

**MINUTES OF THE REGULAR BOARD MEETING  
OF THE BOARD OF DIRECTORS OF THE  
RAINBOW MUNICIPAL WATER DISTRICT  
SEPTEMBER 28, 2021**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on September 28, 2021, was called to order by President Hamilton at 12:05 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 Rindfleisch.

**Also Present:** General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Engineering and CIP Program Manager Williams, Information Systems Specialist Espino.

No members of the public were present 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.

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

President Hamilton did not read these instructions due to no public members attending the meeting via teleconference or video conference.

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 12:07 p.m.*

6. **CLOSED SESSION**

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

\* Three Items

(\* ) - Asterisk indicates a report is attached.

- B.** Conference with Legal Counsel - Existing Litigation Pursuant to Government Code Section 54956.9(d)(1)

\* Rainbow Municipal Water District v. Blum, Inc., et al.

***The meeting reconvened at 1:14 p.m.***

**7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION**

This item was discussed under Item #8.

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 September 28, 2021 was called to order by President Hamilton at 1:16 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 Rindfleisch *(arrived at 1:22 p.m. via video conference).*

**Also Present:** General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Engineering and CIP Program Manager Williams, Operations Manager Gutierrez, Finance Manager Largent, Information Systems Specialist Espino, Accounting Specialist Martinez.

**Also Present Via Teleconference or Video Conference:**

Human Resources Manager Harp, Associate Engineer Powers, Customer Service and Communications Supervisor Gray, Information Technology Manager Khattab, Wastewater Superintendent Zuniga, Senior Accountant Rubio, Project Manager Parra, Construction and Maintenance Supervisor Lagunas, Engineering Technician Rubio.

Nine members of the public were present for Open Session with one in person and eight via teleconference or video conference.

**11. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION**

Legal Counsel reported the Board met in Closed Session to discuss four items noting the one reportable action was the Board rejected the claim for alleged damages submitted by Maggie Tiehen Rawlinson.

(\* ) - Asterisk indicates a report is attached.

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

There were no amendments to the agenda.

**13. 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.

**14. 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).**

There were no public comments.

**15. EMPLOYEE RECOGNITIONS**

**A. Laura Martinez (5 Years)**

Mr. Kennedy acknowledged Laura Martinez, RMWD's Accounting Specialist, who does an amazing job very efficient and effectively regardless of the situation. He noted Ms. Martinez is a model of those who thrive working remotely. He thanked Ms. Martinez for her service and presented her with a check and plaque in recognition of her tenure.

*Director Rindfleisch rejoined the meeting at 1:22 p.m.*

**\*16. APPROVAL OF MINUTES**

**A. August 24, 2021 - Regular Board Meeting**

***Motion:***

***To approve the Regular Board meeting minutes for August 24, 2021.***

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

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

***Ayes: Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch, Director Moss.***

(\* ) - Asterisk indicates a report is attached.

**\*17. 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 commended Mr. Gutierrez for an excellent job in organizing and arranging the Heli-Hydrant event. Director Moss commended all staff members who participated in putting the ceremonious event together.

President Hamilton provided a report on the redistricting pre-map meeting he attended. He mentioned some of the highlights as well as shared some of the matters of interest.

**B. Representative Report (Appointed Representative)**

**1. SDCWA**

**A. Summary of Board Meeting August 26, 2021**

Mr. Kennedy reported SDCWA staff and leadership put forward a Long Range Financing Plan with which the City of San Diego disagreed. He mentioned the City offered a motion coupled with a prepared set of amendments to what SDCWA wanted to do related to their long-range financing plan which was approved. He noted the City's motion pushed forward amendments stating it was unnecessary to collect an extra amount at this time for the purpose of increasing debt service coverage, a requirement that a third party review SDCWA's Cost of Service Analysis, as well as require SDCWA put their cost of service a rate information out to the Member Agencies including a breakdown cost to each, as well as SDCWA needed to review their water supply mix as part of a policy matter. He pointed out there were a number of people who spoke against the amendment for various reasons; however, because he favored having more transparency from SDCWA and more information going forward, he supported the City's amendments. He mentioned some of the steps being taken toward team building.

**2. CSDA**

Director Mack reported on the CSDA Annual Conference which he found to be the best conference to date noting the application for recouping money directly related to COVID expenses would be going online October 1<sup>st</sup> -October 15<sup>th</sup>. Mr. Kennedy reported RMWD did not have too many expenses directly related to COVID. Ms. Largent pointed out RMWD would only qualify if funds were not already in the District's operating budget.

Director Moss reported she also attended the CSDA Annual Conference and how she learned a great deal as well as found it to be an excellent introduction to more of an overview of how municipal districts like RMWD have to operate.

Director Mack mentioned he learned a great deal about legalities involved with giving away public funds unless there is a benefit to the District. He noted he requested clarification regarding assisting ratepayers with their water bills and inquired as to whether the Board approved the Gilligan matter was it illegal. Director Moss pointed out the benefit would be not putting a customer out of business and RMWD receive nothing. Ms. Largent added as noted in the staff report, specific funds that were not collected from the ratepayers were utilized in this situation.

(\* ) - Asterisk indicates a report is attached.

### **3. LAFCO**

Mr. Kennedy reported LAFCO was looking at amending the law making Out of Agency Service Agreements subject to LAFCO review.

### **4. Santa Margarita River Watershed Watermaster Steering Committee**

There was no report given.

### **5. ACWA**

Director Gasca announced the 2021 ACWA Fall Conference will be held November 30-December 2, 2021, at the Pasadena Convention Center. He also mentioned Metropolitan Water District (MWD) has implemented voluntary water supply restrictions. Mr. Kennedy explained some of the agencies are putting forth voluntary response programs to show something was being done to address the recent drought conditions.

Director Gasca reported ACWA's Executive Director visited Padre Dam to see their water purification project presentation and how Padre Dam may also roll off or detach from SDCWA which was affectively the same.

Director Gasca pointed out October 2-10, 2021, was Water Professionals Appreciation Week and suggested RMWD do something acknowledging such. Mr. Kennedy noted Ms. Harp was in attendance and may have something planned.

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

#### **1. Board Seminar/Conference/Workshop Training Attendance Reports**

Mr. Kennedy pointed out there is a requirement in the Administrative Code requiring a written or verbal report be provided whenever Board Members attend seminars, conferences, workshops, etc. for which they are being compensated by the District and how some reports are outstanding. Ms. Washburn mentioned the reports missing from Directors Moss and Gasca, respectively due to their absence at the May Board meeting.

### **D. Directors Comments**

There were no comments.

### **E. Legal Counsel Comments**

#### **1. Attorney Report: Clean Water Act**

Legal Counsel summarized the information contained in the written report related to the Clean Water Act provided in the agenda packet. He also referenced the report he provided as a handout related to AB 361 related to the Brown Act and the new requirements for that need to be invoked by RMWD.

## 18. COMMITTEE REPORTS

### A. Budget and Finance Committee

Mr. Nelson reported the committee met on September 14<sup>th</sup> and how Ms. Largent had basically completed all of the work required for meeting with the auditors which was extraordinary and directly related to the processes and procedures Ms. Largent had put into place with the assistance of Ms. Martinez and Ms. Rubio. He pointed out the committee voted unanimously to recommend the Board deny the request for a variance which was before the Board for consideration today.

### B. Communications and Customer Service Committee

Mr. Shute reported the committee met on September 2<sup>nd</sup> during which discussion took place regarding the shutdown and possible communication options, latest status of the telephone system replacement project, enhancing emergency notification program. He also noted the committee reviewed the RAWs pamphlet, received an update on WSUP, talked about the impact of new meters on Flume devices, as well as delayed the appointment of officers until their October meeting.

### C. Engineering and Operations Committee

Mr. Nelson reported the meeting was cancelled due to lack of a quorum; however, there was an informal discussion that took place regarding the Thoroughbred project during which time information was exchanged.

## **BOARD ACTION ITEMS**

### **\*19. CONSIDER APPROVAL OF AMENDMENTS TO THE ANNEXATION AGREEMENT BETWEEN TRI POINTE HOMES, VALLEY CENTER MUNICIPAL WATER DISTRICT AND RAINBOW MUNICIPAL WATER DISTRICT AND THE PARTICIPATION AGREEMENT FOR THE DESIGN, CONSTRUCTION AND FUNDING OF PORTIONS OF THE RICE CANYON PIPELINE AND RELATED FACILITIES**

Mr. Kennedy explained this was related to the Annexation Agreement between RMWD, Valley Center, and Tri Pointe (then Pardee) to which Valley Center does not need to be a party to because it is related to terms between RMWD and Tri Pointe to this amendment. He noted the other portion has to do with funding of the Rice Canyon pipeline which was approved last month.

Mr. Williams pointed out both amendments are before the Board today and how both require amendments to both agreements. He noted the Annexation Agreement has a cap right now of allowing Tri Point Homes to construct 422 dwellings prior to the District's Lift Station #1 Replacement Project being completely on line. He explained Tri Point Homes has requested that the number of homes be increased to 572 homes prior to the completion of the project. He mentioned staff has vetted this and recommends this be accepted. He pointed out upon receipt of Board approval the Annexation Agreement would be amended.

Mr. Kennedy explained the reason RMWD had this was to allow time for RMWD to get the project designed and built. He stated staff was comfortable with increasing the number of homes noting the benefit to the District is the more homes built faster the sooner RMWD would receive the CFD money which would help pay for some of these things. He pointed out staff has been consulted and how they were confident with managing the extra sewer flows created by the additional homes.

(\* ) - Asterisk indicates a report is attached.

He said the reason these two agreements were being taken together is that the changes in the Rice Canyon Pipeline Agreement will also financially benefit the developer and District.

Mr. Williams explained when the Participation Agreement was first presented, the costs were unknown because the project was still in the design phase; however, hard numbers have since been determined. He pointed out how in the Participation Agreement there were contingencies percentages, administration costs, as well as lines where the District would pay Tri Point Homes interest that have since been significantly reduced following staff heavily negotiating these terms with Tri Point Homes; therefore, an amended Participation Agreement was being presented as part of this item for Board consideration.

Director Gasca said one of the most important aspects of this combined effort is getting the Rice Canyon Transmission line complete. President Hamilton agreed.

President Hamilton inquired as to whether once all 572 homes are built would exceed RMWD's service capacity limits with the City of Oceanside. Mr. Kennedy pointed out this development will not take RMWD over its capacity limits with the City of Oceanside and how staff was extremely confident RMWD can handle the increased flows. Discussion ensued.

***Motion:***

***To accept Option 1 as presented – Approve the Amendment to the Annexation Agreement and authorize the General Manager to execute the Amendment on behalf of the District, approve the Amendment to the Participation Agreement for the Design, Construction and Funding of Portions of the Rice Canyon Pipeline and Related Facilities and Authorize the General Manager to execute the Amendment on behalf of the District, and make a finding that the Project was adequately evaluated under the 2020 Addendum to the Pardee Final Environmental Impact Report.***

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

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

***Ayes: Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch, Director Moss.***

**20. NOTICE OF COMPLETION AND ACCEPTANCE OF INFRASTRUCTURE FOR THE GOLF GREEN ESTATES DEVELOPMENT**

Mr. Williams noted the contractor has completed all the punch list items and the development was complete. He said upon filing the Notice of Completion, RMWD will accept all facilities within the District's system and begin the contractor's one-year warranty period.

Discussion ensued regarding the location of the development.

***Motion:***

***To approve Option 1 – Accept the Golf Green Estates Improvements as complete and as shown on the approved plans, approve Filing the Notice of Completion, add installation costs of \$1,000,209.95 to the District's valuation, and make a finding that the action herein does not constitute a "project" as defined by CEQA.***

(\*) - Asterisk indicates a report is attached.

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

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

**Ayes: Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch, Director Moss.**

**\*21. DISCUSSION AND POSSIBLE ACTION ON A CUSTOMER REQUEST TO HAVE ALL FIXED FEES FROM AUGUST 2019 BE REFUNDED BACK TO THE CUSTOMER**

Ms. Largent explained Donnie Dabbs with Briggs Tree Company had contacted the District requesting all fees related to one of the accounts credited back to them claiming their accounting department had been paying the bills in error. She stated after researching this matter further, it was found this customer had actually been working on this specific APN with the Engineering Department as well as with Mr. Kennedy. She pointed out after reviewing extensive emails regarding the meter, it appears Mr. Dabbs had entered into a private agreement with a landowner to take over use of this meter without first establishing an easement agreement or setting up the actual service between the parties. She noted Mr. Dabbs has since taken ownership of this meter as well as the parcel and was paying the bill regularly; however, he has applied for a refund totaling \$6,378 in fees for the time period in question. She said staff was recommending the Board deny this request based on the customer stating this was his meter on multiple occurrences.

Mr. Kennedy added he and Mr. Williams did meet with Mr. Dabbs to discuss the Bonsall Reservoir matter and although Mr. Dabbs had discussed having issues getting water through the area in question, he never mentioned he would be anticipating a reimbursement. He stated it was not until Mr. Dabbs worked through taking ownership of the subject meter and parcel that he applied for reimbursement. He pointed out any reimbursement of duly applied charges paid would be considered a gift of public funds situation and since staff does not have a mechanism to unilaterally address this type of situation; therefore, this request was being presented to the Board for consideration.

Director Moss stated Mr. Dabbs' negotiations should not be with RMWD, but rather with the other party. President Hamilton pointed out the other option available would be for Mr. Dabbs to discontinue service should he not want to pay the bill.

Ms. Largent pointed out staff and the Budget and Finance Committee recommend the Board deny this request.

**Motion:**

**To adopt Option 2 – Deny the adjustment**

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

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

**Ayes: Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch, Director Moss.**



## 22. CONSIDER COMMITTEE MEMBER REAPPOINTMENTS FOR FLINT NELSON

Ms. Washburn pointed out Mr. Nelson's term for serving on both the Engineering and Operations Committee as well as the Budget and Finance Committee would be expiring and that although the Engineering and Operations Committee did not meet last month to make a formal recommendation, this was being presented to the Board to consider reappointment to both.

Mr. Kennedy thanked Mr. Nelson for all the tremendous work he has given and value he has brought to the RMWD ratepayers. President Hamilton and Director Moss thanked Mr. Nelson for a great job.

### ***Motion:***

***To approve Option 1 - Reappoint Flint Nelson to the Engineering and Operations Committee as well as the Budget and Finance Committee.***

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

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

***Ayes: Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch, Director Moss.***

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

Directors Gasca, Moss, and Mack expressed an interest in attending the 2021 ACWA Fall Conference.

### ***Motion:***

***To approve attendance at the 2021 ACWA Fall Conference for Directors Gasca, Moss, and Mack.***

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

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

***Ayes: Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch, Director Moss.***

## **BOARD INFORMATION ITEMS**

### 24. WATER SERVICE UPGRADE PROJECT UPDATE

Mr. Gutierrez reported the project was 73% complete noting the areas in which crews were currently working. He noted the average exchange rate was approximately 20-30 meters per day and how the estimated completion date would be early 2022. He mentioned some of the issues encountered with ordering supplies as well as how the budget spend ratio for this project was looking very good.

***Director Mack excused himself from the meeting at 2:28 p.m.***

(\* ) - Asterisk indicates a report is attached.

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

- A. General Manager Comments**
  - 1. 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
    - J. Treasury Report (June FY20-21 Revised)

Mr. Kennedy shared the Certificate of Recognition in honor of the dedication of the Heli-Hydrant from Assemblymember Marie Waldron, Certificate of Recognition for an Innovative Water Supply System from Senator Brian Jones, as well as the County of San Diego Proclamation declaring September 14, 2021, to be Rapid Arial Water Supply (RAWS) Day. Discussion followed.

Director Gasca recommended a process for seeking funding. Ms. Harp updated the Board on the status of the grant writer position.

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

It was noted an amendment to the Administrative Code including the grant writer position in the Conflict of Interest Code and contracts from Engineering will be on the next committee agenda.

**27. ADJOURNMENT**

***The meeting was adjourned by Director Hamilton to a regular meeting on October 26, 2021, at 1:00 p.m.***

The meeting was adjourned at 2:45 p.m.

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**Hayden Hamilton, Board President**

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**Dawn M. Washburn, Board Secretary**

(\* ) - Asterisk indicates a report is attached.