

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
JANUARY 28, 2020**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on January 28, 2020 was called to order by Vice President Hamilton at 11:30 a.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. Vice President Hamilton presiding.

2. **ROLL CALL**

Present: Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch
(*arrived at 11:30 a.m.*).

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, District Engineer Strapac, Operations Manager Gutierrez, Finance Manager Largent, Human Resources Manager Harp, Associate Engineer Powers, Customer Service and Communications Supervisor Gray, Senior Accountant Rubio, Project Manager Williams, Project Manager Tamimi.

Absent: Director Brazier.

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

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

Vice President Hamilton proposed moving Item #23 to after Item #14.

4. **ORAL/WRITTEN COMMUNICATIONS FROM THE PUBLIC
OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE BOARD REGARDING
CLOSED SESSION AGENDA ITEMS (Government Code § 54954.2).**

There were no comments.

The meeting adjourned to Closed Session at 11:30 a.m.

5. **CLOSED SESSION**

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

B. Conference with Legal Counsel-Existing Litigation Pursuant to Government Code Section 54956.9(d)(1)
* Otay Water District v. Rainbow Municipal Water District

The meeting reconvened at 1:00 p.m.

(*) - Asterisk indicates a report is attached.

6. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

This item was addressed under Item #8.

Time Certain: 1:00 p.m.

7. PLEDGE OF ALLEGIANCE

8. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

Legal Counsel reported the Board met in Closed Session to discuss five items and there was no reportable action.

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

Vice President Hamilton noted Item #23 would be heard after Item #14.

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).

There were no comments.

11. COMMENTS FROM THE CITY OF POWAY

Jessica Parks, Senior Management Analyst for the Utility Division at the City of Poway, introduced Eric Njaa, Operations Distribution Supervisor. She stated both she and Eric were here today to thank RMWD on behalf of the City of Poway for the District's assistance during their issuance of a Boil Water Advisory on November 30, 2019. She explained one of the tasks associated with removing the advisory was to flush the City of Poway's entire distribution system as well as take samples throughout the system which was a major task. She stated without the assistance of other agencies, this task would have taken weeks to accomplish; therefore, they reached out to other local agencies for anyone willing to assist to which RMWD immediately responded.

Ms. Parks thanked Mr. Heincy, Mr. Coffey, Mr. Cancino, Mr. Kraft, Mr. Otriz and Mr. Gutierrez on behalf of the City of Poway.

***12. APPROVAL OF MINUTES**

A. December 3, 2019 - Regular Board Meeting

Motion:

To approve the minutes.

Action: Approve, Moved by Director Gasca, Seconded by Director Rindfleisch.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

(*) - Asterisk indicates a report is attached.

***13. 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 Brazier)

There was no report given as Director Brazier was absent.

B. Representative Report (Appointed Representative)

1. SDCWA

A. Summary of Board Meeting November 21, 2019

Mr. Kennedy noted there was a significant special meeting on December 19, 2019 to consider the offer to settle the litigation from MWD. He noted the Mayor of San Diego made an impassioned plea to the Board to accept the offer. He stated the meeting was adjourned to Closed Session after which a counterproposal was presented for consideration which was not accepted by MWD; therefore, the litigation shall continue.

2. CSDA

Mr. Kennedy announced the CSDA Quarterly Dinner meeting will be held on February 20, 2020.

3. LAFCO

A. Special District Advisory Committee Election Results

Mr. Kennedy announced he was reappointed to the Special District Advisory Committee and the first meeting has been scheduled in March.

4. San Luis Rey Watershed Council

Director Gasca stated he was waiting to hear when the next meeting will be held.

5. Santa Margarita River Watershed Watermaster Steering Committee

Director Hamilton pointed out Congress has funded the Pechanga Settlement which will allow the Pechanga tribe to start participating in the administration of the watershed. He announced the next meeting will be held in April.

6. ACWA

Director Mack noted the ACWA Spring Conference announcement has been received. He encouraged other RMWD Board Members to attend if possible.

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

1. Board Seminar/Conference/Workshop Training Attendance Reports

Director Gasca referenced the report he provided as a handout after attending the 2019 ACWA Fall Conference noting the impact of the multiple fires throughout California. He recommended

(*) - Asterisk indicates a report is attached.

RMWD get set up on various social media resources as well as ensure it has the emergency equipment available in the event of a fire. He mentioned other discussions

Director Rindfliesch reported on the January Council of Water Utilities meeting noting a consultant for the State of California Governor reviewed a list of upcoming legislation and ballot initiatives related to water. Mr. Kennedy pointed out it was confirmed any forthcoming drought declarations will be distributed regionally as opposed to statewide.

D. Directors Comments

Director Gasca referenced a January 2, 2020 article in The Village News related to road resurfacing authorization being granted. He recommended RMWD look at the areas slated and reprioritize some of the pipeline replacements to coincide with the roads to be resurfaced. Mr. Strapac stated the Engineering Department does receive the notifications and have already been in contact with the County.

E. Legal Counsel Comments

1. Attorney Report: Employment Law Update (501668-0002)

Legal Counsel summarized the information provided in his written report. He noted one update since this report was prepared was San Diego truckers were successful in their suit related to preemption.

14. COMMITTEE REPORTS

A. Budget and Finance Committee

Mr. Nelson stated there was nothing to report.

B. Communications and Customer Service Committee

Vice President Hamilton noted the committee conducted a review of communication pieces associated with the WSUP program. He mentioned the committee was looking at a program to define a roadmap or template for project communication activities as well as discussed partnering with the Cal State Business School Program. Ms. Gray and Mr. Kennedy explained the program and how a partnership could be beneficial to the District.

C. Engineering and Operations Committee

There was no report given.

Discussion went to Item #23.

PRESENTATION WITH ACTION ITEM

***15. PRESENTATION AND ACCEPTANCE OF THE AUDIT REPORT AND FINANCIAL STATEMENTS FOR FISCAL YEAR ENDING JUNE 30, 2019**

David Foreman of White Nelson Diehl and Evans presented the Fiscal 2019 audit to the Board. He noted he was pleased to give RMWD a clean or unmodified opinion. He reviewed the audit process as well as the summary reports and key ratios.

(*) - Asterisk indicates a report is attached.

Director Mack asked if RMWD would qualify for the District of Distinction. Ms. Largent noted she has conducted some research on other agencies who have received this certification and found some had similar audit findings. Mr. Kennedy stated RMWD would remit the application with the required documentation.

Vice President Hamilton asked where RMWD stands at this point. Mr. Foreman said he will not back down from his firm's comments; however, he believed RMWD's processes were improving and he expected the FY20 audit to be much cleaner. He stated RMWD was healthy and improving internal staffing controls will be a benefit. Mr. Foreman noted there were adjusted recommendations made to staff. Mr. Kennedy explained this was why the Board approved having two positions in finance to improve internal controls.

Motion:

To accept the audit report.

Action: Approve, Moved by Director Gasca, Seconded by Director Rindfleisch.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

PRESENTATION

16. RATE MODEL PRESENTATION

Ms. Largent noted RMWD contracted with IB Consulting for a Cost of Service Analysis with a subtask of determining the feasibility of a consumption-based fixed fee. She gave a condensed version of the lengthy presentation provided to the Budget and Finance Committee.

Director Gasca confirmed the proposed rate increase percentages were over five years based on the CIP. Ms. Largent confirmed. Director Gasca asked what the model looks like over seven years as well as can the list of failing pipes be stretched out an additional couple of years to allow for better results for the ratepayer or hold the line longer. Mr. Kennedy explained some of the steps already being taken by staff.

Discussion ensued regarding communicating with the customers.

CONSENT CALENDAR ITEMS

17. DISCUSSION AND POSSIBLE REAPPOINTMENT OF TREASURER

***18. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 20-02 AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 5.05.050.01 – RECORDS RETENTION – DISTRICT RECORDS**

***19. DISCUSSION AND POSSIBLE ACTION TO APPROVE FIRST AMENDMENT TO THE SEWER SERVICE AGREEMENT REGARDING THE TERMS AND CONDITIONS OF THE SEWER CAPACITY FEES AND CREDIT BETWEEN RAINBOW MUNICIPAL WATER DISTRICT AND BEAZER HOMES HOLDING CORPORATION. PALA MESA HIGHLANDS, TM 5187-1**

(*) - Asterisk indicates a report is attached.

- *20. DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE AWARD OF THE CONSTRUCTION CONTRACT FOR THE DENTRO DE LOMAS STREET IMPROVEMENT PROJECT
- *21. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 20-01 — A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT ESTABLISHING CLASSIFICATIONS AND MONTHLY PAY RANGES FOR DISTRICT EMPLOYEES AND THE GENERAL MANAGER EFFECTIVE JANUARY 28, 2020 THROUGH JUNE 30, 2020
- *22. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 20-01 - AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 1.02.020 – CONFLICT OF INTEREST

Motion:

To approve the Consent Calendar items #17-#22.

Action: Approve, Moved by Director Rindfleisch, Seconded by Director Gasca.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 4).

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

Absent: Director Brazier.

Discussion went to Item #24.

BOARD ACTION ITEMS

***23. RATEPAYER REQUEST FOR CREDIT**

Vice President Hamilton explained Mark Witkower was a customer he worked with personally on a matter regarding the Mr. Witkower purchasing a Flume device attaching to his meter only to find out his meter was not compatible with Flume. He noted RMWD swapped out the meter after it was discovered the scaling factor needed to be changed solely by Flume. He stated relative to the WSUP, the customers need to be notified to contact Flume updating their meter information. He pointed out staff's recommendation was to not grant any relief to the customers which was based on sound judgment and how he concurred with that recommendation initially; however, he has since reconsidered. He said taking into consideration RMWD transitioning its billing software and swapping out the meter taking three months to reflect on the customer's bill which in turn caused the customer to ramp up his water use on his grove based on the incorrect current billing information received, he was changing his recommendation relative to this particular instance that RMWD grant some rate relief to this customer for the water used based on data provided by the District. He recommended to the Board, Mr. Witkower be granted rate relief in terms of the cost differential between wholesale and retail on 1,100 units of water. He mentioned the customer was willing to pay for the water used; however, he would not have used as much water had he been provided with correct data from the District.

(*) - Asterisk indicates a report is attached.

Director Mack asked for the cost of the differential to be granted. Ms. Largent stated it would be minimal; however, she was concerned with setting a precedence for all the meters to be changed out in the future and hoped this would be viewed as an anomaly situation. Vice President Hamilton agreed this was an isolated situation and how a lesson was learned with corrective actions taken to help prevent another occurrence such as this one.

Discussion ensued.

Motion:

To credit Mr. Witkower the difference between wholesale and retail pricing for water for 1,100 units.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

Discussion went to item #15.

***24. DISCUSSION AND POSSIBLE ACTION TO APPROVE A SEWER SERVICE AGREEMENT BETWEEN RAINBOW MUNICIPAL WATER DISTRICT AND BONSCALL GROUP, LLC. LILAC DEL CIELO, TM 5427**

Mr. Strapac noted this development of 73 condominiums will take place on the east side of West Lilac to the front entrance of Ocean Breeze. He explained this was the upfront sewer agreement as part of the process of selling the property to a builder.

Director Rindfleisch asked for clarification on the location of the development. Mr. Strapac pointed out they would back up to existing condominiums.

Director Gasca asked whether this was a physical project at this time. Mr. Strapac stated it was not. Mr. Kennedy mentioned this project would be a year or so out.

Vice President Hamilton asked if it was standard for the developer to pay 50% of the total EDU's up front. Mr. Strapac answered it was per the municipal code.

Motion:

To approve Option 1: Approve the Sewer Service Agreement By and Between Rainbow Municipal Water District and Bonsall Group, LLC.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

(*) - Asterisk indicates a report is attached.

***25. DISCUSSION AND POSSIBLE ACTION TO AWARD A PROFESSIONAL SERVICES CONTRACT TO PROVIDE DESIGN SERVICES FOR PIPELINE UPGRADE PROJECT #2**

Mr. Strapac explained this project was the design of the next phase in the Pipeline Upgrade Project based on the Condition Assessment Report utilizing data from RMWD's Operations Department plugged into the assessment to remodel what is the highest priority to include what has already been completed to date with pressure stations. He explained staff receive two proposals to the RFP of which Harris & Associates provided the better proposal.

Motion:

To approve Option 1: Appropriate funding and award a Professional Services Agreement to Harris & Associates to provide design services for Pipeline Upgrade Project #2 not to exceed \$399,540, make a finding that this action does not constitute a "project" as defined by CEQA, and authorize the General Manager to execute a contract for the design of the Pipeline Upgrade Project #2 with Harris & Associates.

Action: Approve, Moved by Director Gasca, Seconded by Director Rindfleisch.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

Mr. Kennedy pointed out RMWD was receiving a low number of bidders and high costs; therefore, there have been discussions as to other means of approaching the pipeline upgrade project. Discussion ensued.

***26. DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE AWARD OF THE CONSTRUCTION CONTRACT FOR THE PHASE I PRESSURE REDUCING STATIONS PROJECT**

Mr. Strapac explained this was item was to award the construction and installation of the pre-built pressure stations purchased from EFI. He mentioned the right-of-way acquisition has been obtained.

Director Rindfleisch asked whether there may be an opportunity to not utilize pressure reducing stations in future years. Mr. Strapac explained pressure reducing stations will always be needed due to the topography of the system. Mr. Kennedy pointed out the goal is to not have to purchase new stations once these initial ones are installed. Discussion ensued regarding the major safety risks involved with underground facilities.

Director Gasca asked if the Cal State San Marcos Business School Program could assist RMWD with the design work. Discussion ensued.

(*) - Asterisk indicates a report is attached.

Motion:

To approve Option 1 - Allocate funding and award the construction contract for the Phase I Pressure Reducing Stations Project to M-Rae Engineering, Inc. in accordance with the California Public Contracting Code for a not to exceed amount of \$265,826, make a finding that the project is Categorical Exempt from CEQA, and authorize General Manager to execute contract for the construction of the Phase I Pressure Reducing Stations Project to M-Rae Engineering, Inc.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

27. COMMITTEE MEMBER REAPPOINTMENTS

Mr. Kennedy explained part of the committee policy review, it was realized committee members are required to be reappointed after four years. He noted the recommendation presented by staff was based on consult with Board President Brazier. He clarified each committee member up for reappointment were asked to notify the District of their desire to be reappointed and the Board would select who they would like to reappoint.

Motion:

To accept staff recommendation to reappointment of Pam Moss, Peter Hensley, and Randy Moss to the Budget and Finance Committee and Mick Ratican and Helene Brazier to the Engineering and Operations Committee

Action: Approve, Moved by Director Rindfleisch, Seconded by Director Gasca.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

***28. LAFCO CALL FOR BALLOTS FOR NOMINATIONS FOR REGULAR SPECIAL DISTRICT MEMBER ELECTION**

Mr. Kennedy explained Ms. MacKenzie's term expires in May and how she plans to run for the seat again. He noted all nominations are to be made before February 7, 2020 to prepare for the candidate forum at the February 20, 2020 CSDA Quarterly Dinner meeting.

No action taken.

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

Director Mack requested approval to attend the ACWA Spring Conference.

(*) - Asterisk indicates a report is attached.

Director Rindfleisch requested approval to attend Special District Leadership Foundation in April 2020, CSDA Annual Conference, and ACWA Fall Conference.

Director Gasca and Director Mack requested approval to attend Legislative Days in May 2020.

Director Rindfleisch asked for approval to attend a half day CSDA conference in Beaumont on February 11, 2020 entitled "How Well Do You Know the Brown Act".

Motion:

To approve the requests.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

BOARD INFORMATION ITEMS

***30. BONSALL RESERVOIR UPDATE ON PREVAILING LEASING RATES/ALTERNATIVES**

Mr. Kennedy explained because this parcel is very near her parcel, President Brazier may recuse herself from any discussion or action to be taken. He noted this matter has been considered in various manners over the years with the current lease holder who has been there for quite some time. He noted the lease ends in October; therefore, it will be decision-making time in terms of what to do with the property. He said per Board direction, staff had a solar firm visit the site and confirm RMWD could feasibly place solar at the site. He explained staff plans to bring this matter back to the Engineering and Operations Committee and then present something to the Board for their consideration sometime over the next several months.

31. MEMORANDUM OF UNDERSTANDING AMONG RMWD, FPUD, AND EASTERN MUNICIPAL WATER DISTRICT UPDATE

Mr. Kennedy reported RMWD was recently sued by Otay Water District with assertion RMWD improperly managed CEQA during the Board's action last month. He said RMWD clearly disagree with that and will be taking steps to deal with the matter through the normal process in court.

Director Rindfleisch inquired as to why Otay would any concern about this when they are so far away from RMWD. Mr. Kennedy stated it was unknown.

***32. CASH RESERVE POLICY 5.03.220 COMPLIANCE REPORT**

Ms. Largent explained this was an annual requirement reported to the Board after the audit has been completed. She stated it was the movement of Board approved funds to the Rate Stabilization Reserve Fund as well as reporting where the District's cash resides and operational reserves are sectioned out.

(*) - Asterisk indicates a report is attached.

33. SCHEDULING STRATEGIC PLAN AND LESSONS LEARNED WORKSHOP UPDATE

Mr. Kennedy stated he discussed this with President Brazier with whom he agrees to conduct an offsite workshop with a facilitator within the next 6-8 weeks depending on availability.

***34. RECEIVE AND FILE INFORMATION AND FINANCIAL ITEMS**

- A. General Manager Comments**
 - 1. Meetings, Conferences and Seminar Calendar
- B. Communications**
 - 1. Staff Training Reports
- C. Operations Comments**
 - 1. Operations Report
- D. Engineering Comments**
 - 1. Engineering Report
 - 2. As-Needed Services Expenditures Summary
 - 3. RMWD Sewer Equivalent Dwelling Units (EDU's) Status
- E. Human Resource & Safety Comments**
 - 1. Human Resources Report
 - 2. Organizational Chart
- F. Finance Comments**
 - 1. Information Report
 - 2. Monthly Financial Statements
 - 3. Treasury Report
 - 4. Five Year Demand
 - 5. Credit Card Breakdown
 - 6. Directors' Expense
 - 7. Check Register
 - 8. Water Sales Summary
 - 9. Developer Projections
 - 10. RMWD Properties

Motion:

To receive and file information and financial items.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

Vote: Motion carried by unanimous vote (summary: Ayes = 4).

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

Absent: Director Brazier.

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

It was noted setting the public hearing date for ID 1, mid-year budget adjustments, Via Ararat project, CSDA elections, Closed Session, updates for the Avocado Festival booth, and possibly moving the July Board meeting date to the third week in July.

(*) - Asterisk indicates a report is attached.

36. ADJOURNMENT

The meeting was adjourned by Vice President Hamilton to a regular meeting on February 25, 2020 at 1:00 p.m.

The meeting was adjourned at 2:57 p.m.

Hayden Hamilton, Board Vice President

Dawn M. Washburn, Board Secretary