee meeting was centered around the wastewater financial plan and setup for the preliminary cost of study plan surrounding rates. He noted depending on the plan adopted, rate increases could be a bit more than anticipated. He explained the Board appeared to have adopted a five-year plan program, but apparently only the first year of planned rate increases were actually implemented. He mentioned the committee had an opportunity to look at several options associated with addressing this matter. He concluded with noting there were no items on the agendas today for which the committee made recommendations.

Mr. Kennedy added to what Mr. Nelson accurately described related to the wastewater rates noting RMWD had a considerable wastewater reserve; however, the Lift Station 1 project has depleted those reserves to where they are very, very low. He noted the other part of the modeling is that RMWD has been extremely conservation on capacity revenue. He mentioned after he and Ms. Kim met with Darrel Issa's office, it appears RMWD may be eligible for some IRA grant funds for which Ms. Kim will start the application processes.

B. Engineering and Operations Committee

Mr. Nelson reported the committee did not meet in January and will resume meeting in February.

C. Communications and Customer Service Committee

President Hamilton noted the committee did not meet in January and will meet again in February.

Discussion went to Item #20.

BOARD ACTION ITEMS

*20. DISCUSSION AND POSSIBLE APPOINTMENT OF BOARD OFFICERS AND REPRESENTATIVES

Motion:

To retain the same Board officers and representatives.

Action: Approve, Moved by Director Gasca, Seconded by Director Moss.

President Hamilton pointed out there needed to be a change on the Budget and Finance Committee since Mr. Stewart is no longer a member of the Board of Directors.

Director Gasca amended his original motion.

Motion:

To retain the same Board officers and representatives with the appointment of Director Townsend-Smith serving as the Board Member on the Budget and Finance Committee.

Action: Approve, Moved by Director Gasca, Seconded by Director Moss.

Vote: Motion carried by unanimous vote (summary: Ayes = 5).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director Townsend-Smith.

Discussion went to Item #21.

*21. APPROVAL OF RESOLUTION NO. 23-01 ESTABLISHING CHECK SIGNING AUTHORITY

Motion:

To approve Option 1 - Approve attached Resolution No. 23-01.

Action: Approve, Moved by Director Moss, Seconded by Director Mack.

Vote: Motion carried by unanimous vote (summary: Ayes = 5).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director Townsend-Smith.

Discussion went to Item #21A.

*21A. CONSIDER APPROVAL OF A MOU BETWEEN RMWD, FPUD, U.S. MARINE CORPS BASE CAMP PENDELTON, RANCHO CALIFORNIA WATER DISTRICT, AND CITY OF OCEANSIDE REGARDING COOPERATION ON WATER RECLAMATION AND BRINE DISPOSAL MATTERS

Mr. Kennedy stated he has been working with the general managers of these various agencies over the past several months regarding the challenges being faced related to developing local supplies in terms of what to do with the brine. He noted Rancho Water District recognizes the City of Oceanside has an ocean outfall that is much closer geographically that may be a possibility. He said following the anticipated approval of the direct potable use regulations in the next couple of months, it is likely a project will be developed that will allow every drop that goes through to be purified and put back into the distribution system which will require brine disposal from all of these agencies. He pointed out the MOU presented describes each agency's goals with the intent of getting all parties to coordinate activities so that everyone can be in the best position possible to receive future funding as well as share project costs.

Motion:

To approve Option 1 – Authorize the General Manager to execute the MOU as presented here and make a determination that this action does not constitute a project under CEQA guidelines as described below.

Action: Approve, Moved by Director Gasca, Seconded by Director Hamilton.

Vote: Motion carried by unanimous vote (summary: Ayes = 5).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director Townsend-Smith.

Discussion went to Item #22.

*22. DISCUSSION AND POSSIBLE ACTION TO QUITCLAIM EASEMENTS FOR THE BONSALL OAKS DEVELOPMENT, TM4736-1 (DIVISION 1)

Mr. Williams explained this item was for the Bonsall Oaks development for which there have been several different map revisions. He stated the matter before the Board was to quitclaim some water and sewer easements to assist with Bonsall Oaks rerouting the existing water and sewer to within what will be their roadways. He pointed out the existing infrastructure is cutting through what is currently back county, but then be through the homes and yards of the residents. He noted these easements will be abandoned and new infrastructure is being constructed at which time RMWD will get new easements.

Director Moss inquired as to how these easements initially granted. Mr. Pallinger stated they were by grant deeds. Director Moss pointed out if by grant deeds, they needed to be abandoned in the same manner. Mr. Williams mentioned although Legal Counsel has reviewed this matter, he would confer with them again to ensure it is done properly. Discussion ensued.

Motion:

To approve Option 1 - Make a determination that the action defined herein does not constitute a "project" as defined by CEQA and authorize the General Manager to execute the quitclaim deeds associated with the easements which are no longer required by the District through the appropriate legal means.

Action: Approve, Moved by Director Hamilton, Seconded by Director Moss.

Vote: Motion carried by unanimous vote (summary: Ayes = 5).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director Townsend-Smith.

Mr. Pallinger said although he is not an expert on the RMWD Excellence Coin program, he wanted to let everyone know it works. He stated RMWD's staff in the field are superb, very responsive, and that Mr. Williams returns every call almost immediately. He noted he has been in this business for 35 years in various jurisdictions across the county and has never had a jurisdiction as responsive as RMWD from the Board down to staff.

Discussion went to Item #23.

*23. CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 23-03, A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT COMMENDING WILLIAM "BILL" STEWART FOR HIS OUTSTANDING SERVICE AS A DIRECTOR

Mr. Kennedy stated although Mr. Stewart was not present today, as the resolution indicates, Mr. Stewart has served twice on the Board of Directors as well as on two standing committees.

Motion:

To approve Resolution No. 23-03.

20230124 final

Action: Approve, Moved by Director Gasca, Seconded by Director Hamilton.

Vote: Motion carried by unanimous vote (summary: Ayes = 5).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director Townsend-Smith.

Discussion went to Item #24.

*24. DISCUSSION AND POSSIBLE ACTION REGARDING SAN DIEGO LOCAL AGENCY FORMATION COMMISSION (LAFCO) CALL FOR NOMINATIONS FOR REGULAR AND ALTERNATE SPECIAL DISTRICT MEMBER ELECTION

Mr. Kennedy stated with Barry Willis confirming his intent to run for reelection, this item would be for the Board to decide if they would like to oppose Mr. Willis' election and nominating someone else for this position on LAFCO.

Motion:

To nominate no candidates.

Action: Approve, Moved by Director Moss, Seconded by Director Hamilton.

Vote: Motion carried by unanimous vote (summary: Ayes = 5).

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss, Director Townsend-Smith.

Discussion went to Item #25.

25. BOARD MEMBER REQUESTS FOR AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS

Directors Mack, Moss, and Gasca indicated they would like to attend the 2023 ACWA Spring Conference. Ms. Washburn mentioned Mr. Kennedy has already been registered for the conference and that she was in the process of registering Director Townsend-Smith.

Director Moss recommended Director Townsend-Smith attend both sessions of the Special District Leadership Academy noting the courses provided are invaluable. President Hamilton pointed out completion of these courses are also important in RMWD receiving CSDA's District of Distinction accreditation.

Discussion went to Item #26.

BOARD INFORMATION ITEMS

*26. RECEIVE AND FILE INFORMATION AND FINANCIAL ITEMS

- A. General Manager Comments
 - Meetings, Conferences and Seminar Calendar
- **B.** Operations Comments
 - **1.** Operations Report

C. Engineering Comments

- 1. Engineering Report
- **2.** As-Needed Services Expenditures Summary
- 3. RMWD Sewer Equivalent Dwelling Units (EDU's) Status

D. Human Resource & Safety Comments

1. Human Resources Report

E. Finance Comments

- **1.** Board Information Report
 - A. Budget vs. Actuals
 - **B.** Fund Balance & Developer Projections
 - **C.** Treasury Report
 - **D.** Five Year Water Purchases Demand Chart
 - **E.** Water Sales Summary
 - **F.** Check Register
 - **G.** Directors' Expenses Report
 - H. Credit Card Breakdown
 - I. RMWD Properties

Mr. Kennedy announced RMWD's Customer Service and Communications Supervisor, Cynthia Gray, will be retiring from the District effective February 3, 2023. He mentioned he has had the pleasure of hiring Ms. Gray at Olivenhain and then at RMWD and that is has been a pleasure working with her at both.

Director Gasca mentioned he had spoken with Justin Demary in person regarding a potential leak to which Mr. Demary immediately responded and promptly reported back to Director Gasca that it was not a leak, but rather free flow from the recent rains.

Director Mack inquired about the drain system set up at the Huntley Pump Station with which a hose is being used that is place right near a squirrel hole causing the water to run down the street. Mr. Gutierrez said he would investigate this matter.

The information and financial items were received and filed.

Discussion went to Item #27.

27. LIST OF SUGGESTED AGENDA ITEMS FOR THE NEXT REGULAR BOARD MEETING

It was noted information related to the sewer rate adjustments, some Notice of Completions, as well as a fifth amendment to the Bonsall Oaks Agreement will be on the next meeting agenda.

Discussion went to Item #28.

	The meeting was adjourned by President Hamilton to a regular meeting on February 28, 2023 at 1:00 p.m.
The me	eting was adjourned at 2:30 p.m.

Hayden Hamilton, Board President

Dawn M. Washburn, Board Secretary

ADJOURNMENT

28.