

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
SEPTEMBER 24, 2019**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on September 24, 2019 was called to order by President Brazier at 11:00 a.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President Brazier presiding.

2. **ROLL CALL**

Present: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch (*arrived at 11:30 a.m.*)

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Operations Manager Gutierrez, Human Resources Manager Harp, Associate Engineer Powers, Administrative Analyst Gray, Project Manager Williams.

No members of the public were present before Open Session. Three members of the public were present for Open Session.

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

There were no changes to the agenda.

4. **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 11:03 a.m.

5. **CLOSED SESSION**

A. Conference with Legal Counsel-Anticipated Litigation (Government Code §54956.9(d)(2))

* Two Items

B. Appointment, Employment; Evaluation of Performance – General Manager (Government Code §54957(B)(1))

C. Real Property Negotiations (Government Code §54956.8)

Agency Designated Representative: Tom Kennedy

Discussions regarding property negotiations for APN 127-071-06.

Under Negotiation: Price and Terms of Payment

(*) - Asterisk indicates a report is attached.

The meeting reconvened at 1:45 p.m.

6. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

This item was addressed under Item #8.

Time Certain: 1:00 p.m.

7. PLEDGE OF ALLEGIANCE

8. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

Legal Counsel reported the Board met in Closed Session to discuss four items with one reportable action. He noted the District reached a settlement on the District-wide meter replacement program and the Settlement Agreement was expected to be finalized in the next day or two after which copies will be available upon request.

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

President Brazier noted there were no changes to the agenda.

10. 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).

Nancy Miller introduced herself to the Board as a customer whose family has resided on West Lilac Road since 1914. She expressed concern with pump located near her residence reaching 70-80 decibels which is extremely loud causing her to lose sleep as well as leave her residence over the past three weeks at least. She requested relief from this extremely loud pump as this situation has occurred three years ago as well. She mentioned she was told by RMWD everything would be done to mitigation the situation to avoid reoccurrence; however, it has not been done. She stated she was not one to complain but this situation was impacting her health issues and affecting her property value. She pointed out she was told this pump would be utilized again during the upcoming winter months and she wants the pump quieted or relocated to avoid more health issues. She reiterated in addition to her health suffering, she does not want her property value to suffer as well because of this situation. She urged the District to work hard to resolve this matter. She requested a formal response from RMWD as to how the matter will be mitigated and when. She concluded noting she was not made at the District, but very unhappy with this situation.

President Brazier pointed out the Board cannot address the matter at this time but could refer her to the appropriate staff member with whom she can speak. Mr. Kennedy stated he would have Operations Manager Robert Gutierrez get in contact with Ms. Miller. He noted the current shutdown concluded today; however, staff will work on trying to remedy the situation as quickly as possible to avoid a reoccurrence during the SDCWA scheduled shutdown in November/December.

11. EMPLOYEE RECOGNITIONS

A. Mark Cline (30 Years)

Mr. Kennedy mentioned Mark Cline was originally hired as a meter reader 30 years ago and has been in instrumentation and controls for a very long time. He told Mr. Cline how much he and his hard work were appreciated as he presented him with a watch, plaque and check in recognition of his tenure.

*12. APPROVAL OF MINUTES

A. August 27, 2019 - Regular Board Meeting

Motion:

To approve the minutes.

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

13. 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 Brazier)

There was no report given.

B. Representative Report (Appointed Representative)

1. SDCWA

Mr. Kennedy reported the next meeting will be on September 26, 2019 and how some of the key topics are another potential dispute with how MWD's application of the water stewardship rate as well as discussions about public relations regarding the pipeline to Imperial County. Director Rindfleisch mentioned some of the discussions held at the Council of Water Utilities meeting regarding the financial analysis for this project. Mr. Kennedy pointed out his suggestion having some of the work conducted in-house as opposed to spending a great deal of money outsourcing the work. He noted this matter will continued to be monitored.

Mr. Kennedy added SDCWA was currently actively recruiting for a new general manager with six candidates under consideration.

2. CSDA

It was noted the conference will be attended tomorrow after which reports will be provided.

(*) - Asterisk indicates a report is attached.

3. LAFCO

Mr. Kennedy reported the Consolidated Redevelopment Oversight Board did not receive a quorum of votes; therefore, they were seeking a few more votes to avoid resulting in a tie.

4. San Luis Rey Watershed Council

Mr. Kennedy reported how he has been informed holding a meeting has not been a priority; however, they were going to work on starting up the meetings again in the near future.

5. Santa Margarita River Watershed Watermaster Steering Committee

There was no report given.

6. ACWA

Mr. Kennedy reported he signed on to an ACWA sponsored letter encouraging the government to veto SB1.

C. Meeting, Workshop, Committee, Seminar, Etc. Reports by Directors (AB1234)

1. Board Seminar/Conference/Workshop Training Attendance Reports

There was no report given.

D. Directors Comments

Director Hamilton inquired as to possibly combing Items #18 and #23. President Brazier noted one was an action item and the other informational.

E. Legal Counsel Comments

1. Attorney Report: Inverse Condemnation 150152-0005

Legal Counsel reviewed the information provided in his written report. He noted this was a significant development particularly in that when plaintiffs prevail in an Inverse Condemnation case, they can receive attorney fees; therefore, having a higher standard is good news.

14. COMMITTEE REPORTS

A. Budget and Finance Committee

Mr. Stitle reported the committee met to discuss the rate study, the new software was mostly in place with no more late charges incurred, and the auditors will be starting the audit process.

B. Communications and Customer Service Committee

Ms. Gray reported Ms. Largent gave a demonstration of the new financial software after which customer feedback and suggestions were provided. She noted the committee reviewed a new brochure for participating in public meetings, continued working on a committee mission statement, reviewed an updated "Better Way Form" as well as an explanation for encouraging community members to share their innovative ideas.

(*) - Asterisk indicates a report is attached.

Director Mack inquired about the phone system estimated hold times being incorrect. Ms. Gray pointed out the system averages the hold times. Director Mack recommended the recording stated "thank you for your patience, we will get to your call as soon as possible" as opposed to providing incorrect hold times to make it better for the customers. Ms. Gray offered to investigate this matter to see what is available to remedy this issue. President Brazier asked if it were available to provide pertinent information about RMWD during the hold times as opposed to music. Ms. Gray agreed see what could be done.

Director Rindfleisch referenced a message he received from a customer asking him to explain nuances in their billing statement to which he referred them to the District. Ms. Gray noted customers who do not wish to call the District can always ask their questions in emails via the District website. Mr. Kennedy explained some of the nuances were due to the transitioning of the software which has since been resolved.

C. Engineering and Operations Committee

Mr. Nelson reported the committee made its usual updates with staff on a number of ongoing projects. He added due to a number of very positive staff actions has allowed the staff and committee the opportunity to take a fresh look at the Capital Improvement Program (CIP) within the boundaries of its existing budget. He pointed out he has requested a very comprehensive review of the projects to determine if there any funding issues to be addressed, how the project has been bundled or renamed, etc. so everyone has a very clear view of what the CIP looks like. He noted he has requested this review be conducted quarterly to evolve a little as steps are taken that change the condition assessment.

BOARD ACTION ITEMS

***15. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 19-12 — A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT ESTABLISHING CLASSIFICATIONS AND MONTHLY PAY RANGES FOR DISTRICT EMPLOYEES AND THE GENERAL MANAGER EFFECTIVE SEPTEMBER 24, 2019 THROUGH JUNE 30, 2020**

Ms. Harp mentioned this was a housekeeping matter noting that when the Right of Way and Facilities Coordinator resigned from RMWD, the responsibilities were absorbed into the two Project Manager positions as well as the Environmental Health and Safety Officer. She explained this action has resulted in a change in some job responsibilities for the Environmental Health and Safety Office job description which also resulted in revising the position title to Risk Management Officer. Mr. Kennedy noted the Risk Management Officer was a well document position and job title at several other agencies.

Director Hamilton inquired as to the necessity to update this schedule each time there is a change. Ms. Harp noted the title change would not necessarily generate a new resolution; however, the title change would require Board approval and updates to the Administrative Code.

Director Gasca noted in the ebb and flow of running an organization, it must stay dynamic in order to be able to support a change in its life. Ms. Harp reiterated as opportunities present themselves, RMWD will take the opportunity to evaluate the positions make sense in the way they were structures.

Motion:

To approve Resolution No. 19-12.

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

***16. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 19-12 - AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 1.02.020 – CONFLICT OF INTEREST**

Mr. Kennedy noted this item was to update the Administrative Code as a result of the same title change as described in Item #15 as well as some job responsibilities.

Motion:

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

***17. ACWA COMMITTEE APPOINTMENT CONSIDERATIONS FOR THE 2020-2021 TERM**

Director Hamilton said he had requested this item deferred to this meeting; however, he has decided to decline appointment consideration.

There was no action taken.

***18. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 19-10 AMENDING AND UPDATING ADMINISTRATIVE CODE CHAPTER 2.09 - COMMITTEES**

Mr. Kennedy explained this item was to approve revisions to the policy related to including approved committee minutes in board meeting agenda packets, a process that stopped a few months ago.

Motion:

To approve Ordinance No. 19-10.

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

(*) - Asterisk indicates a report is attached.

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

There were no requests remitted.

BOARD INFORMATION ITEMS

20. SDCWA EMERGENCY SHUTDOWN DECLARATION UPDATE

Mr. Kennedy reported the SDCWA emergency shutdown was now complete. He pointed out because of the proposed detachment from SDCWA, staff took the opportunity during the shutdown to conduct some testing on operating the system with just the four northerly connections to detect any challenges as well as demonstrate what would need to be done to avoid any issues. He explained although there were a few small spots where improvements need to be made.

Mr. Gutierrez mentioned the customers did an excellent job conserving water during the shutdown; however, it was once the shutdown completed and everyone turned on their water when the issues Mr. Kennedy mentioned were reported. He noted RMWD made it through the shutdown, but there were some minor issues at the plant in Lake Skinner that impacted several agencies. He complimented staff doing an outstanding job during the duration of the shutdown including continuous watch over the system and ensuring the water remained in service.

Mr. Gutierrez spoke on the pump Ms. Miller referenced and how it was the quietest pump available and how in normal situations it could be turned off in the evenings. Mr. Kennedy added staff would be actively researching how best to reduce the noise when the pumps are running. Discussion ensued.

Mr. Gutierrez mentioned now that the shutdown has ended, the repair would not be made until the regularly scheduled shutdown in November or December.

Mr. Kennedy asked Legal Counsel for the proper steps to end the emergency declaration. Legal Counsel explained the Board can declare an end to the emergency by taking a vote.

President Brazier asked if an item is listed as informational, is the Board allowed to vote on the item. Legal Counsel stated typically the Board should not vote on an information item; therefore, he suggested the Board take a 4/5 vote to amend the item for Board action. He stated the current vote was fine, but the Board could take a vote to amend the item to declare it as an action item for the record.

Motion:

To declare the emergency over.

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

(*) - Asterisk indicates a report is attached.

Motion:

The Board considered changing Item #27 to an action item instead of information only to make the vote official.

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

21. MEMORANDUM OF UNDERSTANDING BETWEEN RMWD, FPUD, AND EASTERN MUNICIPAL WATER DISTRICT UPDATE

Mr. Kennedy reminded the Board the MOU contemplated an application to Riverside County LAFCO for the Sphere of Influence change and San Diego LAFCO for the detachment. He stated SDCWA has sent the parties some information indicating they desired the matter to just be held only in San Diego County. He reported Riverside County LAFCO will discuss the matter further on October 26, 2019 and San Diego County LAFCO on October 7, 2019; however, it appears the most recent revised draft MOU sent to him and SDCWA indicates Riverside County LAFCO will cede their authority to San Diego LAFCO to handle all the proceedings. He pointed out this will be favorable to RMWD and FPUD by not having to pay an additional application fee or any other costs associated with Riverside County LAFCO. He stated once both commissions decide upon and clarify the final processes, the application preparation would be completed.

Motion:

Based upon new information the Board obtained after the posting of the agenda, Item #21 will be made an action item.

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

Motion:

To direct staff to prepare the LAFCO applications.

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

Director Gasca inquired as to the timeline for filing the applications. Mr. Kennedy explained it should only take a couple of weeks; however, staff will work with Legal Counsel, Legal Counsel, as well as the Ad Hoc Committee on how to get the applications finalized. He noted the intent was to have the Board consider a Resolution of Application at their October meeting, but there will need to be some coordinating with the other agencies involved.

***22. BUILDING TWO WATER DAMAGE STATUS UPDATE**

Mr. Kennedy explained staff has prevented any major flooding to Building Two each time there is wet weather; however, over Labor Day weekend a backflow device on the slope behind the building failed resulting with water coming down and enter the structure. He noted the water damage was significant but manageable; however, the remediation company indicated the floor needed to come up due to water being trapped beneath it causing it to buckle. He explained they also required an asbestos test which it turn discovered asbestos exists and must be legally remediated. He pointed out the costs to remove the asbestos and restore the building were exceeding \$150,000-\$200,000 which is a great deal of money for a building with a potential to flood.

Mr. Kennedy reported after reviewing the condition of the building as well as the repair costs, trailers have been brought on site for temporary use until the matter can be addressed. He suggested the concept of renting a triple-wide trailer to be placed on the premises at a fraction of the cost associated with building repairs and restoration. He noted the monthly lease costs are easily manageable in some of the budget amounts with possible mid-year adjustments. He said unless the Board directs him to do so, he does not plan on rehabilitating Building Two.

Mr. Williams added Building Two has to be encapsulated. Director Hamilton stated he preferred spending money on temporary buildings as opposed to renovating a damaged building.

President Brazier inquired as to whether RMWD's insurance would cover the cost for damages, temporary offices, or demolition. Mr. Kennedy offered to have Ms. Harp research the policies.

It was noted a motion was not necessary since the cost was within the Mr. Kennedy's authorized spending limit; however, none of the Board Members objected to the proposed resolution.

***23. DISCUSSION REGARDING ADMINISTRATIVE CODE CHAPTER 2.09 – COMMITTEES (REQUESTED BY PRESIDENT BRAZIER)**

President Brazier thanked the Communications Committee for their proposed policy revisions. She explained twelve years ago, the Board created a committee system as an experiment by appointing public members to serve as volunteers and making use of the talent, knowledge and experience throughout the community. She stated she personally found the experiment to be very successful; however, after twelve years it was time a review be conducted by those utilizing the system such as committee members, Board Members, and staff. She noted the review should consist of taking a look of how things have been done, what has been done well, any stumbling blocks, unintended consequences, as well as some of the lessons learned. She pointed out self-dealing has been a glitch within the committees and how regardless of one is a volunteer committee member, paid staff member, or elected Board Member it should not ever occur. She mentioned other problems have occurred mostly due to a lack of clarity in terms of what responsibilities belong to the Board and what responsibilities belong to the committee. She suggested it would be beneficial to go over the system to find out if there are any recommendations from committee, Board, and staff members. She provided a list of questions she prepared for references purposes noting the committees are in place for the long haul and there may be

(*) - Asterisk indicates a report is attached.

considerable input on how to adjust the committee system to better serve the district and better utilize the talent.

Director Hamilton stated he would like the committee members to partake in the policy review in that the Board is seeking insight and guidance from the local community. He recommended having an agenda item on the October committee agendas to define the review process and compile the feedback for Board consideration.

Mr. Kennedy suggested elaborating on the self-dealing concept to include recusing members from certain discussions.

Mr. Nelson asked if there was any action contemplated on the expired term of the committee members. President Brazier stated committee members have been asked to submit their request to continue. Mr. Kennedy clarified it was determined the reappointment requests should be in writing for record keeping purposes.

President Brazier noted this was an information item to assist in soliciting for as much assistance and feedback as possible.

***24. DISCUSSION REGARDING ADMINISTRATIVE CODE SECTION 5.02.210 – PURCHASING AND CHANGE ORDER APPROVAL REQUIREMENTS – APPENDIX (REQUESTED BY DIRECTOR GASCA)**

Director Gasca recalled how the Board recently discussed an issue related to a Change Order suggested it may be beneficial to conduct a survey with other agencies as to their General Manager's spending authority and bring that information back to the Board consider whether to reevaluate and possibly adjust RMWD's policy. He suggested the policy include consultation with specific members of the Board to allow for quick response in urgent situations.

***25. RECEIVE AND FILE INFORMATION AND FINANCIAL ITEMS**

- A. General Manager Comments**
 - 1. Meetings, Conferences and Seminar Calendar
- B. Communications**
 - 1. Staff Training Reports
- C. Operations Comments**
 - 1. Operations Report
- D. Engineering Comments**
 - 1. Engineering Report
 - 2. As-Needed Services Expenditures Summary
- E. Human Resource & Safety Comments**
 - 1. Human Resources Report
- F. Finance Comments**
 - 1. Treasurer Report
 - 2. Credit Card Breakdown
 - 3. Directors' Expense
 - 4. Check Register
 - 5. Water Sales Summary

Mr. Gutierrez mentioned staff was being more proactive in terms of local brush fires in the area. He also noted when the area reaches red flags due to Santa Ana conditions, staff will increase the level of water to ensure enough water supply should power be turned off. Discussion ensued.

(*) - Asterisk indicates a report is attached.

Motion:

To receive and file information and financial items.

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

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

Ayes: Director Brazier, Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

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

It was noted the committee evaluation format, General Manager evaluation, audit report, LAFCO application resolution, and board conference reports should be on the next meeting agenda.

27. ADJOURNMENT - To Tuesday, October 22, 2019 at 1:00 p.m.

The meeting was adjourned by Director Brazier to a regular meeting on October 22, 2019 at 1:00 p.m.

The meeting was adjourned at 3:40 p.m.

Helene Brazier, Board President

Dawn M. Washburn, Board Secretary