

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
JUNE 22, 2010**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on June 22, 2010 was called to order by President Petty at 12:01 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
District Engineer Lee
General Manager Seymour
Operations and Maintenance Manager Sneed
Board Secretary Washburn
Legal Counsel Lemmo

There were no members of the public present before Open Session. Seven members of the public were present for Open Session.

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

President Petty requested that Item #20 be moved to after Item #13 and Item #19A after Item #15.

Director Walson suggested the Board take a separate vote as opposed to a combined vote on Item #20. He also mentioned there may need to be some other adjustments made during the open session in the event members of the public show up to discuss the rate issues.

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.

(*) - Asterisk indicates a report is attached.

Time: 12:04 p.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

- B. Conference with Legal Counsel-Anticipated Litigation (Government Code §54956.9)
 - 30465 & 30516 Old River Road, Bonsall, CA

Agency Negotiators: Dave Seymour and Brian Lee
Under Negotiation: Price and Terms

The meeting reconvened at 1:00 p.m.

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

There was no reportable action.

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)

President Petty repeated the changes made under Item #4 herein.

(Recorder was not on until now)

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).

Phil Bulfinch, a member of the public addressed the Board about his property and absent water lines. He asked the Board and staff for assistance in getting water to his property. He urged to Board to help fix the situation. Mr. Bulfinch confirmed his contact information was included in the information he provided. President Petty stated although the Board could not take action at this time, Mr. Seymour would review the information and get back to him.

It was confirmed Mr. Bulfinch was currently being charge standby charges.

Sheila Walson commented on the committees and Board Member attendance as well as her credentials to serve on the committees. President Petty pointed out her appointment was approved at the last Board meeting last month; therefore, she was not obligated to share her qualifications.

(*) - Asterisk indicates a report is attached.

***11. APPROVAL OF MINUTES**

A. May 18, 2010 – Special 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 Lucy, Director McManigle, President Petty and Director Walson.
NOES: None.
ABSTAINED: Director Griffiths.
ABSENT: None.

Director Walson referred to Page 11A-3, Paragraph 3, and said the word “numerous” should be added before “inconsistencies”. He also stated where it refers to modeling, he really stated “software does only what it’s told to do” and “lack of velocity figures” should be replaced with “inconsistent data”.

Director McManigle referenced the same page, Paragraph 6, first line, as he pointed out the word “to” should be deleted and the last sentence of the same paragraph should say “over” it.

Director Walson talked about listening to the committee meetings on CD’s and commended Ms. Washburn on her ability to transcribe the meetings.

B. May 25, 2010 - 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 Lucy, Director McManigle, President Petty and Director Walson.
NOES: None.
ABSTAINED: Director Griffiths.
ABSENT: None.

Director McManigle referred to Page 11A-7, second paragraph, the sentence should be changed from “agreed to try to sly their thoughts” needed to be revised.

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 said his report would be addressed under Item #14 herein.

2. CSDA

President Petty reported he did not attend the CSDA meeting.

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

Director McManigle talked about a meeting he attended at the Rainbow Grange and encouraged RMWD to go forward with its monitoring group program due to the fact it will save the ratepayers a great deal of money compared to the Farm Bureau's program.

C. Directors Comments

President Petty talked about the committees being attacked by a Board Member and he wanted to go on record to state he did not agree with the comments made. He said the reason the committees were formed was for their independent thinking outside the Board. He pointed out the Board Members have an opportunity to weigh in during the Board meetings. He said the engineering committee was doing a great job due the great deal of engineering talent within its membership and he does not agree with they are a "rubber stamp" type of committee at all.

President Petty stated for the record a second complaint investigation was filed with the State of California against Director Griffiths for misuse of his engineering license. He asked for the letter from the state to be made part of the minutes herein (see "Exhibit A").

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

A. Budget and Finance Committee

Mr. Fagan reported on the June 3rd committee meeting. He stated they were standing on their recommendations to the Board of Directors. He concluded by announcing the committee will not meet in July and will resume their meetings in August.

B. Communications Committee

Mr. Seymour reported the committee mostly focused on the quarterly newsletter. He noted the committee was aiming to go to print on the newsletter in July; however, it depends on the desalination project discussions and actions that take place between now and then.

(*) - Asterisk indicates a report is attached.

C. Engineering Committee
1. April 6, 2010 Minutes

Ms. Brazier reported on the June 1st Engineering Committee meeting. She reported after lengthy discussions, the committee agreed to keep the policy currently in place active. She noted the committee was still recommending the appointments of both Mr. Prince and Ms. Rhyne to the Engineering Committee. She noted the committee discussed the summary of the status of the CIP as well.

Discussion went to Item #20.

BOARD ACTION ITEMS

14. DISCUSSION AND POSSIBLE ACTION REGARDING THE DISTRICT'S PARTICIPATION IN THE CARLSBAD DESALINATION PROJECT)

Mr. Seymour briefly described the current discussions and actions taking place at SDCWA in regards to this project. He pointed out SDCWA needs to know by Thursday whether or not RMWD would be willing to step out and allow SDCWA take over negotiations. He mentioned the current status of the sister districts in the local area. Discussion followed.

President Petty briefed the revised staff recommendation options and alternatives being presented to the SDCWA Board of Directors for consideration. Discussion ensued.

Action:

Moved by Director Walson that if San Diego County Water Authority and Poseidon Resources negotiate a successful purchase agreement for the desalinated water produced at the Carlsbad desalination facility, the Rainbow Municipal Water District and Poseidon Resources will set aside our existing Water Purchase Agreement with Poseidon Resources. Seconded by President Petty.

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 Griffiths stated he wanted a motion that under no circumstances should RMWD be obligated to any additional costs. President Petty explained this was already incorporated in the agreement. Discussion continued.

Discussion went to Item #16.

***15. DISCUSSION AND POSSIBLE ACTION REGARDING THE FORMATION OF A RMWD WATER QUALITY MONITORING GROUP AND THE FUNDING THEREOF (REQUESTED BY: DIRECTOR PETTY)**

Mr. Mellano expressed concern regarding the formation of the monitoring group. Director McManigle asked Mr. Mellano to explain why he was putting his Farm Bureau hat in a box for the purpose of this discussion. Mr. Mellano stated he wanted to have choices. Director McManigle expressed there are choices when it comes to the monitoring groups due to the fact anyone can sign up for whatever group they choose. Discussion followed.

It was noted Mr. Mellano can opt out of the backflow inspection tests being conducted by RMWD's contractor; however, a report must be provided to RMWD.

Mr. Seymour pointed out part of the issue was that the Regional Quality Control Board does not even have a clear indication of what the monitoring groups should involve. He said it was his understanding RMWD's share of the costs for the entire county would be significantly low due to the fact RMWD only has 91 members. Discussion ensued.

Director Lucy acknowledged he was good friends with Mr. Mellano. President Petty also acknowledged he is a member of the Farm Bureau.

No action taken.

President Petty called for a break at 2:40 p.m.

The meeting reconvened at 2:46 p.m.

Director Lucy excused himself from the meeting at 2:45 p.m.

Discussion went to Item #14.

16. DISCUSSION AND POSSIBLE ACTION REGARDING BRINGING BECK RESERVOIR INTO COMPLIANCE WITH LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE

Mr. Seymour recalled the Board directed Staff to come up hard costs for this project at the last Board meeting; however, with Staff receiving this direction this late, the hard numbers would not be available until later this year.

Director Walson suggested putting something on the June 2011 ballot with hard numbers. Director McManigle disagreed noting his opinion it would not be prudent to miss an election opportunity.

Discussion ensued.

Mr. Seymour reported the geotechnical study was still in progress and hopefully next month there will be something to report back to the Board.

No action taken.

Discussion went to Item #19.

(*) - Asterisk indicates a report is attached.

***17. DISCUSSION AND POSSIBLE ACTION TO ESTABLISH AND IMPLEMENT A MONTHLY METER SURCHARGE FOR THE PURPOSE OF FUNDING TWO YEARS OF RESERVOIR MODIFICATION PROJECTS NECESSARY TO BRING RMWD FACILITIES INTO COMPLIANCE WITH REGULATIONS REGARDING UNCOVERED DRINKING WATER RESERVOIRS, AND TO PURSUE VOTER APPROVAL REGARDING LONG-TERM FINANCING FOR THE BALANCE OF THE RESERVOIR PROJECTS**

Mr. Seymour briefed the Board on the history of this item. He noted the final recommendation of the Budget and Finance Committee was that in order to collect the necessary \$2.5M over the two years the money is needed, RMWD would have to have a monthly meter surcharge for people with 5/8" and 3/4" meters of \$14.40, 1" meters of \$23.04, and then all the way up to \$432.00 for 6" meters per month, respectively. He pointed out subsequent to this recommendation, he started trying to find any way possible to minimize these monthly charges due to the fact they would heavily impact the ratepayers. He pointed out the ultimate costs to ratepayers would not be lessened; however, they were able to come up with some means of lessening the ratepayers' burden. He reviewed a letter he wrote to the Board of Directors regarding Funding for Water System CIP dated June 10, 2010. He pointed out the three options available for Board consideration and noted the public hearing on the rates would be at the August Board meeting.

Mr. Fagan said he personally found Options 1 and 2 would most likely work, he felt Option 3 may be problematic. He stated although neither he nor the Engineering Committee have had an opportunity to discuss these new options, he does not foresee any problem with the Board selecting one they feel will be best for the ratepayers.

Mr. Wolk said he does not envy the RMWD Board in trying to fund these facility requirements by regulation. He explained why he thought the fairest way to resolve this matter would be to make everyone pay the same amount. He argued under Proposition 218, the growers should not have to pay anything due to the fact they do not get any benefits; however, he urged the Board to look at the fairness of the aspects of Option 3. He also recommended employing a public relations firm to tell the whole story in layman's terms about rates and benefit in order to avoid conflict between domestic and agricultural customers as well as driving the growers out of the area.

Mrs. Walson suggested RMWD take action to keep growers in the area, such as offering volume discounts.

Director Walson commented on the CDPHS' requirements for the open reservoir covering projects. He said the proposed Option 3 would be the best and most equitable choice on the table for consideration. Mr. Seymour pointed out according to legal counsel, just because the growers may not need the benefits, they are still receiving them; therefore, RMWD is entitled to charging agricultural customers. Director Walson stated there were numerous legal opinions out on this matter and this was no agreement on this topic.

Director Griffiths explained why he supported charging all RMWD water customers.

Director McManigle explained his position. He thanked the committee for their hard work in providing options.

Director Lucy agreed with Option 3 being a very interesting idea for consideration.

President Petty agreed with Mr. Wolk; however, RMWD needs to address the financial reality it faces. He stated he was in favor of the proposed Option 3.

Discussion continued.

Action:

Moved by President Petty accept Option 3B which would be to borrow \$5M from the Sewer CIP and paying it back over a four year period, deferring the first year payment to allow RMWD to go to an election and hopefully receive voter approval to get long term financing for that portion as well as Beck Reservoir to be paid back over the long term. The public hearing would be in August 2010 notifying the public RMWD will be implementing a charge a year from now. 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.

Discussion went to Item #18.

***18. DISCUSSION AND POSSIBLE ACTION REGARDING REQUEST TO WAIVE FEES FOR UPGRADING A ¾” METER TO A 1” METER AT 3770 POPPY LANE**

Mrs. Engle explained she and her husband are fire victims that are just recently moved back into the park. She pointed out the fire department has put a minimum requirement on their new residence that they have a 1” meter. She said it was her understanding from the guidelines of the Governors’ office was a waiver of all fees for those homes rebuilt at the same size as that lost in the fire. She said the fees should be waived due to the fact they did not make improvements, but must meet the new fire department codes for their replacement home. She stated under these guidelines she was requesting a waiver of fees from RMWD at this time.

Director Lucy asked Legal Counsel if other fire victims have been given waivers by other water agencies. Mr. Seymour pointed out RMWD has done similar things for other fire victims in regards to sewer.

Mr. Lee pointed out he had done more research on this matter and found SDCWA does not charge for upsizing due to the fact when it is done it is for the benefit of the entire area.

It was noted precedence has been set for other fire victims previously.

Director Griffiths stated he was in complete support of the request due to the circumstances.

Discussion ensued.

(*) - Asterisk indicates a report is attached.

Action:

Moved by Director Griffiths to waive the \$3,022 capacity fee and \$260 inspection fee and Mrs. Engle will pay the \$225 material fee as well as the regular monthly costs. 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.

President Petty asked Legal Counsel that the motion proposed for just this exact specific case in order to avoid issues in the future.

Discussion went to Item #15.

19. DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE RELEASE OF CONSTRUCTION METERS FOR THE PIPELINE Q3 AT SAN LUIS REY RIVER CROSSING PROJECT

Action:

Moved by Director McManigle to approve Staff Recommendation Option 1-Determine that the Pipeline Q3 at San Luis Rey River Crossing Project is necessary to protect the public's health, safety and welfare and authorize the release of a construction meter. Seconded by Director Griffiths.

After consideration, the motion CARRIED by the following vote:

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

19A. DISCUSSION AND POSSIBLE ACTION REGARDING AWARD OF CONSTRUCTION CONTRACT FOR LINE Q3 AT SAN LUIS REY

Mr. Lee reported RMWD received one responsive bid that came in at \$5,087,000 which was approximately \$1,500,000 over the engineer's estimate. He explained since the bid opening, he has had numerous discussions with the design engineer and the design team to figure out why the price was so high.

Discussions ensued.

Action:

Moved by President Petty to allow staff to negotiate with the best contractors on the slip line only for a cost not to exceed \$1.2M. Seconded by Director Walson.

After consideration, the motion CARRIED by the following vote:

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

Mr. Lee pointed out there was a second portion to this project which involved plug valves.

Discussion ensued.

Action:

Moved by President Petty to allow staff to move forward in pre-purchasing six 16" plug valves at a cost of \$101,620.35. Seconded by Director McManigle.

After consideration, the motion CARRIED by the following vote:

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

Discussion went to Item #21.

20. DISCUSSION AND POSSIBLE ACTION TO APPOINT NEW ENGINEERING COMMITTEE MEMBERS

Action:

Moved by Director McManigle to appoint both Mr. Timothy Prince and Ms. Maureen Rhyne as Alternates Members on the Engineering Committee. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

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

Director Walson recalled the committee was formed to tap into the technical expertise of the District and that its purpose was to provide an independent assessment of engineering proposals presented. He stated if the committee members have no engineering training or experience, they cannot be expected to make any engineering assessments. He provided his responses to comments made by Ms. Brazier regarding the Engineering Committee. He concluded by stating if the Board chooses to appoint "rubber stampers" to the so-called Engineering Committee, then President Petty should replace him on the committee.

Director Lucy asked Director Walson to clarify that the MIOX lawsuit he mentioned in his responses was not a direct result of the current engineer, but rather the engineering firm at that time. It was confirmed Dudek was the engineering firm at that time.

Director Griffiths strongly supported Director Walson's comments in that he was right and the committee was wrong. He said he would prefer replacing the entire committee.

Sheila Walson talked about how Joyce E. Tomlinson destroyed this District which resulted in several good employees leaving RMWD. She pointed out several other things that have negatively impacted the district. She recommended the District solicit for qualified individuals for the committees in the newsletter.

Ms. Brazier expressed concern Director Walson may have experienced difficulty in hearing her comments on the audio recording of the meeting he listened to recently which would account for his mischaracterization of her comments. She stressed the reasons behind her initial comments. Discussion followed.

Ms. Rhyne stated she was not going to make any comments on what was being discussed; however, she did mention her 30-plus years of experience in the piping and plumbing industry.

Discussion went to Item #17.

***21. DISCUSSION AND POSSIBLE ACTION TO APPROVE CALIFORNIA SPECIAL DISTRICTS ASSOCIATION (CSDA) BYLAW AMENDMENTS**

Action:

Moved by Director Griffiths to approve the CSDA Bylaw amendments. Seconded by Director McManigle.

After consideration, the motion CARRIED by the following vote:

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

***22. RECEIVE AND FILE INFORMATION ITEMS FOR MAY 2010**

A. General Manager Comments

1. Meetings, Conferences and Seminar Calendar

(*) - Asterisk indicates a report is attached.

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 information items. Seconded by President Petty.

After consideration, the motion CARRIED by the following vote:

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

Mr. Seymour reported he received a letter from the General Manager of Olivenhain telling him they were going to be taking a vote as to whether or not return to a Level 1 Drought Watch Conditions instead of Level 2. He said RMWD may want to consider modifying its drought allocation. Discussion ensued.

Mr. Seymour also mentioned RMWD received notice from the California Department of Public Health Services that because RMWD is not in compliance with the uncovered finished water reservoirs, they require the district send out notice to all its customers explaining that and then it must be published once a quarter with proof of delivery. He said he thought sending the notification in the district newsletter would suffice their notification requirements. It was noted the notification only needs to be done for Morro and Beck at this time. It was noted CDPHS dictates what is said in the public notification. Discussion followed.

Discussions ensued regarding Item #22B1.

Discussion ensued regarding the amount of water samples taken by RMWD.

Directors Griffiths and Walson made inquiries on Item #22B3.

Discussion ensued regarding Item #22B6.

Discussion ensued regarding the training described in Item #22B5.

Discussion took place on Item #22B8.

Discussion ensued regarding Item #22B7.

Discussions took place on Item #22C1.

(*) - Asterisk indicates a report is attached.

***23. RECEIVE AND FILE FINANCIAL STATEMENTS AND INFORMATION FOR MAY 2010**

A. Finance Manager Comments

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

Action:

Moved by Director McManigle to receive and file financial statements and information. Seconded by President Petty.

After consideration, the motion CARRIED by the following vote:

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

Mr. Buckley made comparisons on water sales and water allocations over the fiscal year.

Discussion ensued regarding Item #23A10.

Discussions took place on Item #23A1.

Directors McManigle and Griffiths made several inquiries on Item #23A4.

Discussion ensued regarding Item #23A7.

Discussion took place on Item #26A6.

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

(*) - Asterisk indicates a report is attached.

25. ADJOURNMENT - To July 27, 2010 at 1:00 p.m.

The meeting was adjourned with a motion made by President Petty to a regular meeting on July 27, 2010 at 1:00 p.m.

The meeting was adjourned at 4:17 p.m.

Rua Petty, Board President

Dawn M. Washburn, Board Secretary