

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
SEPTEMBER 27, 2016**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on September 27, 2016 was called to order by President Sanford at 11:03 a.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President Sanford presiding.

2. **ROLL CALL**

Present: Director Sanford, Director Walker, Director Brazier.
Director Stewart (*arrived at 11:10 a.m.*).

Also Present: General Manager Kennedy, Executive Assistant Washburn, Legal Counsel Ochoa, Legal Counsel Moser, Operations Manager Milner, Finance Manager Martinez, Superintendent Maccarrone, Superintendent Zuniga, Superintendent Walker, Administrative Analyst Gray, Associate Engineer Powers, Human Resources Manager Harp.

Absent: Director Bigley.

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

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

There were no changes.

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 for the first time at 11:03 a.m.

Discussion returned from Item #22.

The meeting adjourned to Closed Session for the second time at 3:09 p.m.

Discussion returned from Item #8.

The meeting adjourned to Closed Session for the third time at 4:30 p.m.

Discussion returned to Item #8.

(*) - Asterisk indicates a report is attached.

5. CLOSED SESSION

- A. Conference with Legal Counsel-Anticipated Litigation (Government Code §54956.9(d)(4))
 - Two Potential Item
- B. Conference with Legal Counsel-Anticipated Litigation (Government Code §54956.9(d)(2))
 - Two Potential Items
- C. Appointment, Employment; Evaluation of Performance – General Manager (Government Code §54957)
- D. Public Employment (Government Code §54957(b)(1))
 - Position: General Counsel

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

The meeting reconvened from the first Closed Session at 1:06 p.m.

President Sanford said there was nothing to report.

Discussion went to Item #9.

Discussion returned from Item #5.

The meeting reconvened from the second Closed Session at 4:30 p.m.

President Sanford reported the Board rejected the claim.

Discussion returned to Item #5.

Discussion returned from Item #5.

The meeting reconvened from the third Closed Session at 5:02 p.m.

President Sanford reported the Board has decided he and Mr. Kennedy will open negotiations with Nassaman to determine whether or not they want to follow through and to negotiate terms of the contract that will be brought back to the Board for approval at a future date.

Discussion returned to Item #23.

(*) - Asterisk indicates a report is attached.

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

Mr. Kennedy pointed out the Board will need to reconvene Closed Session at the end of Open Session to finish the business not quite completed.

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).**

Claudia Bravo addressed the Board about the property she recently purchased and how before she purchased it she came to RMWD to see if there was sewer and water to the property at which time she was told there was not but there was sewer running to it. She explained after she purchased the property she found out the sewer looked at was actually on the side of her property. She stated due to this she was asking for the refund for the capacity fees because at this point in order for her to connect to the sewer it would cost her over \$20,000 and she has already reached the maximum with her loan.

Mr. Kennedy explained generally capacity fees are not refundable, but if there are some exigent circumstances it can be brought to the Board for consideration. He noted Ms. Bravo has given something to Mr. Powers in writing which will be reviewed by staff before bringing it to the Board for consideration. He noted there could not be action taken today since there was nothing on the agenda, but staff can get information and present it to the Board should it require Board action or try to handle the matter administratively if possible.

President Sanford suggested Ms. Bravo get with the General Manager and Mr. Powers and work out the details in order to determine how to proceed.

*11. **APPROVAL OF MINUTES**

A. August 23, 2016 - Regular Board Meeting

Motion:

To approve the minutes as written.

Action: Approve, Moved by Director Stewart, Seconded by Director Walker.

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

Ayes: Director Sanford, Director Walker, Director Brazier, Director Stewart

(*) - Asterisk indicates a report is attached.

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 Sanford)

There was no report given.

B. Representative Report (Appointed Representative)

1. SDCWA

A. Summary of Formal Board of Directors' Meeting August 25, 2016

Mr. Kennedy reported Mark Muir from the City of Encinitas was elected Chair of the SDCWA, Jim Madaffer was elected as Vice Chair, and Gary Croucher as Secretary.

Mr. Kennedy mentioned the State Board was trying to impose a whole new series of regulations on water use efficiency that RMWD will see coming forward.

Mr. Kennedy introduced Laura Martinez, RMWD's new accounting specialist.

2. CSDA

Mr. Kennedy reminded the Board the conference will be next month. He also mentioned he was in the running to serve as CSDA's Chapter President and how the results will be revealed at the November 17, 2016 quarterly meeting.

3. LAFCO

Mr. Kennedy reported on the recent Special District Advisory Committee meeting noting there was not much related to RMWD.

4. San Luis Rey Watershed Council

Director Walker reported at the September 26, 2016 Council meeting where the new Grant Coordinator, Josselyn Russel was present. He said Ms. Russel will bring value to the Council in being able to get grants. He also pointed out there were discussion about changing the bylaws to have four specified and three at-large positions. He talked about the new outreach campaign to try to educate more of the watershed and increase the presence and influence of the larger council to go for more grants with the help of Ms. Russel. He mentioned the annual meeting would be on November 7, 2016. He stated the Council was also looking at changing meeting location from FPUD office to the Pala Administration building.

Director Walker reported Cynthia Mallet who has been with the Council for a very long time has taken a job in San Clemente and how this has cause some need to reshuffle.

Director Brazier stated she hopes the changes in the Board eligibility and the hiring of a new grant writer will add to the stability of the organization including having more frequent meetings as opposed to repeatedly not having a quorum. Director Walker agreed adding he believed with these good changes it would be an organization that RMWD would find more viable for which involvement would be more desirable.

5. Santa Margarita Watershed Council

There was no report given.

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

Director Walker talked about the recent Council of Water Utilities meeting he, Mr. Kennedy, and Mrs. Harp attended where discussions took place regarding healthcare benefits.

D. Directors Comments

Director Brazier mentioned FPU D were looking for a way to go through County Parks and Recreation to achieve things similar to and in addition to what they were seeking through LAFCO.

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

A. Budget and Finance Committee

1. August 9, 2016 Minutes

Mr. Stitle reported everything was coming along well with the new accounting system as well as noted there will be some new reports generated each month.

B. Communications Committee

1. August 1, 2016 Minutes

Director Brazier stated Mrs. Gray has been a big addition to the Communications Committee that now has structure and purpose which is has not had for a very long time.

C. Engineering Committee

1. August 3, 2016 Minutes

Mr. Powers reported the Committee had discussions regarding the IPR project, the structure of the Engineering Committee meeting and the role alternates would play at the meetings.

Mr. Kennedy provided additional information regarding the IPR project with the City of Oceanside. Discussion followed.

***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. APPROVAL OF SECOND AMENDMENT TO JOINT AGREEMENT TO IMPROVE MAJOR SUBDIVISION, PARTIAL RELEASE OF JOINT LIEN CONTRACT AND PARTIAL TERMINATION OF HOLDING AGREEMENT FOR VISTA VILLAS DEVELOPMENT LP

This item was pulled from the Consent Calendar for discussion (see Item #14A under Board Action Items).

BOARD ACTION ITEMS

***14A. APPROVAL OF SECOND AMENDMENT TO JOINT AGREEMENT TO IMPROVE MAJOR SUBDIVISION, PARTIAL RELEASE OF JOINT LIEN CONTRACT AND PARTIAL TERMINATION OF HOLDING AGREEMENT FOR VISTA VILLAS DEVELOPMENT LP**

This item was pulled from the Consent Calendar for discussion.

Director Brazier asked what happens should the terms of the agreement not be met within the set time limits. Mr. Kennedy explained all the agreements will have a time limit to where they expire and how should that happen, they will need to start all over again.

Director Walker inquired as to whether Legal Counsel has considered RMWD was dealing with an international issue and there were not any potential issues with regard to general laws that may or may not pertain. Legal Counsel stated they did not review this agreement due to the fact the County has already approved it. Director Walker suggested amending the motion to include subject to those conditional contingencies. Mr. Kennedy added nothing will happen until RMWD receives the official bonds.

Motion:

To approve the second amendment to Joint Agreement to improve major subdivision, partial release of Joint Lien Contract and partial termination of Holding Agreement for Vista Villas Development LP subject to Legal Counsel's review.

Action: Approve, Moved by Director Brazier, Seconded by Director Walker.

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

Ayes: Director Sanford, Director Walker, Director Brazier, Director Stewart.

(*) - Asterisk indicates a report is attached.

***15. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 16-19 — A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT ESTABLISHING CLASSIFICATIONS AND MONTHLY PAY RANGES FOR DISTRICT EMPLOYEES EFFECTIVE JULY 1, 2016 THROUGH JUNE 30, 2017 AND THE GENERAL MANAGER’S SALARY EFFECTIVE AUGUST 28, 2016 THROUGH AUGUST 28, 2017**

Mr. Kennedy explained this was updated due to the General Manager receiving a COLA increase per his contract.

Motion:

To approve.

Action: Approve, Moved by Director Brazier, Seconded by Director Walker.

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

Ayes: Director Sanford, Director Walker, Director Brazier, Director Stewart.

***16. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 16-14 AMENDING AND UPDATING ADMINISTRATIVE CODE SECTIONS 3.02.010 – BOARD MEETING AGENDA AND 3.05.010 – MINUTES POLICY**

Mr. Kennedy solicited the Board for their desire in terms of how long to retain audio recordings which are no longer on tapes and discs, but rather stored on the hard drive.

Legal Counsel stated typically with litigation matters the agency would want to rest on are the papers and actions of the district due to the fact that is for what the agency is held accountable. She explained the agency would want the minutes to reflect the action taken and some of the discussion leading up to the action taken. She noted when audio is available or very thorough notes are taken, sometimes that ends up being the extrinsic evidence that could help or hurt the agency depending on the situation. She stated based on this it has been found to be more helpful to stick with action items in terms of minutes as opposed to keeping audio and notes indefinitely which could lead to subpoenas for generally irrelevant data. She recommended keeping the tapes for some period of time, i.e., two years.

Discussion ensued regarding the audio being imbedded in the minutes on the website.

Legal Counsel stressed there was absolutely no problem with keeping the audio. She added the Board could also make a decision about whether to keep minutes indefinitely.

Director Stewart stressed why he felt very strongly about not keeping audio recordings indefinitely. He suggested the recordings only be kept long enough to transcribe the minutes and those minutes are approved.

Legal Counsel confirmed audio recordings are public records if kept and draft minutes are not a matter of public record until approved.

(*) - Asterisk indicates a report is attached.

It was decided as long as the minutes do not become a transcription, but rather a paraphrasing of the discussion and decisions made that would be more than adequate to give the public information as to the what took place at the meeting and staff the information necessary to research matters that may arise.

No action taken.

***17. CSDA COMMITTEE AND EXPERT FEEDBACK TEAM INTEREST FORM**

Mr. Kennedy explained why it would be a good idea to have representation on one of these committees if possible. Discussion followed regarding the deadline to respond and time commitments.

Director Stewart agreed to participate in the CSDA committees and expert feedback team.

Director Walked suggested key staff members fill some of these positions as well.

Mr. Kennedy offered to complete the form on behalf of Director Stewart. He noted there was no guarantee he or Director Stewart would get on the committee; however, the form will be submitted showing RMWD's interest.

***18. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 16-13 AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 2.09 – COMMITTEES**

Mr. Kennedy explained the purpose of this update would be to address the roles of alternates at committee meetings as well as how alternates should be seated. He noted the first option would be that alternates would be utilized just to make a quorum and the second option would be to have alternates fill any empty seats.

Director Stewart preferred Option 2 in order to have as many participants in the committee meetings as possible.

Director Walker asked Legal Counsel if there were any potential pitfalls with either option. Legal Counsel answered as long as RMWD delineates who the voting members and non-voting members are, there would be no pitfalls. She pointed out the committees must follow the Brown Act and all votes must be recorded appropriately.

Motion:

Adopt Ordinance No. 16-13 utilizing Option 2.

Action: Approve, Moved by Director Stewart, Seconded by Director Walker.

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

Ayes: Director Sanford, Director Walker, Director Brazier, Director Stewart.

(*) - Asterisk indicates a report is attached.

19. DISCUSSION AND POSSIBLE ACTION REGARDING THE APPOINTMENT; EMPLOYMENT; EVALUATION OF PERFORMANCE: GENERAL MANAGER

Legal Counsel pointed out this item was an action item to follow a Closed Session discussion that has not yet taken place.

20. DISCUSSION AND POSSIBLE ACTION TO ADD NEW HEALTH PLAN OPTIONS AND FUND HEALTH SAVINGS ACCOUNTS FOR EMPLOYEES WHO ELECT HIGH-DEDUCTIBLE CONSUMER DRIVEN HEALTH PLANS

Mr. Kennedy noted Mrs. Harp has been working hard to try to find new and innovative methods to provide the benefits the District wants to provide its employees as well as save the District money.

Mrs. Harp pointed out the District's strategic plan calls for the proactive management of sustainable healthcare benefits for its workforce; therefore, she was going to present a proposal to make some changes to the menu of offerings the District offers to its employees that she believe would be in the best interest both the employee base as well as RMWD.

Discussion ensued regarding the location of Kaiser doctors and hospitals.

Director Walker asked if there have been some discussions with employees. Mrs. Harp explained there have been minor discussions; however, she has done extensive research with ACWA/JPIA.

Discussion continued regarding the potential cost savings to both the employees and RMWD associated with these new options.

Mr. Kennedy asked about the deadline for the Board to take action on this item. Mrs. Harp explained open enrollment was during the month of October; therefore, if it was not adopted today, it would be very difficult to offer these new plans to the workforce. She confirmed the ACWA/JPIA deadline was November 11, 2016; however, the plans would not go into effect until January 1, 2017. Mr. Kennedy pointed out anything negotiated for the new MOU's would not go into effect until January 1, 2018; therefore, this would be a way to test whether these plans would be of interest to the employees and the District prior to the start of negotiations. Mrs. Harp reiterated by offering these plans now, both sides would be provided with experience with these plans prior to negotiations.

Mrs. Harp pointed out if the Board does not want to adopt any of these new plans or the Health Savings Accounts (HSA's), the one thing everyone knows is that the total cost for health insurance will increase by \$105,000 (\$51,000 to RMWD and \$55,000 to employees). She stated if the District does offer these plans and fund the HSA's at the level requested, even one person shifting will bring some savings. She stated the level of voluntary shifts will determine the total savings.

Discussion ensued regarding HSA's. Mrs. Harp pointed out there are contribution limits set by the IRS and how there was a tax advantage going in and tax free when used for medical expenses.

Director Brazier asked if RMWD funded the deductible and it cost money in the short term, would it not save the District money in the long term by encouraging more employees to go that way. Mrs. Harp explained how the combined expense of the premiums plus the HSA was still less than if the employee were to stay with the current plans.

It was confirmed this was a trial period and could be reversed if necessary. Mrs. Harp noted this would be a commitment for the 2017 calendar plan year and then when negotiations take place in the middle of 2017 whatever is negotiated would be effective for the 2018 plan year.

Motion:

Adopt Option 1 – Approve the addition of the Anthem Consumer Driven Health Plan, the Kaiser South HMO with Chiropractic Care, and the Kaiser South Consumer Driven Health plan; AND approve funding Health Savings Accounts for employees who elect the CDHP plans at the proposed annual rates: \$1,500 for employee only coverage; \$2,000 for employee + 1 or family coverage on the Anthem CDHP; \$3,000 for employee + 1 or family coverage on the Kaiser CDHP.

Action: Approve, Moved by Director Walker, Seconded by Director Stewart.

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

Ayes: Director Sanford, Director Walker, Director Brazier, Director Stewart.

***21. RECEIVE AND FILE INFORMATION AND FINANCIAL ITEMS FOR AUGUST 2016**

- A. General Manager Comments**
 - 1. Meetings, Conferences and Seminar Calendar
- B. Communications**
 - 1. Ratepayer Letters
- C. Operations Comments**
 - 1. Operations Report
- D. Engineering Comments**
 - 1. Engineering Report
- E. Customer Service Comments**
 - 1. Customer Service Report
- F. Human Resource & Safety Comments**
 - 1. Human Resources Report
 - 2. Organizational Chart
- G. Finance Manager Comments**
 - 1. Interim Financial Statement
 - 2. Directors' Expense
 - 3. Check Register
 - 4. Water Purchases & Sales Summary
 - 5. RMWD Sewer Equivalent Dwelling Units (EDU's) Status

Mr. Kennedy explained the information in the handout provided on system demands.

Director Brazier stated she was delighted with the reports coming from Human Resources.

Motion:

(*) - Asterisk indicates a report is attached.

To receive and file information and financial items.

Action: Receive and File, Moved by Director Stewart, Seconded by Director Walker.

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

Ayes: Director Sanford, Director Walker, Director Brazier, Director Stewart.

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

Mr. Kennedy mentioned there may be an item for discussion regarding water rates.

Discussion returned to Item #5.

23. ADJOURNMENT - To Tuesday, October 25, 2016 at 1:00 p.m.

The meeting was adjourned with a motion made by Director Brazier to a regular meeting on October 25, 2016 at 1:00 p.m.

The meeting was adjourned at 5:04 p.m.

Dennis Sanford, Board President

Dawn M. Washburn, Board Secretary