

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

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on July 28, 2020 was called to order by Vice President Hamilton at 11:33 a.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. Vice President presiding.

2. **ROLL CALL**

Present: Director Brazier (*via teleconference*), Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

Also Present: General Manager Kennedy, Executive Assistant Washburn, Information and Technology Specialist Espino.

Present via video teleconference:

Legal Counsel Smith.

No members of the public were present for Closed Session.

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

Vice President Hamilton announced Item #21 will be removed from the agenda.

4. **INSTRUCTIONS TO ALLOW PUBLIC COMMENT ON AGENDA ITEMS FROM THOSE ATTENDING THIS MEETING VIA TELECONFERENCE OR VIDEO CONFERENCE**

Vice President Hamilton read aloud the instructions to make comments for those attending this meeting via teleconference or video conference.

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.

The meeting adjourned to Closed Session at 11:37 a.m.

6. **CLOSED SESSION**

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

* Two Items

(*) - Asterisk indicates a report is attached.

- B. Conference with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1)

* Robert and Linda Burton v. Rainbow Municipal Water District

- C. Appointment, Employment; Evaluation of Performance – General Manager (Government Code §54957(B)(1))

The meeting reconvened at 1:10 p.m.

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

Time Certain: 1:00 p.m.

8. REPEAT CALL TO ORDER

The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on July 28, 2020 was called to order by Vice President Hamilton at 1:13 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. Vice President presiding.

9. PLEDGE OF ALLEGIANCE

10. REPEAT ROLL CALL

Present: Director Brazier (*via teleconference*), Director Gasca, Director Hamilton, Director Mack, Director Rindfleisch.

Also Present: General Manager Kennedy, Executive Assistant Washburn, Information and Technology Specialist Espino.

Present via video teleconference:

Legal Counsel Smith, Finance Manager Largent, Project Manager Williams, District Engineer Strapac, Operations Manager Gutierrez, Construction and Maintenance Supervisor Lagunas, Human Resource Manager Harp, Associate Engineer Powers, Customer Service and Communications Supervisor Gray, Engineering Technician Rubio.

Thirteen members of the public were present for Open Session.

11. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

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

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

Vice President Hamilton noted Item #21 will be pulled from the agenda.

(*) - Asterisk indicates a report is attached.

13. REPEAT INSTRUCTIONS TO ALLOW PUBLIC COMMENT ON AGENDA ITEMS FROM THOSE ATTENDING THIS MEETING VIA TELECONFERENCE OR VIDEO CONFERENCE

Vice President read aloud the instructions for making public comment for those attending this meeting via teleconference or video teleconference.

14. 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).

Vice President Hamilton read aloud the instructions for providing the District with public comment on items not on this agenda. It was confirmed there were no oral or written comments received.

15. CSDA PRESENTS DISTRICT OF DISTINCTION AWARD TO RAINBOW MUNICIPAL WATER DISTRICT

Chris Palmer, Senior Public Affairs Field Coordinator for the California Special Districts Association, said as the Special District Leadership Foundation representative, he wanted to honor RMWD on earning its District of Distinction Accreditation.

Mr. Palmer explained the Special District Leadership Foundation is a non-profit foundation arm of CSDA dedicated to promoting excellence in special districts through recognition program such as the one RMWD was receiving today.

Mr. Palmer mentioned to receive this accreditation, a district must demonstrate to their community, the media, legislators, and its constituents that it is commitment to operate in a sound and responsible manner while truly standing out a district that has gone above and beyond as well as fulfill three main requirements. He concluded with sharing he has had the pleasure of working with many members of RMWD staff on several occasions and how each time everyone goes above and beyond in everything they do and are very transparent in all they do; therefore, on behalf of the Special District Leadership Foundation Board and staff, it was his pleasure to present RMWD with the District of Distinction Accreditation recognizing its commitment to good governance and to ethical and sound operating practices.

Mr. Kennedy thanked the Board for their dedication in making this happen.

Vice President Hamilton acknowledged Mr. Kennedy's comment as well as recognized the employees of the District who have spent an equal amount of time and effort for helping the District achieve this award.

***16. APPROVAL OF MINUTES**

A. June 23, 2020 - Regular Board Meeting

Motion:

To approve the June 23, 2020 Board meeting minutes.

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

(*) - Asterisk indicates a report is attached.

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 5).

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

***17. 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)

President Brazier stated she has recently been asked by members of her division if she would run again in the Fall election to which she replied she was not. She stated she was appointed in Spring 2012 after the sudden death of her predecessor. She said she was slightly uncomfortable with the appointment, not that she was not pleased it was unanimous, but that she was appointed to represent Division 1 by four men who represented the other divisions. She said she firmly believe that representatives of a division should be elected by the ratepayers of that division. She stated she was happy with an election coming up in the Fall of 2012 to allow for that to happen. She explained she filed to run in the election; however, she was unopposed which made her uncomfortable again but since she had only been in the office a few months it was not much more than one full term after which she would see what happened when the term ended. She noted in 2016 again nobody else filed for the office which made her even more uncomfortable because of her belief in representative government, so she announced that she would not run again which is why she is not running for reelection in 2020.

President Brazier commented on the mail system has been slowed considerably by COVID-19. She explained she had mailed something a week ago that should have arrived at its destination in its customary two days but did not arrive until over a week later. She implored anyone who receives a mail in ballot to be sure those ballots are mailed in plenty of time allowing for more than the usual necessary timeframe for the ballots to be received.

B. Representative Report (Appointed Representative)

1. SDCWA

A. Summary of Board Meeting June 25, 2020

Mr. Kennedy reported SDCWA passed a rate increase to be effective January 1, 2021 which will add approximately \$7.00 per month to each of the RMWD customer bills. He noted SDCWA left open the potential for revisiting the rate increase should Metropolitan Water District revisit their rates in August.

Mr. Kennedy mentioned during the July Board meeting, SDCWA was supposed to decide on the next steps for the Regional Conveyance System Project; however, it was pulled from their agenda. He stated he sent each of the Board Members a report developed by the Member Agency Manager Group which he shared as a handout and in a presentation as he reviewed the information Executive Summary.

Director Gasca inquired as to RMWD's share of the project costs. Mr. Kennedy answered approximately \$1,400 per acre foot. Director Gasca asked how costs associated with preparing the report were paid. Mr. Kennedy replied the costs were split among eighteen member agencies.

(*) - Asterisk indicates a report is attached.

2. CSDA

Mr. Kennedy reported the quarterly dinner meeting in August will be conducted as a Zoom meeting with Diane Jacobs possibly being the guest speaker.

3. LAFCO

Mr. Kennedy reported there will be a LAFCO meeting on Monday at which he will be speaking in support of the Agriculture and Open Space. He stated following the meeting there will be discussion regarding the RMWD and FPUD detachment matter.

4. San Luis Rey Watershed Council

Director Gasca stated there was no new current news.

5. Santa Margarita River Watershed Watermaster Steering Committee

Vice President Hamilton referenced the written report he provided after attending the July 21, 2020 committee meeting.

6. ACWA

Mr. Kennedy reported he will be attending the virtual conference from July 29-30, 2020.

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

1. Board Seminar/Conference/Workshop Training Attendance Reports

There were no reports.

D. Directors Comments

President Brazier stated she has a problem with Item #21 being not in compliance with the Administrative Code. She stressed this request was to approve a change order after the fact. She suggested if the Board would like to allow for after the fact change orders, they may want to consider revising the Administrative Code.

Mr. Kennedy clarified the request was for a deduction to the amount being paid to the contractor and thus did not require Board approval; however, the information provided in the action letter was not clear which was why he requested it be pulled from the agenda.

Director Gasca stated he has started communications with Ms. Platt in anticipation of starting to interface with the public in an effort for RMWD to be transparent as well as provide a greater understanding of why RMWD was considering changing water wholesalers. He recommended the District put together some opportunities to brief the community on this matter as well as direct them to where additional information can be found. He said he would draft something to present to the Communications and Customer Service Committee for their input prior to it be finalized.

- E. Legal Counsel Comments
 - 1. Attorney Report: State Water Board Update 501668-0002

Legal Counsel summarized in the information provided in his report noting of most interest is the now the State Board's authority in certain circumstances expands beyond its historical jurisdiction. Discussion followed.

18. COMMITTEE REPORTS

A. Budget and Finance Committee

Mr. Nelson reported the committee meeting was brief but included a recommendation the Board approve the two member appointments to the Budget and Finance Committee being presented to the Board at today's meeting.

B. Communications and Customer Service Committee

Vice President Hamilton noted the committee received an update on the headquarters study, focused on enhancing the pressure management communications, as well as reviewed the report provided by the CSUSM program as well as discussed possibly utilizing intern programs as a resource to get people more engaged in the activity and knowledgeable which in turn could become a potential feeding ground for new employees.

C. Engineering and Operations Committee

Mr. Nelson reported the items the committee discussed at their last meeting and how the committee members received an update on the Vallecitos Tank damage as well as voted to recommend the Board approve Item #24 on today's agenda.

CONSENT CALENDAR ITEMS

- 19. NOTICE OF COMPLETION AND ACCEPTANCE OF FACILITIES CONSTRUCTED UNDER THE HELLING HILL RUN IMPROVEMENT PLANS, TPM 20957
- 20. NOTICE OF COMPLETION AND ACCEPTANCE OF FACILITIES CONSTRUCTED UNDER THE MALEK WATERLINE EXTENSION – ENTRADA AL SOL IMPROVEMENT PLANS
- 21. ACCEPTANCE OF THE 2019 SEWER PIPE LINING PROJECT

This item was pulled from the agenda per Item #3.

Motion:

To approve Consent Calendar Items #19 and #20.

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

Vote: Motion passed (summary: Ayes = 4, Noes = 0, Abstain = 1).

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

Abstain: Director Brazier.

(*) - Asterisk indicates a report is attached.

BOARD ACTION ITEMS

22. DISCUSSION AND POSSIBLE ACTION TO CONSIDER REQUEST BY JACK HAGERTY FOR RELIEF FROM WATER BILL DUE TO HIGH WATER CONSUMPTION BILL

Mr. Kennedy reported Mr. Hagerty lives off Gird Road and how he had a large leak on his property in September of 2019 for which RMWD granted him a credit per District policy. He explained that later in the year, while the property was unoccupied and Mr. Hagerty was trying to sell it, another very large bill was generated which was due to an undetermined cause. He said when RMWD staff checked the meter, they found the meter was not turning but testing it showed it was under actually under registering.

Mr. Kennedy explained Mr. Hagerty has asked RMWD to issue another credit; however, according the current policy a customer is only allowed to receive a leak credit once every five years, so he did not qualify. Mr. Hagerty in turn asked if RMWD would be able to split the difference with him but Mr. Kennedy explained this was not authorized to make this type of arrangement. He said after exhausting these options and not reaching an agreement, Mr. Hagerty has requested for this matter to be brought to the Board for consideration.

Director Gasca reiterated the District acted according the policy and how when the meter was pulled and checked it was under registering. He said the fact is RMWD has a policy and the customer already received a leak credit; therefore, it was his recommendation to Mr. Hagerty that should he want consideration of the Board, he should prepare something to present to the Board at today's meeting. He concluded by noting his disappointment Mr. Hagerty did not follow this recommendation.

Motion:

To approve Option 1 – Confirm staff's application of our leak relief policy and let the bill stand as is. A payment plan can be arranged with Mr. Haggarty to allow it to be paid over 12 months.

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

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 5).

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

***23. DISCUSSION AND POSSIBLE ACTION ON THIRD AMENDMENT TO THE UNRECORDED JOINT AGREEMENT TO IMPROVE MAJOR SUBDIVISION AND JOINT AGREEMENT TO IMPROVE MAJOR SUBDIVISION COUNTY OF SAN DIEGO TRACT NO. 4736-1 FOR BONSALE OAKS DEVELOPMENT**

Mr. Kennedy reported this was a housekeeping item with the change in owner from the old Polo Club project to Bonsale Oaks which provides another time extension to an existing facilities agreement. He confirmed the Board had approved something similar for this project a few months ago; however, the developer is requesting an extension to allow time for some of the processes with the County to complete.

(*) - Asterisk indicates a report is attached.

David Pallinger noted this agreement will allow the developer to take out of the contract a portion of the project they will now get bonded and start construction on the first phase. He noted once the Board authorizes this agreement being signed, it will be taken to the County who will place in the Board packet for consideration by the County Board of Supervisors.

President Brazier asked why RMWD has unrecorded Joint Agreements. Mr. Pallinger explained for some reason going back twenty years there was one agreement that was not recorded and how First American Trust who manages the actual lien and legal counsel for all parties agree the one unrecorded agreement would remain as unrecorded.

Motion:

To approve Option 1 - Authorize the General Manager to Execute the following agreements: a) Third Amendment to the Unrecorded Joint Agreement to Improve Major Subdivision, Extension of Time to Complete Improvements, Partial Release of Joint Lien Contract, and Partial Termination of Original Holding Agreement for San Diego Tract No. 4736-1 (Final Map 13856) and b) Joint Agreement to Improve Major Subdivision County of San Diego Tract No. 4736-1 (Final Map 13856, Lots 1-18) (Phase 1A-1, PDS1998-2140-4736-1) (Single District).

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

Vote: Motion passed (summary: Ayes = 4, Noes = 0, Abstain = 1).

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

Abstain: Director Brazier.

24. CONSIDER A CONSTRUCTION AGREEMENT WITH SCW CONTRACTING FOR THE NORTH RIVER ROAD SEWER POINT REPAIRS PROJECT IN THE AMOUNT OF \$474,000.00 AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF THE DISTRICT

Mr. Williams explained this project was placed out to bid to fourteen pre-qualified contractors with SCW being the only contractor who submitted a bid. He stated SCW was the same contractor who completed the emergency work with which staff was pleased. He noted the emergency work was closed out approximately two months ago and how Phase 1 of 3 was being presented to the Board for consideration today. He added Phase 2 was currently out for bid and expected to be brought to the Board at their August meeting.

Motion:

To approve Option 1 - Approve the Construction Agreement with SCW Contracting in the amount of \$474,000.00 and authorize the General Manager to sign on behalf of the District.

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

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 5).

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

(*) - Asterisk indicates a report is attached.

25. DISCUSSION AND POSSIBLE APPOINTMENT OF JULIE JOHNSON TO SERVE AS A MEMBER AND STEVE STRAPAC AS AN ALTERNATE MEMBER OF THE BUDGET AND FINANCE COMMITTEE

Motion:

Appoint Julie Johnson to serve as a member and Steve Strapac as an alternate member on the Budget and Finance Committee.

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

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 5).

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

26. CONSIDER RESCHEDULING THE PREVIOUSLY CHANGED REGULAR MEETING DATE OF AUGUST 18, 2020 TO ITS REGULARLY SCHEDULED DATE OF AUGUST 25, 2020

Director Rindfleisch inquired as to why the meeting was originally rescheduled. Vice President Hamilton stated it was due to a conference scheduled for the last week in August that some Board Members wanted to attend; however, the conference has since been cancelled due to the COVID-19 outbreak.

Motion:

To approve Option 1 - Approve rescheduling the August 18, 2020 Regular Board meeting to August 25, 2020.

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

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 5).

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

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

There were no requests made.

Ms. Washburn reported RMWD has received reimbursement for all costs associated with the cancelled conferences.

BOARD INFORMATION ITEMS

***28. STATEMENT OF AUDITING STANDARDS (SAS) 114 PLANNING LETTER**

Ms. Largent pointed out staff was required to present this annual letter to the Board letting them know planning for the audit has been confirmed. She stated the start date will be September 8, 2020 and will be conducted virtually.

(*) - Asterisk indicates a report is attached.

***29. INITIAL REVIEW OF PROPOSED AMENDMENTS AND UPDATES TO ADMINISTRATIVE CODE TITLE 2 – BOARD OF DIRECTORS**

Mr. Kennedy explained this was part of the ongoing effort of reviewing and updating the Administrative Code with the redline being provided for the Board for their review and feedback before finalizing the proposed updates for Board approval at the August Board meeting.

30. COVID-19 EMERGENCY UPDATE

Mr. Kennedy reported the District will remain operating as status quo and continue to do so throughout the end of the calendar year and possibly into the next calendar year. He thanked the staff for working very hard while dealing with very unusual situations.

President Brazier said she has received an email from a constituent who wanted to know if those employees working from home were keeping the same hours as if they were working on location. Mr. Kennedy stated they were and how Customer Service staff were coordinating their breaks to ensure continual phone coverage as well as tracking call volume and durations which have shown to be the same as if staff were in the office. Ms. Largent confirmed this was accurate and added even those who were not answering the phones were working their same schedules.

31. WATER SERVICES UPGRADE PROGRAM (WSUP) UPDATE

Mr. Williams reported staff was pleased to announce the project has moved to the 11% complete marker which equates to 875 completed meter installations with 7,258 installations remaining. He noted the District team continues to meet and the website is regularly updated.

Mr. Kennedy added there will be a more detailed update provided to the Engineering and Operations Committee as well as the Board in September.

Vice President called for a break at 2:42 p.m.

The meeting reconvened at 2:46 p.m.

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

A. General Manager Comments

1. Meetings, Conferences and Seminar Calendar

B. Communications

1. SB 1386 (Moorlach): Protecting Fire Hydrant System Funding- Support

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

(*) - Asterisk indicates a report is attached.

2. Budget vs. Actual Fund 1, 2, and 3
3. Fund Balance Projections
4. Treasury Report
5. Five Year Demand
6. Water Sales Summary
7. Check Register
8. Directors' Expense
9. Credit Card Breakdown
10. Developer Projections
11. RMWD Properties

Mr. Kennedy gave an update on the Vallecitos Tank damage and how RMWD and Suez has reached an accord with Suez agreeing pay approximately \$80,000 of the costs and RMWD will pay \$25,000 to make the necessary repairs. He reported Suez inspected each of RMWD's remaining tanks and found there were 2-3 with the same overflow issue which they have already corrected. Mr. Gutierrez mentioned he has arranged to proceed with working on the tanks in the winter months.

Ms. Harp introduced Esaud Lagunas as RMWD's new Construction and Maintenance Supervisor.

Motion:

To receive and file information and financial items.

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

Vote: Motion carried by unanimous roll call vote (summary: Ayes = 5).

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

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

It was noted award of the Gopher Canyon portion of the Pipeline Upgrade Project (PUP #1), award of the Sagewood Project portion of the Pipeline Upgrade Project (PUP) #1, the award for Phase II of the CIPP sewer project, an informational update on the HQ site development, Administrative Code Title 2 updates, first review of Administrative Code Title 3, as well as an agreement with the City of Oceanside for the Weese water deliveries should be on the next committee agenda.

34. ADJOURNMENT

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

The meeting was adjourned at 2:56 p.m.

Helene Brazier, Board President

Dawn M. Washburn, Board Secretary

(*) - Asterisk indicates a report is attached.