

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
DECEMBER 2, 2008**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on December 2, 2008 was called to order by President Petty at 5:27 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President Petty presiding.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:**

Present: Director Griffiths
Director Lucy
Director McManigle
President Petty
Director Walson

Absent: None

Also Present: Finance Manager Buckley
District Engineer Lee
General Manager Seymour
Operations and Maintenance Manager Sneed
Board Secretary Washburn
Legal Counsel Lemmo

Thirteen members of the public were present.

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

President Petty noted a request to pull Item #12 from the agenda until a later date. He also mentioned there was a request to move Item #19 up to right after Item #7.

Director Griffiths requested that Items #9 and #10 be delayed until the next meeting. Director Walson said the Board should take care of Item #9 at this meeting. Director Griffiths cautioned and strongly suggested it be delayed until a daytime meeting. Discussion ensued regarding how long this matter should be delayed. There was no objection to removing Item #10.

Director Griffiths recommended delaying discussing Items #13 and #15. There were no objections to delaying these two items until the next meeting.

*5. **APPROVAL OF MINUTES**

(*) - Asterisk indicates a report is attached.

A. October 28, 2008 - Regular Board Meeting

Action:

Moved by Director McManigle to approve the Minutes as revised. Seconded by Director Walson.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.

NOES: None.

ABSTAINED: None.

ABSENT: None.

Mr. Pearce pointed out that the word "informed" needed to be added after the word "customers" on Page #5A-7, Paragraph 9, last sentence.

***6. COMMITTEE REPORTS (Approved Minutes have been attached for reference only.)**

A. Budget and Finance Committee
1. October 2, 2008 Minutes

Mr. Pearce reported the Budget and Finance Committee was doing well with complete attendance at the last meeting. He noted they have been discussing cash flow and getting ready to start thinking about the next fiscal year after receiving the lead from the financing department.

B. Communications Committee
1. October 6, 2008 Minutes

Mr. O'Leary reported the Communications Committee was continuing working to get the new website online with staff working out final bugs with the designer. He also noted the continuing efforts on the RMWD 55th anniversary brochure for early next year.

C. Engineering Committee
1. October 7, 2008 Minutes

Mr. Brannon reported the Engineering Committee discussed the presentation given by Mr. Seymour on his recommendation for the Vallecitos Pump Station which was referred to as a marginally adequate system. He noted the cost concerns were evaluated. He mentioned that he and Mr. Lee came up with another solution for consideration that was basically a modification to one of the alternatives provided.

He noted discussions held regarding the overview of the design for Lift Station 2. He pointed out that the main item was the emergency storage capacity of this facility would be 90 minutes and how industry standards are approximately two hours. He encouraged the Board to keep this information in mind when discussing this project.

He reported the Committee approved the nomination of Kurt Saxon as a Committee Alternate which the Board will discuss later in this meeting.

(*) - Asterisk indicates a report is attached.

He noted they will continue to discuss the sewer EDU policy which they hope to bring to the Board for consideration.

He mentioned Mr. Lee's staff report on the North and Northside reservoir project, Pala Mesa rehabilitation, and Sweetgrass pipeline replacement.

He asked the Board for direction on how to proceed with the Vallecitos Pump Station. Discussion ensued regarding the modification to Mr. Seymour's proposal prepared by Mr. Brannon and Mr. Lee. Mr. Seymour pointed out that a recent bill presented to the assembly that would exempt natural gas engines at water pump stations in rural areas from air pollution standards. He stated if this passes, this would change things dramatically due to the fact that it would allow RMWD to reactivate the existing natural gas engine at the station for very low cost. He suggested to keep running the station as is until the bill either passes or fails at which time the Board can make a decision.

President Petty mentioned that Nina Powers, a member of the Communications Committee, had recently suffered a fall which broke her hip. He wished her a speedy recovery from everyone at RMWD.

**7. 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.

Discussion went to Item #19.

BOARD ACTION ITEMS

***8. DISCUSSION AND POSSIBLE ACTION ON AWARD OF CONTRACT FOR CONSTRUCTION
OF THE NORTH AND NORTHSIDE RESERVOIRS REHABILITATION PROJECT**

Legal Counsel pointed out RMWD had a separate legal opinion on this matter due to the fact one of the partners at Procopio has worked with one or both of the parties involved.

Mr. Lee explained that RMWD advertised for construction bids for the North and Northside reservoir rehabilitation projects. He noted bids were received and opened five bids on November 13, 2008. He stated the apparent low bidder at the time was Pacific Hydrotech with SCW Contracting being the second low bidder. He mentioned that the difference between the first and second bid was an eight-tenths of a percentage point (approximately \$45,000). He explained that the apparent low bidder, Pacific Hydrotech, had some irregularities in their bid- the main one being they did not include the entire bid package as directed by RMWD in its instructions to bidders. He pointed out the apparent low bidder and second low bidder bids were sent to legal counsel who in turn provided an opinion; however, after realizing the legal firm had worked with both parties in the past, they could not participate in the matter. He noted it was at this time that SCW filed a claim with RMWD arguing that Pacific Hydrotech's bid is unresponsive based on the irregularities in that bid. He explained that after the claim was filed, RMWD received another legal opinion from a third party law firm stating that the irregularities in Pacific Hydrotech's bid are waivable by RMWD which concurs with Procopio's initial legal opinion. Discussion ensued regarding the significance of the irregularities in Pacific Hydrotech's bid. It was noted the other bidders were not informed of the protest in this case.

Kevin Carlin, attorney for SCW, gave a presentation regarding why the bid from Pacific Hydrotech should be rejected as non-responsive. He pointed out that one of the reasons to reject the bid would be the fact that they did not list all of the equipment manufacturers which gives Pacific Hydrotech a competitive advantage in the bidding process which would not benefit RMWD. He noted this was the most significant reason for rejecting the bid. Discussion ensued regarding Ferguson Waterworks.

Mr. Carlin mentioned that another reason for rightfully rejecting Pacific Hydrotech's bid would be based on the fact they did not follow the ground rules set in writing by RMWD. He submitted that this allows for Pacific Hydrotech the potential (although they probably would not) submit claims for additional compensation during construction by not complying with RMWD's initial instructions to the bidders.

Mr. Carlin closed by referencing the legal response provided by Procopio which mentions that RMWD has the discretion to decide whether or not they want to require and enforce the bid documents. He noted that should RMWD not reject the Pacific Hydrotech bid and thereby not enforce its stipulated requirements, it could raise problems with future bids.

Mr. Carlin asked the Board to advance a motion determining that Pacific Hydrotech's bid be rejected as nonresponsive and that the contract be awarded to SCW. He pointed out that his clients were prepared to file a writ mandate on this matter.

President Petty suggested adjourning to Closed Session to discuss this matter.

The meeting adjourned to Closed Session at 7:01 p.m.

The meeting reconvened at 7:23 p.m.

President Petty reported that no decisions were made in Closed Session, just clarifications on the bid process and legal aspects of where RMWD was at this point.

Discussion ensued regarding irregularities in the bid proposals.

Director Walson questioned a line item change not being initialed by SCW in their bid, which was an irregularity. It was noted this minor oversight could cause RMWD to reject their bid as non-responsive as well.

Director Walson inquired as to how much time would be needed to rebid these projects. It was stated that it would take 90-120 days to go through the entire bidding process again.

President Petty stated he felt the Board would like to have RMWD's bidding process as clean as possible. He noted there could be irregularities in any bidding process; however, the question would be if RMWD could defend whatever decision it makes.

Action:

Moved by President Petty to accept Staff's recommendation to accept the Pacific Hydrotech bid with the proviso provided by Procopio that Pacific Hydrotech provide a bound bid package including Addenda 1 and 2 and a written confirmation that Pacific Hydrotech did not take exception to or alter the terms and conditions of the contract

documents in any way when it submitted its bid and that RMWD waive the deviations in the bid. Seconded by Director Walson.

After consideration, the motion FAILED by the following vote:

AYES: None.
NOES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.
ABSTAINED: None.
ABSENT: None.

Mr. Lee stated that the manufacturers form would be left to the contractors to be completed in their discretion. A SCW representative claimed the Pacific Hydrotech would have the advantage to alter their bid documents after providing RMWD with a price.

A representative from SCW asked for the opportunity to take the manufacturer list back and beat the initial priced provide to RMWD. He urged the Board to rebid the project, rewrite the requirements, and stand behind those rules to make it fair to all competitors. He noted by awarding the Pacific Hydrotech bid would open the door to future bidding process problems for RMWD. He expressly encouraged the Board to stand behind the specified requirements in lieu of honoring a blatant disregard for RMWD's specifications.

Director Griffiths noted the presentation was persuasive by pointing out that the oversights by Pacific Hydrotech allow them flexibility that could be a tremendous advantage.

Action:

Moved by Director McManigle to rebid the contract. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.
NOES: None.
ABSTAINED: None.
ABSENT: None.

Director Walson asked how RMWD planned to deal with all irregularities in the new bids. President Petty replied that if one bid has irregularities and one does not, so be it. Mr. Pearce asked if there were any irregularities in the third, fourth, or fifth bids received. Mr. Lee stated Staff did not review the remaining three bids for lack of time and resources. Mr. Seymour pointed out those other three bids were significantly higher in price.

President Petty urged Staff to work on the new bids as quickly as possible. Discussion continued regarding the time involved with rebidding this project. Mr. Seymour assured the Board that Staff will get this done as quickly as possible and still meet all the requirements.

***9. PER DIEM PAYMENTS TO DIRECTOR GRIFFITHS (REQUESTED BY DIRECTOR GRIFFITHS)**

President Petty disclosed that he had been accused of violating the Brown Act for inadvertently hitting "reply all" on an email regarding this matter; therefore he would recuse himself from

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participating on this item so that Director Griffiths could not claim there was an unfair discussion. He noted there were no further communications on this matter. He also stated he did not feel he was in violation of the Brown Act. He turned the meeting over to Director Walson, the Board Vice President.

Mr. Seymour mentioned that Director Griffiths made the request at the last meeting to have this on this meeting's agenda in order to allow time for Director Griffiths to prepare his response to the apparent per diem overpayments.

Director Griffiths stated he was unprepared to comment due to the fact he wanted a formal written legal opinion. He asked for this discussion to be postponed to the next meeting, but if not he had people in the audience who would like to comment on his behalf.

Mr. Seymour explained that Director Griffiths asked for a written response with case law from Legal Counsel. He noted his concern about spending approximately \$800-\$1,200 on a legal opinion for something totaling \$704; therefore, he sought direction from the Board as to whether or not to proceed with requesting the formal opinion. Director Griffiths asked Mr. Seymour what the value was of his good name.

Mr. Seymour proposed that should RMWD request the formal legal opinion and it exonerates Director Griffiths, then RMWD would pay the legal costs; however, should Director Griffiths be found at fault, he be required to reimburse the \$704 plus any legal fees. Director Griffiths stated this was a very rough statement. He said he felt someone made an accusation for political reasons; therefore, he should not be obliged to pay back the District. He deferred his speech to his members of the audience who have researched this matter.

Action:

Moved by Director Griffiths to close this matter and exonerate him completely for any possible mistakes that could have been made that he does not recognize for wrongdoing. Seconded by None.

Action:

Moved by Director Griffiths that RMWD authorize a full legal opinion with case law or any other investigation they care to make at the expense of the District. Seconded by None.

Director Griffiths made it very clear that he has made no mistakes or underhanded activities. He solicited help from the audience.

Director Lucy told Director Griffiths that he put the Board in a tough situation. He said although the Board was sympathetic that he had done nothing intentionally wrong, the resolve was very clear in the legal opinion and Dave's fair analysis. He expressed it did not make sense for Director Griffiths to ask RMWD to spend more than the \$704 in question. He stressed that nobody was accusing him of doing anything bad regardless of the media. He explained that Director Griffiths was reimbursed for something that he was not entitled to.

Mr. Thompson stated this was all a political hack. He referenced the meetings calendar from 2005, the Administrative Code Section 2.08.010.0 that states "in the event that a previous authorized membership is deemed to be no longer necessary, the General Manager will notify the Board of Directors that the need to maintain membership no longer exists. The General Manager may with consequences form a simple majority of the vote to cancel the membership

in the association.” He claimed these steps were not done; therefore, the authorization was given by the previous Board and staff did not follow its own Administrative Code. He concluded by stating he did not see how it could be said Director Griffiths was responsible for this situation.

Director Walson pointed out in the March meeting minutes when appointments and authorized meetings were discussed the meeting in question was not one with an appointment or authorization. Mr. Thompson claimed the Board did not de-authorize the meeting. Helene Brazier stated she was present when the Ordinance was written and it involved paid memberships to such things as the Chamber of Commerce and other organizations, not this type of meeting due to the fact it is not construed to be a membership due to attendance. She noted the Directors are designated to attend meetings or not and the membership Mr. Thompson referenced was for paid memberships which had to be de-authorized.

Mr. Swanson submitted to the Board to think of this matter not in terms of legality, but rather as a complex mistake. He referenced the Meetings/Seminars/Conference/Workshop schedule on which San Luis Rey Watershed Council and Santa Margarita Watershed Council were listed on the same line and suggested Staff inadvertently continued to schedule Director Griffiths’ attendance. Director Walson pointed out that what Mr. Swanson was referring to was just a calendar, not a depiction of Board authorized District representation. Mr. Swanson asked the Board to use some common sense and business judgment in this scenario due to the fact he felt this was not a legal issue. He concluded by suggesting the mistake be acknowledged without forcing Director Griffiths pay back \$704.

Mr. Seymour stated it was his fault for approving the per diems in question; therefore, he offered to reimburse the District \$704 with Director Griffiths acknowledging this as a gift.

Mr. Swanson stressed that he felt this became a political issue when Ms. Brazier called Director Griffiths a thief. Ms. Brazier repeatedly stated she never called him a thief.

Director Walson pointed out the Board designated Board representation and that is what should be followed. Director Griffiths read aloud the record which stated “Moved by Director McManigle that RMWD be represented by President Petty for CSDA and SDCWA, Director McManigle for Economic Study Group, and Director Griffiths for LAFCO and Santa Luis Rey Watershed Council.” He stated since Santa Luis Rey and Santa Margarita were on one line in the Meetings/Seminars/Conference/Workshop calendar, it represented to him that he should attend.

Mr. Seymour reiterated that Director Griffiths did nothing wrong and that it was an honest mistake. He encouraged the Board to allow him to reimburse the District to get this behind everyone and he would be sure to never allow this to happen again. He pointed out this was a legal matter that requires reimbursement of the money from someone since it he was not entitled to receive it in the first place.

Ms. Brazier said this was never a political action. She noted she became curious about the increasing per diems and investigated the matter. She stated she never called Director Griffiths a thief. She pointed out that everything she wrote was what was submitted to the Board and a statement of facts as they occurred during her research. She raised the question that if Director Griffiths believed of January 2007 that he was appointed to the Santa Luis Rey Watershed Council which included the Santa Margarita Watershed Council, then why did he did not apply for reimbursement for the meetings prior to October, 2007. She reiterated this was in no way a political matter, especially since she supported Director Griffiths’ in his first run for reelection. She added, however, when this came to her attention, she chose to investigate it further. She

concluded by stating she has never used inflammatory words in anything written or said and reiterated that she never used the word "thief".

Mr. Wireman noted the word thief was used by somebody and broadcasted throughout the community which caused him to wonder if he was supporting a thief for reelection. He stated there was a question of fairness and assuming responsibility for the District. He pointed out Mr. Seymour made an offer to assume the responsibility for his mistake. He also referenced the Meetings/Seminars/Conference/Workshop calendar schedule again. Director Walson reiterated the calendar reference was purely informational, not an authorization. Mr. Wireman said he felt the District failed to ask Director Griffiths if was willing to assume all the expenses associated with his attendance. He concluded by stating the issue was fairness and that the District should assume some responsibility. Mr. Seymour pointed out it was not a choice and that someone had to reimburse RMWD the \$704 since it was ratepayer money, not the District's.

Director Walson stated the Meetings/Seminars/Conference/Workshop calendar does not mean those people are authorized to attend the listed meetings on behalf of RMWD, especially in the case of the committees for which nobody gets paid to attend. He also pointed out that in March 2007 the Board defined who was authorized to attend which meetings which Director Griffiths voted for and knew what he was obligated to attend. He pointed out the Santa Margarita Watershed Council was not one of those meetings. Mr. Wireman claimed there was a whole series of mistakes made and the District needs to take some responsibility for its mistake.

Director Lucy stated it really bothered him that everyone was spending so much time on a \$704 deal when Director Griffiths was always talking about austerity to save RMWD money.

Mr. Swanson said this was a matter of integrity. President Petty spoke as a member of the audience when he stated that early on in this matter it was admitted this was an oversight and that nobody was putting any blame on Director Griffiths at all which he clearly stated at the Board meeting. He said at that time the right thing to do would have been to pay it back at that time since it was the ratepayer's money with no malice or blame on Director Griffiths.

Mr. Seymour announced Director Griffiths accepted his offer. It was suggested Mr. Seymour pay Director Griffiths so that he could in turn reimburse the District.

Action:

Moved by Director Walson that the Board accept Legal Counsel's findings and recommendations that Director Griffiths was not authorized to attend the stated meetings and that payment should be reimbursed to the District. Seconded by Director McManigle.

Mrs. Thompson stated that if anyone thought you were in the wrong, they would not go and follow through and do whatever tells them to do. She said by paying the money back, Director Griffiths would be admitting he was in the wrong which he did not believe. She said if she thought she was not in the wrong, she would never pay the money back. She stated that everyone seemed to her to delight in getting something against Director Griffiths. She stressed Director Griffiths thought he was legitimately attending those meetings; therefore, he should never pay the money back. She questioned why a person would ask their co-director to pay the money back. Director Lucy explained that when this was researched it was clear that Director Griffiths was not at fault, but it must be reimbursed.

Director Walson reiterated the Meetings/Seminars/Workshop/Conference calendar does not authorize one to represent the District at the meetings. Mrs. Thompson stated that if Director Griffiths does not feel he did anything wrong, he should not pay the money back to RMWD.

Mr. Seymour suggested the Board make a motion to accept his October 10th written recommendation rather than Legal Counsel's opinion since it makes it sound as though Director Griffiths did do something wrong. He encouraged the Board to accept his offer and allow him to pay the money back rather than Director Griffiths. Director Lucy stated he was willing to accept the offer that Mr. Seymour pay Director Griffiths' debt.

Ms. Brazier stressed that Mr. Seymour was a brand new general manager at the time this happened and could not be expected to know the Administrative Code of the District but the Directors could. She agreed there was no fault on the part of Director Griffiths. She suggested the motion be amended to state something to the affect that Director Griffiths be required to return the inadvertent overpayment to him. .

Director Walson accepted the suggested modification to his motion.

Action:

Moved by Director Walson that Director Griffiths return the inadvertent overpayment to the District. Seconded by Director McManigle.

After consideration, the motion CARRIED by the following vote:

AYES: Director Lucy, Director McManigle and Director Walson.

NOES: Director Griffiths.

ABSTAINED: President Petty.

ABSENT: None.

10. DISCUSSION AND POSSIBLE ACTION TO CLARIFY DUTIES OF APPOINTED DIRECTORS (REQUESTED BY DIRECTOR GRIFFITHS)

This item was pulled from the agenda per Item #4 herein.

11. CONSIDERATION AND POSSIBLE ACTION TO APPOINT NEW ENGINEERING COMMITTEE MEMBER

Mr. Brannon explained there was a member of the public that wanted to join the Engineering Committee by the name of Kurt Saxon. He mentioned Mr. Saxon has an engineering background.

Action:

Moved by Director McManigle to appoint Kurt Saxon as an alternate of the Engineering Committee. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.

NOES: None.

(*) - Asterisk indicates a report is attached.

ABSTAINED: None.

ABSENT: None.

***12. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE 08-14, UPDATING AND AMENDING ADMINISTRATIVE CODE SECTION 2.09 COMMITTEES**

This item was pulled from the agenda per Item #4 herein.

***13. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE 08-15, UPDATING AND AMENDING ADMINISTRATIVE CODE SECTION 3.05.010 MINUTES POLICY**

This item was pulled from the agenda per Item #4 herein.

***14. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE 08-17, UPDATING AND AMENDING ADMINISTRATIVE CODE SECTION 3.01.010 REGULAR MEETINGS**

Mr. Seymour pointed out that each year in December, RMWD establishes the dates and times of the meetings for the following year. He noted last year the Board instituted the quarterly evening meetings hoping to stimulate attendance by outsiders; however, it poses some scheduling problems for consecutive sessions. He explained Staff was recommending that the Board do away with the quarterly evening meetings and start the regular Board meetings at 11:00 a.m. by going immediately into Closed Sessions after the public comment period for items on the Closed Session agenda followed by Open Sessions time certain at 1:00 p.m. He mentioned that this way the public would not need to essentially show up until 1:00 p.m. unless they had interest in the Closed Session items. It was confirmed the meetings would continue on the fourth Tuesday of each month.

Action:

Moved by Director Walson to accept Staff's recommendation. Seconded by Director McManigle.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.

NOES: None.

ABSTAINED: None.

ABSENT: None.

Director McManigle pointed out there was an error in the recommendation where it should say "calendar month" as opposed to "calendar year".

***15. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE 08-16, UPDATING AND AMENDING ADMINISTRATIVE CODE SECTION 5.05.050.02.04 AUDIO RECORDINGS**

This item was pulled from the agenda per Item #4 herein.

(*) - Asterisk indicates a report is attached.

***16. DISCUSSION AND POSSIBLE ACTION ON PHASE 2 PRELIMINARY DAM SAFETY EVALUATION OF PALA MESA DAM AND RESERVOIR**

Mr. Lee mentioned that Phase 1 of the Pala Mesa assessment has been completed and that it has been recognized that the reservoir would need DSOD requirements at this time. He noted the next step would be to dive deeper into the reservoir phase and determine exactly which rehabilitation would be preferred followed by the design and construction of the rehabilitation of Pala Mesa.

Mr. Seymour pointed out there was a question as to whether RMWD wanted to sole source the project to Psomas and GENTERRA or go out to bid. He noted Staff would prefer to sole source with Psomas and GENTERRA since it will save time in this case; however, the Board may want to decide to go out to bid.

Director Lucy said why he felt retrofitting the entire tank may take more time and money than bulldozing the entire thing and constructing a steel tank. Mr. Lee stated he would support building a tank over a reservoir; however, the costs are too much.

Director McManigle agreed that this project would be a money pit based on there being assumptions in every single paragraph. Director Lucy reiterated why he felt a steel tank would be best.

Discussion continued.

Action:

Moved by Director Walson that Staff reevaluate the Pala Mesa Reservoir requirements, tank vs. reservoir, and report back to the Board what size tank would be needed as well as any other associated costs should that be determined the best solution. Seconded by Director McManigle.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.

NOES: None.

ABSTAINED: None.

ABSENT: None.

***17. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION 08-12; EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Mr. Seymour pointed out this was a housekeeping matter with no financial impact on RMWD. He explained an audit was performed at which time it was found RMWD does not have the

(*) - Asterisk indicates a report is attached.

necessary documentation on file for the employer contribution to the employees' PERs accounts.

Action:

Moved by Director McManigle to adopt Resolution 08-12. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.

NOES: None.

ABSTAINED: None.

ABSENT: None.

18. DISCUSSION AND POSSIBLE ACTION REGARDING STANDARD NORTH COUNTY REAL ESTATE DISCLOSURE (REQUESTED BY: DIRECTOR LUCY)

Director Lucy pointed out the changes made in the real estate disclosure. It was noted this was informational only and no action was required.

No action taken.

Discussion went to Item #20.

***19. DISCUSSION AND POSSIBLE ACTION REGARDING SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD CONDITIONAL WAIVER NO. 4 – DISCHARGES FROM AGRICULTURAL AND NURSERY OPERATIONS (REQUESTED BY: DIRECTOR MCMANIGLE)**

Mr. Seymour introduced Peter Peuron who would make a presentation to help explain the program.

President Petty disclosed his wife was a member of the Farm Bureau Board and has tendered her resignation. He asked if a conflict of interest existed. Legal Counsel said there was not.

Mr. Peuron gave an overview of the waiver. He noted that most of the interest at this time was the forming of a monitoring group. He pointed out the Waiver applies to essentially any irrigated land or nursery that is a commercial operation. He continued with his presentation. He noted that the deadline for enrollment (filing of a Notice of Intent) both for individuals and monitoring groups has been set for January, 2011. He stated there were no annual fees at this time nor were any anticipated in this waiver cycle; however, the Waiver will be rewritten in 2013 at which time these fees could be implemented. He mentioned the monitoring does not begin until 2012; therefore, there would only be one year of monitoring before the Waiver is rewritten.

Mr. Peuron mentioned that the monitoring program has been implemented in other regions throughout California which will assist in keeping the San Diego region consistent.

(*) - Asterisk indicates a report is attached.

Mr. Thompson inquired about the monitoring process. Mr. Peuron explained that the impetus for both the state and federal regulations that are driving this was from 1988 when the federal government mandated that, on a nationwide basis, that surface waters polluted by sources coming from everywhere including construction sites, industrial sites, and ultimately agricultural properties. He mentioned the program focuses on surface water bodies including streams, creeks, lakes, and the ocean that have been tested and found to have been significantly impaired by pollutants, including agricultural pollutants. He noted the monitoring process would involve testing small tributary sites; therefore, it would be beneficial to have a monitoring group in place to carry out the necessary sampling. He pointed out the program designed to get people to manage differently those sources that can be managed.

Discussion followed regarding site-specific water sampling and concerns regarding the water's background and content.

Mr. Peuron explained that the initial cost in the Regional Water Quality Control Board's technical report has been estimated at approximately \$15,000 to prepare a monitoring reporting plan and quality assurance plan. He noted this estimate was quoted by the Farm Bureau. He mentioned without a monitoring group, the annual costs to the individual farmer could be more than \$3,000. He pointed out that with a monitoring group, the average cost for a member of the monitoring group could be reduced to approximately \$100 plus \$.18 per acre.

Discussion ensued regarding the sampling verification process.

President Petty asked whether or not RMWD would like to pursue a monitoring group to assist its customers. It was noted it would take an ad-hoc committee to investigate this program further.

Mr. Seymour asked about the coordinating of the monitoring groups to ensure they are working together in order to avoid duplicate sampling. Mr. Peuron explained that the Regional Water Quality Control Board would be required to work with the groups to ensure the groups are working together.

It was noted the monitoring group would look at management practices to identify problems and then work with the farmers to find solutions.

Director McManigle explained why he felt RMWD would be in a good position to become a monitoring group to help its ratepayers as well as others from the surrounding areas.

The Board thanked Mr. Peuron for his presentation.

Action:

Moved by Director Walson that the General Manager explore developing a group for Rainbow, possibly joint with Fallbrook and Valley Center, and report his findings back to the Board at the next Board meeting. Seconded by Director McManigle.

After consideration, the motion carried by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle and Director Walson.
NOES: President Petty.
ABSTAINED: None.
ABSENT: None.

Discussion went to Item #8.

20. 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 Petty)
 - 1. SDCWA

There was no report since a meeting was not held.

- 2. CSDA

President Petty reported on the meeting he attended where California's economic situation was discussed.

- B. Representative Report (Director Griffiths)
 - 1. LAFCO

Director Griffiths reported on the meeting he attended where discussion took place regarding the statements put out that LAFCO was going to become actively involved in the water industry rather than just traffic and facilities. Discussion followed.

- 2. San Luis Rey Watershed Council

Director Griffiths reported that all the paperwork has been completed for the San Luis Rey Watershed Council to become a non-profit organization. He continued to report on the other discussions held at the meeting.

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

- D. Directors Comments

Director Walson asked if the backflow device matter was rectified and resolved. Mr. Sneed stated 80 out of 100 properties were inspected. He said 60 of those 80 still need the devices.

President Petty commented on Item #9. He pointed out that not one of the Board Members had accused Director Griffiths of doing anything illegal and that it was an honest oversight. He said he objected to ratepayers accusing him of bringing politics into this matter and that it was poor taste that some try to somehow demonize RMWD and this Board for politics that are outside of RMWD.

***21. RECEIVE AND FILE FINANCIAL STATEMENTS AND INFORMATION FOR OCTOBER 2008**

- A. Finance Manager Comments
 - 1. Interim Financial Statement
 - 2. Monthly Investment Report
 - 3. Visa Breakdown
 - 4. Directors' Expense

(*) - Asterisk indicates a report is attached.

5. Office Petty Cash
6. Check Register
7. Current Capital Improvement Projects
8. Water Purchases & Sales Summary
9. Statistical Summary
10. Cost Recovery of Repairs to District Property Caused by the General Public
11. Metropolitan IAWP Reduction Program

Action:

Moved by Director Walson to receive and file financial statements and information for October 2008. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.

NOES: None.

ABSTAINED: None.

ABSENT: None.

Director Walson made an inquiry on Item #21A and RMWD's standings. Mr. Buckley provided an explanation.

***22. RECEIVE AND FILE INFORMATION ITEMS FOR OCTOBER 2008**

A. General Manager Comments

1. Meetings, Conferences and Seminar Calendar

B. Operations & Maintenance Manager Comments

1. Water Services Report
2. Water Operations Report
3. Valve Maintenance Report
4. Wastewater Services Report
5. Safety and Emergency Planning Report
6. Meter Services Report
7. Cross Connection Report
8. Project Management Report

C. District Engineer Comments

1. Engineering Report

D. Human Resource Administrator Comments

Action:

Moved by Director McManigle to receive and file information items for October 2008. Seconded by Director Walson.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, President Petty and Director Walson.

NOES: None.

(*) - Asterisk indicates a report is attached.

ABSTAINED: None.

ABSENT: None.

Director Griffiths inquired as to when the District would have a finalized valve program. Mr. Sneed provided an update on the Valve Maintenance Program.

Mr. Seymour recommended that the Board wait on the Vallecitos Pump Station project due to the introduction to the new Bill regarding natural gas pumps. He also asked the Board how they wanted the information provided on the IAWP so they could decide whether or not to increase the RMWD rates in January. President Petty asked that Staff come up with a projection on how much the increase would add to RMWD's income. Mr. Seymour pointed out the information that would be provided would be speculative due to the fact that upcoming cutbacks are unknown and the new lawsuit from an environmental group against moving any water through the delta this year.

Discussion ensued regarding the cost for line cleaning.

Discussion ensued regarding Item #22B7.

Discussion ensued regarding Item #22C.

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

24. ADJOURNMENT - To Tuesday, January 26, 2009 at 11:00 a.m.

The meeting was adjourned with a motion made by President Petty to the continued Special Meeting on December 2, 2008.

The meeting was adjourned at 9:03 p.m.

Rua Petty, Board President

Dawn M. Washburn, Board Secretary