

**MINUTES OF THE SPECIAL BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
DECEMBER 15, 2015**

1. **CALL TO ORDER** - The Special Meeting of the Board of Directors of the Rainbow Municipal Water District on Tuesday, December 15, 2015 was called to order by President Sanford at 1:04 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President Sanford presiding.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:**

Present: Director Walker
Director Sanford
Director Brazier
Director Griffiths
Director Lucy

Absent: None

Also Present: General Manager Kennedy
Executive Assistant/Board Secretary Washburn
Legal Counsel Moser
Finance Manager Thomas
Finance Manager Martinez
Operations Manager Atilano
District Engineer Kirkpatrick
Superintendent Zuniga

Twenty-nine members of the public were present for Open Session.

4. **PUBLIC COMMENT RELATING TO ITEMS ON THE AGENDA**

There were no comments.

Time Certain: 1:00 p.m.

***5 PUBLIC HEARING TO RECONSIDER ADOPTING INCREASES IN THE RATES FOR RAINBOW MUNICIPAL WATER DISTRICT SERVICE FEES EFFECTIVE JANUARY 1, 2016 AND ORDINANCE 15-10 AUTHORIZING THE DISTRICT TO PASS THROUGH INCREASED COSTS IN PURCHASED WHOLESALE WATER, INCREASES TO THE DISTRICT'S COST OF OPERATIONS AND MAINTENANCE AND CAPITAL FACILITIES, AND ANY REDUCTION IN THE ALLOCATION OF AD VALOREM PROPERTY TAX REVENUES BY THE STATE OF CALIFORNIA**

President Sanford opened the Public Hearing at 1:05 p.m.

(*) - Asterisk indicates a report is attached.

President Sanford addressed the audience welcoming those members of the public. He announced some basic protocol to take place during the meeting including silencing cell phones, not making any comments or approach the Board members individually during the Board meeting unless addressed by Board specifically, and completing speaker slips to make a three-minute presentation to the Board of Directors.

Mr. Kennedy gave a brief presentation on the proposed changes to the water rates in the water service area. He announced there were several publicly noticed meetings during the process including meetings with the Budget and Finance Committee. He mentioned the full Board of Directors considered this proposed rate structure on October 23, 2015 and October 27, 2015. He added how the State Board gave the District until November 1, 2015 to start its Proposition 218 process or face fines. He noted this public hearing was the direct result of these things including the rate hearing being set on October 27, 2015. He continued with the presentation.

Mr. Kennedy announced public notices of this public hearing have been provided in accordance with California Proposition 218. At the meeting on October 27, 2015 the Board authorized notice of a public hearing to be held today, December 15, 2015. Notice of the public hearing was mailed to property owners and customers on or around November 30, 2015 (November 30, 2015 was a misstatement that should have been October 30, 2015). Therefore, property owners and customers have had more than 45 days to submit written protests to the proposed rate increase the Board is considering today. As of December 15, 2015, the District has received nine written protests to the proposed rate changes; in percentages, that is less than 0.1% percent. He noted if a member of the public wishes to protest the proposed increases, they must submit a written protest and how the Board is prohibited from adopting any rate increase if a majority protest is submitted in writing before the end of this public hearing. He reminded the Board Members and informed members of the public that Board Members are not to answer questions from the public during the public hearing portion of the meeting; however, there is an opportunity following the close of the public hearing for Board Members to have a discussion regarding the proposed rate.

Mr. Atilano repeated the public hearing and protest process information in Spanish per the request of an audience member.

President Sanford asked for any remaining speaker slips to be remitted to him.

Maureen Rhyne said she would submit a written protest prior to the conclusion of the hearing. She stated her claim was that pumping the water was the cost of doing business. She talked about all electrical moving sewer is charged out as Operations and Maintenance and suggested pumping costs should be charged out the same way. She stated some customers should not be charged more than other customers simply because of electrical charges.

Rick Carey stated he will turn in his protest to the proposed rates. He noted although he understood there were a great deal of moving parts involved in this matter and he was extremely grateful for Mr. Kennedy being at RMWD; however, he totally disagrees with the strategy of shifting the costs to fix costs away from commodities. He explained how this shift impacts his costs and stressed how he found the rate of increase to be unsustainable. He said although he and others may be operating well in the red already, he was unsure how long it will be before they all just give up. He asked the Board to shift back to commodities.

(*) - Asterisk indicates a report is attached.

Dwayne Urquhart echoed Mr. Carey's comments. He said he, too, is a long time farmer. He stated his principal concern was when he looked at the increase as well as the fixed cost to the meters. He noted although everyone has been accustomed to some big increases at some point, some of those proposed were unprecedented. He said when you get this kind of large increase, it gets to a point where it becomes a tipping point. He stated when the "hard core" agricultural users say we are at a tipping point, the Board needs to take it seriously. He suggested RMWD look at what can be done to moderate some of the fixed increases on the agricultural meter costs due to the fact they seem really high in his opinion.

Mrs. Do spoke on behalf of her husband, Qui Do. She read a letter aloud to help her solidify some of the thoughts. She explained their unique circumstances with their large parcel of land with an existing 2" water meter and several acres of citrus and avocado trees. She mentioned in 2003 they built a 1200 square foot home so they can live there while managing and grow their agriculture operation because this was the land of opportunity where they could be a productive member of society as well as the small community in which they live. She said over the years they made a little profit; however, it kept eroding due to the increase in cost. She stated after the Rice Canyon fire, the majority of their plants were destroyed for which they did not have insurance. She explained they could not take the risk to replant because of the uncertainty of their not being enough water to care for baby trees. She talked about the fixed rate they are currently paying due to the 2" meter although they are using only approximately 80 units on the average for the last two years as a means of conserving water as well as water their trees enough to keep them alive and productive. She expressed concern that the proposed increase their monthly costs will rise without using a drop of water which will make it unaffordable for her family to grow anything. She pointed out the rate study states those customers with 2" water meters are using more water; however, she was uncertain if this was true in her situation. She said it feels like the larger meter customers are subsidizing the water costs which was in conflict with the proposition before the Board today. She suggested the proposed rate structure would be better if it were more in terms of water usage of the people in this particular class. She mentioned one neighbor paying the same fixed costs and have thousands of trees that are very profitable and another neighbor that does not live at their property are paying nothing. She concluded by stating she appreciates the Board's time and hopes that their action and deliberation will show the rates are the best for everyone in her situation.

Harvey Royer said he has been a member of RMWD for approximately 35 years and how he had little tiny groves for 30 years. He mentioned how he has always watched money every year and subsidized from elsewhere. He stated he was kind of shocked when he moved to a residence last year and discovered his water bill did not decrease due to the fixed costs. He said he understands RMWD has so many miles of pipe and pretty long span of pumping that does not change that fixed costs; therefore, he would like to see a lower end on fixed costs. He concluded by stating he appreciates the Board for what they do.

Ken Roth spoke of how in 1986 the IAWP was created with Metropolitan Water District from which the TSWAR program was created by San Diego County Water Authority to acknowledge the part that agriculture plays in their charges. He stated when this was additionally created, there was an EIR study in which it was mentioned that agriculture was exempt from the emergency storage process of San Diego County Water Authority as well as some of the standby costs. He said since that time this has been studied by legislation that created a new look for water identification. He noted his comments today are that he does not believe that either the new reliability cost, infrastructure access charge, or the capacity reservation charge

(*) - Asterisk indicates a report is attached.

are legitimate to the TSWAR users of water. He said he would like to find whether these were considered in RFC deliberations; specifically whether RFC read the EIR created back in 1986 to determine what agriculture was responsible for.

Frank Cipolla said he would like clarification as to the rising costs due to fuel costs when the price of gas was declining.

President Sanford solicited for additional public comments. He stated the Board appreciated the members of the public attending the meeting today and giving them their comments. He explained being a Board Member was not necessarily an easy job and everything they do they will be doing to themselves as well. He stated making these decisions are not easy to make and may sometimes be counter to what they might think personally; however, they have to always think in the broad picture in terms of what is best for the District and all ratepayers as opposed to a particular ratepayer.

President Sanford closed the Public Hearing at 1:54 p.m.

Mr. Kennedy reported there were approximately 8,326 parcels subject to the rate increase and how RMWD received 18 total written protests; therefore, a majority protest has not been received.

Director Lucy asked Mr. Kennedy if he felt compelled to briefly any of the comments made by the members of the audience. Mr. Kennedy explained when the Board discussion portion of the discussion begins, he will address those comments.

Action:

Moved by Director Brazier to adopt Ordinance 15-10. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following roll call vote:

AYES:	Directors Brazier, Lucy, Sanford, and Walker
NOES:	None
ABSTAINED:	Director Griffiths
ABSENT:	None

Mr. Kennedy addressed the question about the increase in fixed fees noting this was the outcome of the cost of service study. He acknowledged this does become difficult when you have a large agricultural meter with low consumption as opposed to a high consumption. He mentioned RMWD has recommended to those who have large meters that do not have any current or future plans to use the capacity is to come in and downsize the meter in order to cut back on the monthly costs. He added if someone may think they may use 1,000-1,500 capacity in their large meter in the future, they would be stuck with the rate. He pointed out there was a legal case where it was determined by the courts that if a meter resides on a property regardless of being locked off or not, the capacity fees must be paid according to Proposition 218.

Director Lucy asked how long it would take for the engineering department to process the downsizing of a meter for a customer. Mrs. Kirkpatrick stated it takes approximately two weeks.

(*) - Asterisk indicates a report is attached.

Mr. Carey asked about changing to manifold meters. Mr. Kennedy explained this would be appropriate for a fire service and water service. He pointed out it all has to do with capacity which will be looked at closer when RMWD reviews the capacity charges. Director Walker pointed out the diameter is not the same as the area when it comes to manifold meters.

Director Lucy noted the Budget and Finance Committee looked at this rate study very hard and how Raftelis was the expert in calculating fair balanced rates. He said he was very satisfied with the way this thing was made as fair as possible for everyone. He stated as an agricultural person, for years it was felt that agriculture was getting a deal; however, this was not true due to agriculture was really carrying the ball around here for years and years.

Mr. Stitle talked about Raftelis' work being very complex. He pointed out the Raftelis study was approximately 100 pages long and consists of probably a couple of spreadsheets linked to it. He said it was a real education to sit through the process with Raftelis to find out all the impacts of state law, hydraulics, and any other issues that affect water rates. He stressed the fixed costs were not as high as they could be and how although this may be going against what the public wants, the District is obligated to pass the costs through to all RMWD customers as best as possible according to state law, Proposition 218, the Capistrano case, etc.

Director Lucy pointed out RMWD was in the water sales business and want to sell as much water it can as fairly as possible. Mr. Stitle added RMWD has gone from selling approximately 30,000 acre feet to 18,000 or less this year. President Sanford stated the less water RMWD sells, the more the costs will increase.

Director Griffiths inquired as to the pumping charges and asked if the pumping charges could be recalculated. Discussion ensued.

Director Brazier asked if there was a philosophical difference between applying pumping charges for sewage to everyone including those who do not have sewage. Mr. Kennedy clarified only those using sewer pay sewer charges under Operations and Maintenance.

Director Griffiths talked about staffing levels. Mr. Kennedy pointed out during the budget process, the Board approved the current staffing levels.

Mr. Kennedy explained this was a Proposition 218 hearing that establishes a five year window during which time the Board can adopt rates within the prescribed limits provided in the Ordinance. He noted each time the Board would increase rates, it does require public notification but not a full protest hearing with a 45-day notice but rather a 30-day notice through normal channels.

Director Walker pointed out "of" should be "if" on Page 5-4.

***6. CONSIDER REVISION TO ADMINISTRATIVE CODE SECTION 5.03.220 – ESTABLISH A RATE STABILIZATION RESERVE FUND**

Director Griffiths referenced Page #7A-7 stating he did not confirm RMWD having a rate stabilization fund. He asked for this to be changed in the minutes immediately. It was noted this proposed change could be addressed under Item #7.

(*) - Asterisk indicates a report is attached.

Action:

Moved by Director Brazier to approve and establish a Rate Stabilization Reserve Fund. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

AYES: Directors Brazier, Lucy, Sanford, and Walker
NOES: Director Griffiths
ABSTAINED: None
ABSENT: None

***7. APPROVAL OF MINUTES**

A. October 27, 2015 – Regular Board Meeting

Director Griffiths requested his name be removed on Page #7A-7 stating he did not confirm the District having a rate stabilization fund. Ms. Washburn offered to listen to the meeting recording again.

Director Walker noted the word “was” should be stricken on Page #7A-3.

Action:

Moved by Director Brazier to approve the minutes of October 27, 2015 with any necessary revisions. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

AYES: Directors Brazier, Griffiths, Lucy, Sanford, and Walker
NOES: None
ABSTAINED: None
ABSENT: None

B. November 17, 2015 – Special Board Meeting

Action:

Moved by Director Brazier to approve the minutes of November 17, 2015. Seconded by Director Walker.

After consideration, the motion CARRIED by the following vote:

AYES: Directors Brazier, Griffiths, Lucy, Sanford, and Walker
NOES: None
ABSTAINED: None
ABSENT: None

(*) - Asterisk indicates a report is attached.

BOARD ACTION ITEMS

***8. APPROVAL OF RESOLUTION NO. 15-16 ESTABLISHING CHECK SIGNING AUTHORITY**

Mr. Kennedy announced this would be Ms. Thomas' last Board meeting due to her upcoming retirement. He thanked Ms. Thomas for her 19 years of service at RMWD. He introduced Vanessa Martinez who will be replacing Ms. Thomas as RMWD's Finance Manager. He pointed out the next few items had to do with housekeeping matters related to this transition.

President Sanford welcomed Mrs. Martinez to the District and asked her to give a quick snapshot of her background.

Mr. Kennedy explained Resolution No. 15-16 will replace Ms. Thomas with Mrs. Martinez in the check signing capacity.

Director Griffiths thanked Ms. Thomas for all she has done in the past for RMWD. President Sanford thanked her as well.

Action:

Moved by Director Lucy to approve Resolution No. 15-16. Seconded by Director Brazier.

After consideration, the motion CARRIED by the following vote:

AYES: Directors Brazier, Griffiths, Lucy, Sanford, and Walker
NOES: None
ABSTAINED: None
ABSENT: None

***9. DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTION NO. 15-17 DESIGNATING TOM KENNEDY AS CONTRACT SIGNER FOR ALL UNION BANK TRANSACTIONS**

Ms. Thomas explained this item was to give authorization for overseeing the Union Bank banking transactions and any contract changes.

Director Griffiths suggested Mr. Kennedy be the oversight and Mrs. Martinez handling the actual banking in order to have two people involved. Mr. Kennedy and Ms. Thomas explained the accounting controls already in place at RMWD.

Action:

Moved by Director Brazier to approve Resolution No. 15-17. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

AYES: Directors Brazier, Lucy, Sanford, and Walker
NOES: Director Griffiths
ABSTAINED: None
ABSENT: None

(*) - Asterisk indicates a report is attached.

***10. DISCUSSION AND POSSIBLE APPOINTMENT OF TREASURER**

President Sanford inquired as to whether it would be appropriate for a Board Member to serve as Treasurer. Mr. Kennedy explained if a Board Member was appointed, that person would have to come to the Finance Manager to get the reports, attend the Budget and Finance Committee meetings, report on all financial statements, etc.; however, it was entirely up to the Board. Legal Counsel recommended that should the Board appoint a Board Member, they should appoint Mrs. Martinez as Assistant Treasurer due to the fact there may be a need for someone with a treasurer title to perform certain tasks.

Action:

Moved by Director Brazier to appoint Vanessa Martinez as Treasurer. Seconded by Director Griffiths.

After consideration, the motion CARRIED by the following vote:

AYES: Directors Brazier, Griffiths, Lucy, Sanford, and Walker
NOES: None
ABSTAINED: None
ABSENT: None

***11. DISCUSSION AND POSSIBLE ACTION TO AWARD A PROFESSIONAL SERVICES CONTRACT TO PREPARE THE WATER RECLAMATION PLANT AND RECYCLED WATER DISTRIBUTION SYSTEM PRE-DESIGN REPORT**

Mr. Kennedy recalled the previous steps taken regarding this project and how RMWD put out a RFP based on the information provided. He state two firms submitted their proposals and were both interviewed by the Engineering committee. He mentioned after reviewing the applications, proposals, and the presentations from both firms, everyone felt comfortable with the firm selected which was Dudek and Atkins. He pointed out the recommendation at this time was to approve the contract to go to a pre-design report level where they will look more carefully at the exact costs and exact pipeline alignments to give the Board the information they need to determine to proceed or not. He noted the expectations was for the contractor to be able to present something to the Board in approximately six months. He stressed there were built-in safeguards in this contract that should they find fatal flaws along the way RMWD can stop spending money on it.

Mr. Kennedy pointed out there needs to be additional appropriation.

Director Walker stated he receives compensation for consulting services from Atkins. Legal Counsel stated this would be the appropriate time for Director Walker to recuse himself from considering this matter.

Director Walker excused himself from the meeting at 2:38 p.m.

(*) - Asterisk indicates a report is attached.

Mr. Kennedy stated the Master Plan project has remaining funds from which the appropriation of additional funds can be made should the Board desire. He noted the total contract cost is \$224,000 and will give RMWD the precise pipe alignments, plant design, and analysis on the environmental regulations as well as on recycled water. He reiterated this was designed to get a firm answer to proceed or not on a project that could be 40-year million dollar project. He stressed this was an important study to determine whether RMWD gets into the water reclamation business or not.

It was confirmed the allocation of an additional \$50,000 should be formalized through Board action.

Mr. Kennedy referred to Page #11-11 as he noted the approval process that took place throughout the progression.

Director Lucy asked for clarification the Engineering Committee knew of the past relationship with Dudek & Associates. It was confirmed this was discussed up front by the Engineering Committee. Director Lucy said the fact that the committee was aware of the past history and still recommended Dudek for this project was worth recognizing. Director Lucy also encouraged that when this analysis is conducted, they get with some real farmers to find out if this thing will work because those are the customers that will tell you.

President Sanford clarified the Board was approving an overall budget of \$224,000 to be spent over time with various checkpoints along the way. Mr. Kennedy explained the project needs to be more due to staff time involved; therefore, the total would be \$250,000 which includes their contract plus RMWD's staff time.

Director Brazier said approving the staff recommendation as it is written that if there are no conditions or limitations other than what is written therein. Mr. Kennedy stated the contract cannot exceed \$225,000 and the other \$25,000 was for staff time.

President Sanford clarified this motion would authorize the approval of a \$250,000 appropriation with a maximum contract of \$225,000.

Director Griffiths asked how the checkpoints are controlled. Mr. Kennedy stated there were proposed meeting dates scheduled at which the contractor will produce staff with information on each of those topics listed on Page #11-11. He noted most of these will be talked about at Engineering Committee meetings and should there be something that does not look good, progression would be stopped right there. President Sanford asked if the progression is brought to a halt, will the contract be terminated. Mr. Kennedy confirmed.

Mr. Kennedy stated by reviewing the Engineering Committee minutes and some detail of the Master Plan, the first hurdle to be overcome is the deal with the City of Oceanside deciding whether to give RMWD money for the capacity the District owns in the San Luis Rey plant. He noted if RMWD has to abandon that capacity and get nothing in return for it, it makes this project very difficult to pencil out. He said although the City of Oceanside seems open to the idea, there was no commitment. Discussion ensued.

(*) - Asterisk indicates a report is attached.

Action:

Moved by Director Lucy to approve staff recommendation Option 1 - Appropriate an additional \$50,000 from the Master Plan Project into the Pre-Design Water Reclamation Project and authorize staff to negotiate a contract to prepare the water reclamation plant and recycled water distributions system pre-design report not to exceed \$224,995 with Dudek. Seconded by Director Brazier.

After consideration, the motion CARRIED by the following vote:

AYES: Directors Brazier, Lucy, and Sanford
NOES: Director Griffiths
ABSTAINED: None
ABSENT: Director Walker

Director Walker rejoined the meeting at 2:53 p.m.

BOARD INFORMATION ITEMS

***12. RECEIVE AND FILE INFORMATION ITEMS FOR OCTOBER 2015**

- A. General Manager Comments**
- B. Communications**
 - 1. Ratepayer Letters
- C. Construction & Maintenance Comments**
 - 1. Construction and Maintenance Report
 - 2. Valve Maintenance Report
 - 3. Garage/Shop Repair
- D. Water Operations Comments**
 - 1. Water Operations Report
 - 2. Electrical/Telemetry Report
- E. Wastewater Comments**
 - 1. Wastewater Report
- F. Operations Comments**
 - 1. Water Quality Report
 - 2. Cross Connection Control Program Report
- G. Engineering Comments**
 - 1. Engineering Report
- H. Customer Service Comments**
 - 1. Field Customer Service Report
 - 2. Meters Report
- I. Safety Comments**
 - 1. Safety Report
- J. Human Resources Comments**
 - 1. Personnel Changes
 - 2. Organizational Chart

(*) - Asterisk indicates a report is attached.

President Sanford referenced Item #12B1-1 noting a ratepayer thanked everyone for their efforts in the LAFCO matter.

Action:

Moved by Director Brazier to receive and file information items. Seconded by Director Walker.

After consideration, the motion CARRIED by the following vote:

AYES: Directors Brazier, Griffiths, Lucy, Sanford, and Walker
NOES: None
ABSTAINED: None
ABSENT: None

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

Director Lucy announced his resignation from the Board of Directors on January 26, 2016 due to the growth in business at Del Rey Avocado and the increased responsibilities with such that he can no longer ignore. He talked about how this was the finest Board on which he has served due to his personal growth and friendships developed between him and staff. He said he will help with whatever he can do, but he wanted to give Mr. Kennedy and President Sanford some time to maybe find someone to take his place. He clarified he would be available for the January 26, 2016 meeting; however, should the Board wish to appoint someone, he would resign immediately. Mr. Kennedy pointed out in order to proceed, the District must receive Director Lucy's written notice of resignation so that staff can notify the Registrar of Voters within fifteen days and sixty days for an appointment. Discussion followed.

Director Brazier requested there be some type of conference reporting from staff members when they attend extended conferences at the cost of RMWD. Mr. Kennedy agreed a written report could be provided in the agenda packet. It was determined this did not need to be an agenda item.

14. ADJOURNMENT - To Tuesday, January 26, 2016, at 1:00 p.m.

The meeting was adjourned with a motion made by Director Brazier to a regular meeting on January 26, 2016, at 1:00 p.m.

The meeting was adjourned at 3:01 p.m. p.m.

Dennis Sanford, Board President

Dawn M. Washburn, Board Secretary

(*) - Asterisk indicates a report is attached.