

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
JULY 28, 2009**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on July 28, 2009 was called to order by President Petty at 11:31 a.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
General Manager Seymour
Operations and Maintenance Manager Sneed
Associate Engineer Plonka
Board Secretary Washburn
Legal Counsel Moser

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

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

Director Walson requested deferring Item #17 until September.

Action:

Moved by Director Walson to defer Item #17 until September. Seconded by President Petty.

After consideration, the motion CARRIED by the following vote:

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

(*) - Asterisk indicates a report is attached.

Director Griffiths pointed out the item was time sensitive.

Director Griffiths requested the vote be read aloud. Ms. Washburn complied.

**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.

President Petty called for a break at 11:35 a.m.

The meeting reconvened at 11:38 a.m.

Time: 11:38 a.m.

6. CLOSED SESSION

At any time during the session, the Board of Directors Meeting may adjourn to Closed Session to consider litigation or to discuss with legal counsel matters within the attorney client privilege.

A. Conference with Legal Counsel. Existing Litigation (Government Code §54956.9(a))

- Engineering Systems Inc./MIOX/Dudek & Associates
- HazMat Trans, Inc. Claim
- Desal Partnership Litigation
- Agustin Angeles
- Cahuilla Band of Indians
- Wireman et al. v. Seiler et al.
- City of Banning/Armenta

The meeting reconvened at 12:05 p.m.

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

Legal Counsel reported the Board discussed the items listed and took action to approve settlement with Hazmat Trans which concludes that case. He added the Cahuilla Band of Indians case was dismissed with prejudice by the federal court and there was no action on the Wireman/Seiler case. It was confirmed all three matters are to be removed from future Closed Session lists.

President Petty called for a break at 12:06 p.m.

The meeting reconvened at 1:00 p.m.

Discussion went to Item #11A and Item #11B.

Legal Counsel repeated the information reported out of Closed Session.

Discussion went to Item #8.

(*) - Asterisk indicates a report is attached.

Time Certain: 1:00 p.m.

**8. 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).**

Ms. Brazier stated as one person in opposition to Proposition O, she would like to go on record as a supporter of Proposition A. She stated times have changed, situations have changed, and the most important thing as far as she was concerned that has changed was the stable and responsible leadership at RMWD.

***9. APPROVAL OF MINUTES**

A. June 23, 2009 - Regular Board Meeting

Action:

Moved by Director McManigle to approve the minutes as revised. 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 McManigle mentioned ~~%hypoturbines+~~ needed to be changed to ~~%hydroturbines+~~ on Page 9A-4. He also noted the second paragraph on Page 9A-6, #13 needed to be clarified.

Director Lucy noted the word ~~%be+before %Mr. Seymour+~~ on Page 9A-3 needed to be removed.

Director Walson asked for clarification on Page A-3 regarding the Palomar College design going to the architect.

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

A. Budget and Finance Committee

1. June 4, 2009 Minutes

Mr. Fagan reiterated the purpose of the Budget and Finance Committee as well as its participation in the RMWD budget process and its approval. He explained the makeup of the membership and solicited for any interested ratepayers to join.

Mr. Fagan reported the committee met on July 9th where discussions took place regarding the latest version of the cash flow report.

(*) - Asterisk indicates a report is attached.

- B. Communications Committee
1. April 8, 2009 Minutes

Mr. O'Leary reported the committee met in July where discussions took place regarding the upcoming ballot measure. He mentioned the committee will be touring the reservoirs the first Monday in August. He wanted to speak on Item #17; however, President Petty pointed out it was deferred until the September Board meeting.

Mr. Seymour mentioned there was also discussion regarding RMWD putting out a quarterly, more expanded newsletter to provide the communications committee with opportunities to write more topics of interest.

- C. Engineering Committee
1. June 2, 2009 Minutes

Mr. Seymour handed out pictures of the current reservoir covering project. Discussion ensued.

Discussion went to Item #12.

BOARD ACTION ITEMS

Time Certain: 1:00 p.m. Public Hearing

11. A. **PUBLIC HEARING REGARDING SETTING WATER RATES AND CHARGES FOR PASS THROUGH COSTS FROM METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (MWD) AND SAN DIEGO COUNTY WATER AUTHORITY (SDCWA) AND AUTOMATIC ADJUSTMENTS THAT PASS THROUGH WHOLESALE WATER CHARGES**

President Petty opened the public hearing at 1:00 p.m.

Mr. Seymour reported the District received 162 protest letters in respect to the proposed rate increase. He mentioned the proposed rate increase was comprised solely of a pass through cost from the Metropolitan Water District. He reminded everyone there was an additional increase in the IAWP cost of water scheduled to go into effect January 1, 2010 which will raise the MWD component with a slight decrease in cutbacks.

Dick Ries spoke on behalf of most of the people living at Rancho Monserate and how they were weary of the word "automatic". He expressed concern for those individuals on fixed incomes and implored the Board to do more investigation to find other ways of absorbing some of these costs rather than simply automatically handing them out to the ratepayers. Mr. Seymour noted the Board had instructed staff to look into absorbing some of these costs which resulted in cutting RMWD's budget by \$600,000; however, there was a limit as to how much the District can absorb before having to start cutting services.

Russ Veinsdal said as a long time resident of Fallbrook he has faced several water problems during his lifetime. He stressed the automatic passing on of these charges will create a hardship on the ratepayers.

(*) - Asterisk indicates a report is attached.

David Custer talked about how RMWD being close in comparison to Valencia; however, the RMWD's rates were much higher. He stressed RMWD needs to ask hard questions as to why the rates are so high. He mentioned how in conversations with some employees he was given the impression expenditures would be increasing. He also expressed concern that his request for a copy of the budget had been ignored. Mr. Seymour assured Mr. Custer RMWD has not hired anyone or purchased new equipment in a very long time. Mr. Buckley provided Mr. Costa with a summary of the current budget.

Richard Overturf mentioned he represented The Downs Condominium Association who has already been tasked by RMWD to reduce their water consumption 8%-9%. He explained that since they only have two meters, the reduction was taken out of the Association's irrigation. He talked about sub metering and how it could be used at RMWD condominium complexes to help save 20%-30% water consumption. He urged the Board to help the people via sub metering. Director Lucy asked if there was statistical evidence to support this idea. Discussion followed.

Mr. O'Leary suggested having the District's conservation liaison put together something on this sub metering matter and possibly a policy to bring before the Board for consideration.

Director Griffiths said he was 100% in favor of individual meters and responsibility.

Mr. Fagan recommended everyone stay for the Budget and Finance Committee report he would providing in this meeting.

President Petty closed the public comments portion of the hearing at 1:29 p.m.

Director Griffiths said he would like to see much more emphasis put back on complaining directly to Metropolitan Water District. He suggested RMWD customers get together and kick back harder at the water suppliers. He stated the 20% increase was entirely too much and should be justified.

President Petty explained the process and challenges involved with getting water to RMWD. He noted his fight on behalf of RMWD against the increases at MWD. Discussion followed.

President Petty asked Mr. Seymour to follow up on the comparison of water rates between RMWD and Valencia. He also asked Staff to send a copy of the protest letters as well as the minutes of this meeting to MWD to demonstrate what retail agencies are hearing and that the Board agrees.

Director Griffiths reiterated the need to complain harder directly to MWD.

Director Walson noted the increases will be continuous for at least five years.

President Petty closed the public hearing at 1:39 p.m.

***B. APPROVAL OF ORDINANCE 09-13 TO PASS THROUGH MWD/SDCWA WATER RATE INCREASES AND PROVIDE FOR AUTOMATIC ADJUSTMENTS THAT PASS THROUGH WHOLESALE WATER CHARGES**

Action:

Moved by Director McManigle to approve Ordinance 09-13. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

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

Director Walson mentioned how the Board has no alternative but to pass through the costs to the ratepayers due to the fact there are no means to absorb the costs. He stressed the District must maintain its system. It was noted RMWD has made many budget adjustments.

Mr. Fagan pointed out RMWD was also on a fixed income and when income continually goes down, it becomes difficult to absorb anything.

President Petty noted how past Boards decided to absorb a great deal of costs; however, it had nearly bankrupted the District. Discussion followed regarding what RMWD could do to get the message through to MWD.

President Petty called for the vote.

Director Griffiths said he felt RMWD has not done enough and should be doing more.

Discussion went to Item #7.

12. CONSENT CALENDAR

(The consent calendar items are matters voted on together by a single motion unless separate action is requested by a Board member, staff or member of the audience.)

A. DISCUSSION AND POSSIBLE ACTION TO APPOINT STEVE STRAPAC TO THE ENGINEERING COMMITTEE

Action:

Moved by Director Walson to approve the consent calendar. 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.

(*) - Asterisk indicates a report is attached.

Discussion went to Item #13.

BOARD ACTION ITEMS (CONTINUED)

- *13. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION 09-08 AUTHORIZING AND DIRECTING THE GENERAL MANAGER OF RMWD TO PREPARE, SIGN AND FILE AN APPLICATION TO THE STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH FOR FUNDING FOR THE NORTH AND NORTHSIDE RESERVOIR REHABILITATION PROJECTS FROM THE CALIFORNIA SAFE DRINKING WATER STATE REVOLVING FUND AND THE AMERICAN RECOVERY AND REINVESTMENT ACT**

Mr. Seymour pointed out Resolution 09-08 authorizes the general manager to prepare, sign and file an application for the State of California Department of Public Health for funding for North and Northside reservoir projects. He recalled RMWD being invited to apply for a state revolving fund loan through the American Recovery and Reinvestment Act. He noted RMWD was ranked very high and in order to submit the completed application packet, the District must have this Resolution that gives the general manager or someone else the Board designates the authority to sign and submit the application. He mentioned that if RMWD remits the application, is successful in being selected for funding, and chooses to move forward, a second Resolution will be required (as noted in Item #14 herein).

Action:

Moved by Director McManigle to approve Resolution 09-08. Seconded by Director Lucy.

After consideration, the motion carried by the following vote:

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

Director Griffiths said he looked at the information and it appeared North and Northside were tied in with the stimulus package. Mr. Seymour confirmed this was true. Director Griffiths stated he had a feeling RMWD was not the people to accept the stimulus package due to the fact it was not the intent of the stimulus package to provide for projects which are already planned, financed, awarded, and working. He explained even if the money was given to the District, it will not create one single job which would mean RMWD was taking money away from someone else who would create jobs. He stressed it was a mistaken idea even though he likes cheap money just like everyone else. He expressed concern RMWD was not along with the spirit of the loan because he was sure the President wanted the money to create jobs which RMWD was not going to do.

Director Griffiths noted his concern as to what would be done with the money once received by RMWD. He claimed that since RMWD already allocated cash, the only thing that could be done with the money would be put it in the bank and start paying interest on it. He noted his opinion that RMWD would be paying interest on money it was not using and how he thought it was not kosher to claim this was a stimulus package when it was not. He said ethically he would not vote for the Resolution. He mentioned that even though he would love to have the money, he felt RMWD was getting it under mistaken premise.

Director Lucy recalled the Board having a discussion as to this creating 70 or more jobs on this project alone; therefore, it was a stimulus package job. He noted this was a shovel ready job that RMWD was going after which fits the premise perfectly according to what the federal government wants the District to do. Director Walson pointed out if RMWD was not perfect, the government would not give RMWD the money.

Mr. Seymour reminded the Board the government was the one who invited the District to apply due to the fact they knew the project was shovel ready and they want to act quickly.

Director Lucy pointed out interest payments would not be made until the money is spent; therefore, Director Griffiths statement was erroneous. Director Griffiths said he was happy to hear that; however, he felt Director Lucy was wrong in saying additional money due to the fact RMWD had allocated money for job and the contractor already knew how many people it would take to complete the job and would not be increasing by 70 people because RMWD needs the money. Director Lucy countered the government obviously thought RMWD was a good candidate. Director Griffiths stated RMWD was wonderful people and should have the money, but it was not in the spirit of stimulus and 70 jobs was complete nonsense because one could not get 70 men working in the project site area.

Director Walson asked Director Griffiths if it was his intent to protest to the U.S. Government against RMWD applying for this loan. Director Griffiths stated that was not his intention at all, but rather he was trying to raise the awareness of ethics of saying this was not the spirit or intention of the stimulus package. Director Griffiths reiterated he undoubtedly likes cheap money, but this was not the stimulus package.

President Petty noted the federal government disagrees with Director Griffiths because they have already qualified RMWD for this funding and asked the District to do it.

President Petty called for the question.

***14. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION 09-09; A RESOLUTION AUTHORIZING THE GENERAL MANAGER OF THE RAINBOW MUNICIPAL WATER DISTRICT TO SIGN A FUNDING AGREEMENT FOR THE NORTH AND NORTHSIDE RESERVOIR REHABILITATION PROJECT UNDER THE CALIFORNIA SAFE DRINKING WATER STATE REVOLVING FUND AND THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

Mr. Seymour explained this item was included in the agenda in case RMWD received the funding request between the time the agenda was prepared and distributed; however, it had not yet been received. He mentioned this resolution would be the follow up to Resolution 09-08 if RMWD happens to be successful to receive a funding application.

(*) - Asterisk indicates a report is attached.

No action necessary.

15. CALIFORNIA URBAN WATER CONSERVATION COUNCIL (CUWCC) MEMBERSHIP

Mr. Seymour noted this item was postponed at last month's meeting to allow the Board more time to thoroughly read the material provided. He explained the purpose for the Council. He pointed out that the main drive in joining the Council is often times for state revolving fund loans membership in the Council and following the best management practices is one of prerequisites for getting the loan. It was noted the membership would be an expense to RMWD in the long run.

Mr. Seymour pointed out RMWD and Yuima were the only districts in San Diego not members of the CUWCC.

Director Griffiths said he was all about getting in the revolving funds if possible; however, he did not want to join another thing just to join. Mr. Seymour reiterated how very often times getting the funding is tied to following the best management practices the Council establishes. He also pointed out the membership would be helpful when RMWD starts forming its own monitoring group for the Conditional Waiver #4 of the Regional Board.

Action:

Moved by Director McManigle to authorize staff to join CUWCC. 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.

***16. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE 09-14 AMENDING AND UPDATING RMWD ADMINISTRATIVE CODE SECTION 3.01.010-REGULAR MEETINGS**

Mr. Seymour noted the Board wanted to look at this in order to close the gap between open and closed session portions of the regular meetings. He noted this change would leave the closed session start time flexible with the open session time certain for 1:00 p.m.

Ms. Brazier requested the reportable action be repeated at the start of the open session portion of the meeting for those interested.

Director Walson wanted ~~an~~ and the Board President+ added after ~~an~~ conferring with District Counsel+.

(*) - Asterisk indicates a report is attached.

Action:

Moved by Director Walson to accept staff recommendation the Board adopt Ordinance 09-14 amending and updating Administrative Code Section 3.01.010-Regular Meetings with the addition of “and the Board President” after “conferring with District Counsel”. 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.

Discussion went to Item #18.

17. REQUEST BY DIRECTOR GRIFFITHS TO LIMIT REFERENCE TO PROPOSITION “A” IN THE AUGUST NEWSLETTER

Item deferred until September per Item #4 herein.

***18. BOARD OF DIRECTORS’ COMMENTS/REPORTS**

Directorsqcomments 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

President Petty reported he was on an ad hoc committee to look at the SDCWA agricultural discount program. He explained he will push hard to modify the program or keep it in place.

He also reported the Board approved the funding mechanism for the desalination partners to get money from Metropolitan Water District.

2. CSDA

President Petty reported he did not attend last month’s meeting. He commented on Proposition 1A and the potential impact on RMWD.

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

There were no comments.

Director Walson commented on the successful public workshop on June 27th. He mentioned there were several compliments from the audience.

(*) - Asterisk indicates a report is attached.

C. Directors Comments

Director McManigle recommended that from this point forward no projects involving pressure relief valves be approved without first looking at the potential installation of hydroturbines at the project location. His formal request was duly noted.

***19. RECEIVE AND FILE FINANCIAL STATEMENTS AND INFORMATION FOR JUNE 2009**

A. Finance Manager Comments

1. Interim Financial Statement
2. Monthly Investment Report
3. Visa Breakdown
4. Directors Expense
5. Check Register
6. Petty Cash - Office
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 June 2009. 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.

Mr. Buckley mentioned the field audit was scheduled for August 10th. He pointed out the check written for \$1.2mm was for the refund of 78 EDU\$ reserved years ago and explained the information provided on Page 19A7-3. Discussion followed. Director Walson made suggestions as to what information could be added to the new report.

President Petty referred to Page 19A1-1 as he pointed out the 38 breaks as opposed to 20 last year, total expenses are below budget by 4%, delinquencies, foreclosures, delinquent charges, late payments, and decreased interest income.

Director McManigle referred to Page 19A1-3 and the savings. Mr. Sneed noted the budgeted equipment was not purchased.

Director Griffiths made several check inquiries. Discussions ensued.

Director Walson inquired as to the solar power study. Mr. Seymour noted it was a study in progress.

(*) - Asterisk indicates a report is attached.

Mr. Buckley noted the annual liability/risk insurance premium was much less than last year.

Director Walson inquired about the percentages shown on Page 19A-9. Mr. Buckley explained there was an error in the domestic column.

***20. RECEIVE AND FILE INFORMATION ITEMS FOR JUNE 2009**

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

Action:

Moved by Director McManigle to receive and file the information items for June 2009. 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. Seymour talked about the steps being taken to start forming the monitoring groups.

Mr. Sneed commented on the main breaks and how three of them were substantially large. He also commented on Director McManigle's meter read program concerns. Discussion followed.

Discussion ensued regarding the Valve Maintenance Program and hot spots.

President Petty commended staff for the great manner in which they handled the two recent breaks over a 24-hour period with little rest.

Director McManigle inquired as to the smart cover alarms. Mr. Sneed explained they were false alarms and the covers were repaired under warranty.

(*) - Asterisk indicates a report is attached.

Director Walson asked for an update on the flow monitoring as well as the woman's restroom. Mrs. Plonka noted the flow monitoring was on schedule and staff was looking into alternatives in regards to the restroom and quiet room.

Directors Walson and Griffiths made several engineering report inquiries respectively. Mrs. Plonka provided responses.

It was announced the public workshops would be held on July 30th, August 1st, August 6th, and August 8th at various locations.

Director Lucy suggested Rene Bush be present at every other Regular Board Meeting with employee updates including tuition reimbursements and certifications.

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

Director Griffiths requested an item regarding the possibility of checking the errors and omissions insurance of the environmental consultant that advised RMWD on the Horse Ranch Creek matter.

22. ADJOURNMENT - To Thursday, July 30, 2009 at 6:00 p.m.

The meeting was adjourned with a motion made by President Petty to a special meeting on July 30, 2009 at 6:00 p.m.

The meeting was adjourned at 3:04 p.m.

Rua Petty, Board President

Dawn M. Washburn, Board Secretary