

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
NOVEMBER 17, 2015**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on Tuesday, November 17, 2015 was called to order by President Sanford at 12:03 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President Sanford presiding.

2. **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 Ochoa
Finance Manager Thomas
Operations Manager Atilano
Acting District Engineer Kirkpatrick
Superintendent Zuniga
Superintendent Walker
Administrative Analyst Gray

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

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

Director Griffiths' proposed Item #16 be changed to information only and any action be postponed until January. Mrs. Kirkpatrick noted this was a time-sensitive item. It was decided whether to vote on this item when it comes up on the agenda.

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 12:07 p.m.

(*) - Asterisk indicates a report is attached.

5. CLOSED SESSION

- A. Conference with Legal Counsel--Potential litigation (Gov. Code section 54956.9(d)(2))
 - Pala Mesa Highlands
- B. Conference with Legal Counsel--Anticipated Litigation (Government Code §54956.9(d)(4))
 - One potential case

6. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

The meeting reconvened at 1:03 p.m.

Time Certain: 1:00 p.m.

7. PLEDGE OF ALLEGIANCE

8. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

President Sanford said there was nothing to report out of Closed Session.

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

There were no changes to the agenda.

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. APPROVAL OF MINUTES**

- A. October 23, 2015 – Special Board Meeting

Director Griffiths pointed out the word “too” should be “two” on Page #11A-2.

Action:

Moved by Director Brazier to approve the minutes as revised. Seconded by Director Griffiths.

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

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

(*) - 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.

B. Representative Report (Appointed Representative)

1. SDCWA

Mr. Kennedy reported on the meeting he attended earlier today where discussion took place about the Governor possibly extending the drought regulations through next year. He stated other agencies including RMWD would be sending letters to try to get the State to take a regional approach on water matters. He explained the environmental lobby was trying to remove the agricultural exemption to which RMWD responded with letters to several entities in an attempt to dispel that notion.

Mr. Kennedy explained what SDCWA was currently working on in terms of putting together long range financial plans.

Mr. Kennedy announced the desalination plant in Carlsbad was currently operational to which all RMWD Board Members have been invited to tour. He pointed out those Directors that wish to attend are not allowed to bring guests, must RSVP, and bring photo identification in order to be allowed into the facility due to the restrictions imposed at the project site.

2. CSDA

Mr. Kennedy noted he and President Sanford would attend the meeting on November 19, 2015 where they will participate in the LAFCO candidate forum.

3. LAFCO

Mr. Kennedy reported Mr. Ott has stated there have been no requests made for reconsideration in the matter of FPUD's application to dissolve RMWD.

4. San Luis Rey Watershed Council

Director Walker reported the meeting was scheduled for next Monday. He did note there was someone interested in serving on the Council as an agricultural representative

5. Santa Margarita Watershed Council

President Sanford reported there was nothing impacting RMWD at this time.

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

There were no reports.

(*) - Asterisk indicates a report is attached.

D. Directors Comments

Director Brazier mentioned she was at FPUD's Board meeting yesterday and how they were talking about the possibility of having a speaker from NOAA address the community about the potential El Nino. She stated the tentative date for this meeting was December 9, 2015 at 6:30 p.m. at FPUD. She mentioned FPUD was advised to get in contact with other local community water agencies and groups to get the word out. Mr. Kennedy asked Ms. Gray to confirm the meeting date and time.

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

A. Budget and Finance Committee

1. September 8, 2015

Mr. Stitle said there was nothing to report.

B. Communications Committee

1. October 5, 2015 Minutes

Mr. Kennedy introduced Cynthia Gray as RMWD's newly hired Administrative Analyst who will be overseeing RMWD's communications and public outreach.

C. Engineering Committee

1. October 7, 2015 Minutes

Mrs. Kirkpatrick reported there was a presentation on gray water at their last committee meeting. Mr. Kennedy added there was also a study done on a project requested by customer Rick Carey and how the expense involved was very high. Director Brazier pointed out there were financial implications for RMWD associated with ReWater.

BOARD ACTION ITEMS

*14. CONSIDER STATUS OF TRANSITIONAL SPECIAL AGRICULTURAL WATER RATE (TSAWR) PROGRAM AS WELL AS POSSIBLE CHANGES TO ALLOCATION SYSTEM

Mr. Kennedy recalled how the Board adopted policies earlier this year involving the TSAWR program. He noted how RMWD's customers on the TSAWR program have done very well with conserving water. He mentioned the Board agreed to review the program again in November to determine what changes could be made based on the information gathered over the past several months. He explained the information provided in the handouts in the agenda packet and what RMWD could do in the future without accruing any penalties. He pointed out there were three recommendations from which the Board may want to make a decision with the third option being the best overall.

Director Lucy said he thought Mr. Kennedy was looking at this very prudently and how Option 3 was fair and defensible.

Director Griffiths inquired about financial forecasting for the District. Discussion ensued.

Mr. Kennedy stated special letters would be sent out to the TSAWR customers within the next week. Discussion followed.

(*) - Asterisk indicates a report is attached.

Action:

Moved by Director Brazier to accept Option 3 - Expand outreach to TSAWR customers so that the hardship provisions currently in place in our Drought Ordinance 15-05 could be used by selected TSAWR customers on a case-by-case basis to provide relief our existing policies. As part of this outreach effort we could also inform TSAWR customers as to the status of the program and the low likelihood of penalties. Seconded by Director Lucy.

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

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

***15. DISCUSSION AND POSSIBLE ACTION ON RELEASE OF REQUEST FOR PROPOSAL FOR GENERAL COUNSEL SERVICES**

Legal Counsel Ochoa excused herself from the meeting at 1:35 p.m.

Director Griffiths expressed concern the RMWD has spent a great deal of money on legal services over the past several years. He recommended RMWD have one low cost Legal Counsel for procedural matters and another to represent RMWD in legal actions.

Mr. Kennedy pointed out the Board of Directors are solely responsible for hiring District Counsel; therefore, it was up to the Board to decide if they want to solicit for proposals.

President Sanford explained legal fees are generally quite high. Director Griffiths suggested expenses for legal counsel be kept as low as possible; therefore, he recommended there be one counsel for procedural purposes and a separate lawyer group for court proceedings.

Mr. Kennedy reiterated this item was for the Board to determine whether Requests for Proposals should be solicited.

Director Brazier said the periodic review of services was a prudent thing. She added if the aim of this matter was to solely save money was stupid due to the last two years being exceptional and she does not know if anyone would have done it for less money. She stated even if RMWD had a competent law firm, there would have still been a need to hire specialty counsel. She asked the Board what they expected to come out of this process.

Director Lucy expressed concern with the inconsistency in the representatives from the current law firm which was something he has expressed a few times over the past nine years. He said there have been a couple of times he has been disappointed in the advice provided to the Board; however, he likes what current counsel has done for the District particularly in the LAFCO matter. He agreed reviewing other agencies would be a good idea, but he was not unhappy with current counsel. He stressed it may be important to express to current counsel they need to have someone showing up at RMWD regularly as opposed to changing out representation. He stated if current counsel cannot be consistent, then he would suggest the District see what other representation is out there.

Mr. Stitle asked how much has been spent in legal fees independent of the LAFCO matter in a fiscal year. Mr. Kennedy noted it was a significant amount; however, there are a number of matters in which legal gets involved such as labor. Discussion followed.

Director Walker agreed with Director Brazier in that it was healthy to take a look every once in a while to see what is out there. He pointed out some of the biggest challenges ahead of RMWD are going to require a legal firm that is top notch in understanding the issues concerning the State. He suggested the Board not look at smaller firms, but rather one of the legal firms including Procopio that would be able to perform in this way.

President Sanford stated there were a few times when he could have been rendered better legal advice. He also said in current counsel's defense, there have also been several different general managers since he has been on the Board which has made getting direction from the general managers difficult. He stated the Board decisions are filtered through the general manager who in turn passes it on to counsel which may have had some impact in terms of what has transpired.

Mr. Kennedy pointed out the Board does not have to choose a different legal firm, but just see what is out there to best serve the District.

Director Brazier asked if the Board thought it would be beneficial to have a serious discussion with current counsel about some of the concerns.

Discussion ensued.

Mr. Kennedy suggested the Board evaluate the specific challenges coming to RMWD with water reclamation, groundwater, etc. that are specialized areas and then determine if it would be more beneficial to find a firm that has more deep bench in these areas than one that has a less deep bench that may not render as good a value.

Discussion ensued regarding setting up an ad hoc committee to hold discussions with the District's current Legal Counsel before deciding to proceed with putting out Requests for Proposals. It was decided President Sanford and Mr. Kennedy would meet with the appropriate legal representative from the current legal counsel firm in order to have an opportunity to discuss the Board's concerns and examine the depth of their bench.

No action taken.

Legal Counsel Ochoa rejoined the meeting at 1:56 p.m.

President Sanford reported the Board discussed the entire legal representation process and how they would like to have him and Mr. Kennedy sit down with the appropriate people at Procopio and review where RMWD has been, where the District is now, and where the District is heading. He said after that discussion he would return to the Board with a report of his and Mr. Kennedy's findings. Legal Counsel agreed to set up something that works with his and Mr. Kennedy's schedules.

***16. SEWER SYSTEM MANAGEMENT PLAN 2 YEAR AUDIT**

Mr. Kennedy mentioned this was a biennial review of the SSMP and how there was a sheet provided as a handout summarizing the changes made to the plan through the audit process.

Director Brazier asked some questions regarding the revisions made to the plan including “SSO” not being included in the list of acronyms.

Director Brazier requested a copy of Page 2 of 2 of the organizational chart that was not included in the agenda packet. Mr. Kennedy said he would ask Mrs. Bush to provide this page.

Action:

Moved by Director Brazier to approve the Sewer System Management Plan. Seconded by Director Griffiths.

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

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

17. DISCUSSION AND POSSIBLE ACTION TO APPOINT NEW COMMUNICATIONS COMMITTEE MEMBER

Mr. Kennedy announced Mrs. Kirby expressed interest in serving on the Communications Committee. He also mentioned Mrs. Kirby’s husband serves on the Engineering Committee.

Action:

Moved by Director to appoint Jenna Kirby to the Communications Committee. Seconded by Director Walker.

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

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

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

- A. General Manager Comments**
- B. Communications**
 - 1. Ratepayer Letters
- C. Engineering Comments**
 - 1. Engineering Report

(*) - Asterisk indicates a report is attached.

D. Human Resources Comments

1. Human Resources Report
2. Personnel Changes
3. Organizational Chart

Mr. Kennedy reintroduced Cynthia Gray, RMWD's Administrative Analyst. He also pointed out this was the first month with the new software check register report. He noted the new report generation process was still being perfected; therefore, there may be some style changes going forward as the refining processes continue.

Ms. Thomas updated the Board on the progress being made with transitioning the financial software with Springbrook.

Director Brazier inquired as to the reason human resources manager was not present at these meetings to answer questions that may pertain to that department. Mr. Kennedy said he will compel Mrs. Bush to attend.

Discussion ensued regarding information provided in Item #18C1.

Action:

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

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

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

***19. RECEIVE AND FILE FINANCIAL STATEMENTS AND INFORMATION FOR OCTOBER 2015**

A. Finance Manager Comments

1. Credit Card Breakdown
2. Directors' Expense
3. Check Register
4. Office Petty Cash

It was recommend all the information items be combined into one item on future agendas.

Action:

Moved by Director Brazier to receive and file financial statements and information. Seconded by Director Lucy.

(*) - Asterisk indicates a report is attached.

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

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

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

It was noted the rate hearing will take place at the December 15, 2015 Special Board meeting.

21. ADJOURNMENT - To the Rainbow Public Facilities Corporation Annual meeting on November 17, 2015.

The meeting was adjourned with a motion made by Director Walker and seconded by Director Brazier to the Rainbow Public Facilities Corporation annual meeting on November 17, 2015.

The meeting was adjourned at 2:22 p.m.

Dennis Sanford, Board President

Dawn M. Washburn, Board Secretary