

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
FEBRUARY 23, 2010**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on February 23, 2010 was called to order by 12:01 p.m. at 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
Human Resources Manager Bush
District Engineer Lee
General Manager Seymour
Operations and Maintenance Manager Sneed
Board Secretary Washburn
Legal Counsel Moser

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

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

Director Walson inquired as to the reason why the Board appointment of officers was not on this agenda. He pointed out the minutes of January 2009 contain a motion made by the Board that the appointments made at that time would only be for calendar year 2009. Since it could not be on this agenda according to Legal Course, he asked for it to be on for March.

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 public comments.

(*) - Asterisk indicates a report is attached.

Time: 12:07

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
- Agustin Angeles

B. Conference with Legal Counsel-Real Property Negotiations (Government Code §54956.8)

- 4355 Citrus Drive, Fallbrook, CA
- 30465 & 30516 Old River Road, Bonsall, CA
- 1541 Sleeping Indian, Oceanside, CA

Negotiators: Dave Seymour, General Manager
Brian Lee, District Engineer

The meeting reconvened at 1:08 p.m.

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

President Petty reported the Board gave Legal Counsel further direction in the MIOX lawsuit. It was noted the Board would return to Closed Session at the end of Open Session.

Discussion went to Item #14.

The Board adjourned to Closed Session at 3:29 p.m.

The meeting reconvened at 3:50 p.m.

President Petty reported on Item #6 B that there was nothing reportable on the Citrus Drive or Sleeping Indian properties. He also reported Staff was given authorization to prepare an offer for the Old River Road property.

Discussion went to Item #21.

Time Certain: 1:00 p.m.

8. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

This item was addressed under Item #7 herein.

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

There were no additions/deletions/amendments to the agenda (refer to Item #4 herein).

(*) - Asterisk indicates a report is attached.

**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).**

Helene Brazier stated although she has known some of the Board Members for a very long time and holds them personally in high regard, she also speaks her mind. She pointed out the Board meetings are the only means for ratepayers to review and evaluate the work and effectiveness of their Board Member, regardless of how reassuring. She mentioned the public are treated to seemingly interminable questions about the check register and are not comforted when the questions are asked when the answers are clearly presented in the agenda packet. She stated RMWD faces many serious problems, yet at the last Board meeting thirty minutes were spent just talking about which color to paint the water tank. She pointed out RMWD has a capable staff and encouraged the Board to let them do the work they were hired to do. She concluded by stating micromanagement does not suit the Board of Directors.

President Petty called for a break at 2:05 p.m.

The meeting reconvened at 2:10 p.m.

Sheila Walson provided copies of information on delta matters and pointed out RMWD may be voting for and on the wrong items in this regard. She talked about global warming and encouraged the Board to consider the information she provided before voting on money being put into Delta matters.

***11. APPROVAL OF MINUTES**

A. January 26, 2010 - Regular Board Meeting

Action:

Moved by Director McManigle to approve the minutes as presented. 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.

12. 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

President Petty reported SDCWA has a contract up for review that involved Dudek & Associates; therefore, he will be abstaining from that vote at the Board meeting. He also provided information he found very interesting pertaining to a potential purchase agreement with Borrego Solar Systems for three solar power projects.

2. CSDA

No report was given.

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

Director Griffiths reported on the tour of various facilities he attended along with Director Walson. Director Walson noted why he found Diamond Lake Reservoir very interesting.

Director McManigle reported on the Mission Resource Conversation District meeting and how it was mentioned FPUD was considering starting a monitoring group.

C. Directors Comments

Director Lucy inquired as to how SDCWA removed staff positions, yet increased their budget considerably.

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

A. Budget and Finance Committee

1. January 7, 2010 Minutes

Mr. Fagan reported on the February committee meeting. He mentioned a letter dated February 9, 2010 was sent to the board encouraging them to reconsider the proposed rate increases presented in the Committee's letter to the Board dated December 3, 2009.

Director Walson said as Directors the Board has a responsibility to the ratepayers to ensure that adequate funds are available and put to the most beneficial use to the District. He claimed the Board may be failing in their role by delaying rate increases and thereby not providing adequate funds to do the job. He urged the Board to get the funding going.

President Petty stated he wanted answers from the Department of Dam Safety in order to get a better of idea of what has to be done. He added he also wants to know more about Beck Reservoir in order to decide whether it would be best to keep it or abandon it altogether. Mr. Fagan pointed out RMWD cannot meet its obligations to do Morro, North, Northside, and Pala Mesa in the present three year plan. He noted Beck was in the second three year plan.

Director Walson pointed out the funds for Beck has to be included in order avoid a bigger debt. Mr. Fagan assured Director Walson the \$1.2M was to study Beck Reservoir and provide the Board with a proposal as to what should be done. Director Walson reiterated the District knows it will need funds in the future; therefore, some allowance needs to be made. Mr. Fagan pointed out the Committee presented this to the Board and the Directors decided they wanted to know how much money would be needed for Beck; therefore, the Board wanted Beck studied first to make more accurate funding determinations.

Director Lucy mentioned the \$1.2M for studies more than likely took the Directors by surprise; therefore, the Board directed Staff to come back with some other ideas as to how this matter can be best evaluated. He suggested a comparison be made between the biggest users two years ago and the current biggest users in order to see what exactly may be going on with the water use in the agricultural community. Mr. Fagan cautioned unless the Board decides not to do something with Morro and Pala Mesa, RMWD will run out of money.

Director Griffiths recommended Beck project be combined with Pala Mesa.

Discussion continued.

B. Communications Committee
1. January 4, 2010 Minutes

Dorothy Romani introduced herself as a member of the Communications Committee. She mentioned the Committee accomplished a great deal at its February meeting.

C. Engineering Committee
1. January 5, 2010 Minutes

Ms. Brazier reported on the February 2, 2010 Committee meeting where vacancies and continued absences were discussed. Mr. Lee was to follow up with Mr. Irvine regarding his frequent absences. She mentioned the Committee voted unanimously with one abstention not to seat a second member of a same family. She stated there was discussion on establishing more specific guidelines for committee membership at a future meeting. She pointed out the Morro Reservoir Rehabilitation Change Order #4 was discussed extensively and the Committee voted unanimously with one abstention to recommend the Board approve Change Order #4. She concluded by stating Lines NN and Q3, CIP discussions be on the March meeting agenda.

Discussion went to Item #17.

***14 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. ADOPT RESOLUTION 10-04 AND RESOLUTION 10-05 FIXING THE TIME AND PLACE OF HEARINGS AND MEETINGS ON PROPOSED WATER AVAILABILITY CHARGES FOR IMPROVEMENT DISTRICT NO. 1 AND IMPROVEMENT DISTRICT NO. 6 (REQUESTED BY: GENERAL MANAGER)**

Action:

Moved by Director Walson to approve Resolutions 10-04 and 10-05. 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.

Discussion went to Item #15.

BOARD ACTION ITEMS

- *15. DISCUSSION AND POSSIBLE ACTION TO APPROVE THE AMENDED AND RESTATED WATER PURCHASE AGREEMENT BY AND BETWEEN RAINBOW MUNICIPAL WATER DISTRICT AND POSEIDON RESOURCES**

Mr. Seymour introduced Mr. Peter MacLaggan, Vice President of Poseidon Resources.

Mr. MacLaggan briefly updated the Board on what has transpired since the last time Poseidon visited RMWD. He followed the update with a presentation on the purchase agreement.

It was noted there was no action necessary on this item and a new proposal will be on the March agenda for discussion. No action taken.

Discussion went to Item #16.

- 16. DISCUSSION AND POSSIBLE ACTION MODIFYING THE DISTRICT'S ALLOCATION OF WATER RECEIVED FROM THE CARLSBAD DESALINATION PLANT**

Mr. Seymour pointed out this was a verbal introduction of this item at this time and should RMWD have any interest, further information will be presented at a future meeting.

Discussion ensued regarding SDCWA's means of diversification.

Director McManigle asked for RMWD's incentives. Mr. MacLaggan explained how everyone will benefit, including RMWD.

(*) - Asterisk indicates a report is attached.

President Petty asked the Board Members if they wanted to pursue this matter any further. Director Walson proposed rejecting the proposal.

Action:

Moved by Director Walson to reject the proposal. Seconded by Director Griffiths.

After consideration, the motion FAILED by the following vote:

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

Director Lucy pointed out nobody wants to give up water, but he does not see the need to reject the proposal altogether. He said he was hopeful the Board could negotiate a fair proposal.

Discussion ensued.

Director McManigle agreed the proposal should not be rejected outright.

Action:

Moved by President Petty to approve moving forward with negotiations allowing Poseidon to pursue an agreement that will ultimately reduce RMWD's allocation to 5,000 acre feet for a period of two years at which time RMWD will have the right to take back the its full 7,500 acre feet. RMWD also reserves the right to review the agreement if the drought becomes much more severe. Seconded by Director McManigle.

After consideration, the motion carried by the following vote:

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

Discussion went to Item #10.

***17. DISCUSSION AND POSSIBLE ACTION ON AUTHORIZATION TO EXECUTE CHANGE ORDER NUMBER 4 FOR MORRO RESERVOIR REHABILITATION PROJECT**

Mr. Lee pointed out the lengthy discussion presented in the Board Action Letter on this item as an attempt to answer the questions raised by both the Engineering Committee and General Manager respectively. He noted both support Change Order Number 4 after lengthy discussions on the matter. He reported the Change Order was successfully negotiated downward from \$382,000 to \$339,000; therefore, the Board Action Letter Staff Recommendation should read "for a not to exceed amount of \$339,000".

It was noted the mileage will be changed to the current IRS rate.

Director Walson stated when the change orders are all added up they total a 70% increase to the contract and he does not understand where the additional costs come from. Mr. Seymour

(*) - Asterisk indicates a report is attached.

explained when this Board decided to break one project into two and then later put it back into one it was not a simple task and became very costly.

Discussion ensued regarding some new requirements. Mr. Lee pointed out although the costs would be added to the construction side, a reduction in contractor costs would result.

Discussion took place regarding why the Board may not have understood everything when they were making their initial decisions. Mr. Seymour provided a response.

Discussion continued.

It was noted Dudek & Associates have been the contractor with Hilts Consulting since 2006 and would be conducting the engineering work for the Morro Design. It was confirmed Hilts Consulting would be 100% responsible for the projects should something go wrong.

Action:

Moved by President Petty to authorize Staff to execute Change Order Number 4 for a not to exceed amount of \$339,000. 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 Lucy expressed how pleased he was with the additional information Mr. Lee provided as well as his negotiations efforts with the contractor.

18. DISCUSSION AND POSSIBLE ACTION REGARDING FRONT OFFICE SECURITY

Mr. Seymour explained even before FPUD was robbed recently, RMWD has been looking into means to increase the level of security in the front office.

Mr. Buckley pointed out large amounts of cash was not kept at the front office. President Petty pointed out it was not a matter of cash, but the safety of the employees that was of utmost importance.

Mr. Seymour noted Staff would bring information back to the Board as it progresses.

***19. RECEIVE AND FILE INFORMATION ITEMS FOR JANUARY 2010**

- 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 Lucy to receive and file the information items for January 2010. 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. Sneed mentioned certifications recently achieved by several crew members.

Mrs. Brazier expressed gratitude to the crews for getting the water in her area back on an hour earlier than anticipated with additional pressure.

Directors made general inquiries on Item #19B. Mr. Sneed provided responses.

Mr. Lee congratulated both the Engineering and Operations Staff, especially Sherry Rebueno, for coordinating and performing an excellent job at Connection 6.

Mr. Lee mentioned Staff will be running the camera in Line Q3 again this upcoming week to determine whether or not they can get some more answers as to how to address the problem. Discussion followed.

Discussion ensued regarding Line NN.

Discussion continued regarding the Sewer Inflow and Infiltration Plan status.

Discussion ensued regarding the status of the new women's restroom.

(*) - Asterisk indicates a report is attached.

***20. RECEIVE AND FILE FINANCIAL STATEMENTS AND INFORMATION FOR JANUARY 2010**

A. Finance Manager Comments

1. Interim Financial Statement
2. Monthly Investment Report
3. Visa Breakdown
4. Directors' Expense
5. Check Register
6. Office Petty Cash
7. Water Purchases & Sales Summary
8. Statistical Summary
9. Cost Recovery of Repairs to District Property Caused by the General Public
10. Metropolitan IAWP Reduction Programs
11. Metropolitan SAWR Reduction Program
12. RMWD Domestic Reduction Program
13. Projected CIP Cash Flow Report
14. Current Capital Improvement Projects
15. RMWD Project Budgets

Action:

Moved by Director McManigle to receive and file financial statements and information for January 2010. 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. Buckley gave a general financial overview.

Director Griffiths made several check register inquiries.

Director Lucy inquired about Check #37872. Mr. Sneed explained it was a repair and Mr. Buckley reaffirmed RMWD does not own the road.

Director Walson made inquiries.

The meeting adjourned to Closed Session at 3:29 p.m. (See Item #7 herein).

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

Director Lucy explained how in light of the conversation from the Budget and Finance Committee at this meeting, he would like the rate increase back on the next agenda for discussion and possible reconsideration. Mr. Seymour clarified the Board wanted a proposal from staff. Director Lucy confirmed a proposal may be appropriate.

(*) - Asterisk indicates a report is attached.

Director Griffiths requested an agenda item to discuss the relationship between Beck Reservoir and the Pala Mesa tanks due to the fact he believed they could be considered one project.

Director Walson requested the appointment of Officers and Committees for the Board of Directors; review of the Bonsall Reservoir lease; and, if available, the line access recommendation.

Director Lucy recommended an item for the Board to discuss a possibly preparing a structured water allocation policy.

22. ADJOURNMENT - To Tuesday, March 23, 2010 at 1:00 p.m.

The meeting was adjourned with a motion made by President Petty to a regular meeting on March 23, 2010 at 1:00 p.m.

The meeting was adjourned at 4:01 p.m.

Rua Petty, Board President

Dawn M. Washburn, Board Secretary