

**MINUTES OF THE REGULAR BOARD MEETING  
OF THE BOARD OF DIRECTORS OF THE  
RAINBOW MUNICIPAL WATER DISTRICT  
JANUARY 24, 2017**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on January 24, 2017 was called to order by President Brazier at 1:00 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President Brazier presiding.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:**

**Present:** Director Brazier  
Director Stewart  
Director Mack  
Director Hamilton

**Absent:** None

**Also Present:** General Manager Kennedy  
Executive Assistant/Board Secretary Washburn  
Legal Counsel Smith  
Finance Manager Martinez  
Operations Manager Milner  
Engineering Manager Kirkpatrick  
Human Resources Manager Harp  
Superintendent Zuniga  
Superintendent Walker  
Administrative Analyst Gray  
Associate Engineer Powers  
Crew Leader Diaz

Six members of the public were present for Open Session.

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

There were no changes to the agenda.

5. **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).**

Dorothea and Gerald Flanigan addressed the Board regarding workers who think they are going to go through their property all the time to access and repair surrounding properties due to the fact the water pipes were originally run in a ridiculous manner. She asked for a rerouting of the plumbing from this District RMWD at her property located at 3224 Gopher Canyon Road and parts of Disney Lane. She suggested since the line needs to be replaced, it should be located

(\*) - Asterisk indicates a report is attached.

where RMWD can access the line without problems as well as without disrupting residents. She stated she was aware she would have to pay for a line from the meter up to her house.

Mr. Kennedy explained many pipelines and easements in the rural areas are on private property that were installed many years ago. He noted RMWD has rules that allow for remote meters because that was what the property owner wanted in order not to have to build extensions every time a new water meter was wanted. He stated where RMWD pipelines exist, the District does have legal easements where the District pipelines exist and thereby have the right to cross them as well as prohibit fences and other things as those easements were granted by the property owner as noted in the easement documents. He offered to take a look at the particular situation.

Mrs. Flanigan stressed workers would not be diagonally trespassing on their property to access 5-6 meters far away. Mr. Kennedy stated RMWD would follow the legal rights allowed according to the District's right of way; however, he would look at the exact easement language to ensure it was being followed.

Mr. Flanigan explained a situation that happened a few years ago that resulted in their decision that no workers would access their property.

President Brazier noted this was not something the Board could solve today; however, she directed Mr. Kennedy to get the contact information so that he could investigate this matter further.

Mrs. Flanigan thanked the Board for their time and encouraged them to have an open mind.

**\*6. APPROVAL OF MINUTES**

**A.** December 6, 2016 - Regular Board Meeting

***Motion:***

***To approve the minutes as written.***

***Action: Approve, Moved by Director Stewart, Seconded by Director Hamilton.***

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

**7. 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 (President Brazier)

There was no report given.

(\*) - Asterisk indicates a report is attached.

**B. Representative Report (Appointed Representative)**

**1. SDCWA**

Mr. Kennedy mentioned SDCWA would be meeting on Thursday and wanted input from the RMWD Board regarding the Resolution to be considered that will put it on the record San Diego County is not in a drought. There was no objection from the Board.

Mr. Kennedy announced he would be serving as Chair on the Imported Water Committee this month in the absence of the current Chair.

**2. CSDA**

Mr. Kennedy noted an official representative should be appointed later in this meeting. He also mentioned RMWD would be leading the next quarterly meeting on February 16, 2017.

**3. LAFCO**

Mr. Kennedy reported the Special District Advisory Council cancelled its meeting this month.

**4. San Luis Rey Watershed Council**

President Brazier reported the recent meeting was cancelled.

**5. Santa Margarita Watershed Council**

There was no report given.

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

There were no reports given.

**D. Directors Comments**

Director Mack stated he would like the Board to reconsider having the Mission Statement as well as pictures of the Board of Directors placed in RMWD's main lobby.

**E. Legal Counsel Comments**

**A. Public Records Act (501668-0002)**

Legal Counsel gave an update on the recent case from the California Supreme Court on the Public Records Act case. He noted the take away for water districts is that an agency will be required to first determine if a case is active or closed and if still active, then the entire invoice remains privilege to protect the confidentiality during the course of litigation. He said once a case is closed, a case-by-case analysis would need to take place.

**\*8. COMMITTEE REPORTS (Approved Minutes have been attached for reference only.)**

**A. Budget and Finance Committee**

**1. November 8, 2016 Minutes**

(\*) - Asterisk indicates a report is attached.

2. December 13, 2016 Minutes

Mr. Stitle reported Mrs. Martinez was making good progress on the new accounting system.

**B. Communications Committee**

1. November 7, 2016
2. December 5, 2016

Mr. Kennedy reported RMWD had a booth at the Fallbrook Chamber of Commerce Expo last week at which two committee members volunteered to help. He noted there were more local businesses than public members present; however, great contacts were made.

**C. Engineering Committee**

1. November 2, 2016
2. December 7, 2016

Mrs. Kirkpatrick noted the committee elected to keep their same chair and vice chair in place. She also mentioned the committee was reviewing the capacity fee updates as well as discussed the AMI and Imported Return Flow projects.

**BOARD ACTION ITEMS**

**\*9. DISCUSSION AND POSSIBLE SELECTION OF DIVISION THREE DIRECTOR AND APPROVAL OF RESOLUTION NO. 17-05, A RESOLUTION APPOINTING \_\_\_\_\_ AS DIRECTOR OF DIVISION THREE OF THE RAINBOW MUNICIPAL WATER DISTRICT**

President Brazier explained the appointment process was at the will of the Board. It was decided to have the candidates address the Board.

Cristal Punaro introduced herself to the Board noting she and her husband were fairly new to the area and how her interest was to be involved in the community noting her background was in employee benefits, investments as a licensed stock broker, retirement plans, insurance, and group benefits. She stated she was readily available to serve as she thanked the Board for their consideration.

Peter Hensley introduced himself to the Board as a long-time resident and noted he has been the treasurer of the HOA where he has resided over the past 20 years. He stated his background was primarily in finance starting at a CPA firm, followed with becoming an assistant Corporate Controller, working for a large developer in Houston for a number of years, and finished up as a Chief Financial Officer. He noted he retired at 59 years old at which time he studied to become a financial planner which he did for 15 years. He mentioned he was currently a member of the RMWD Budget and Finance Committee and was readily available to serve on the Board. He concluded by noting his hobby was being a singer.

Director Stewart mentioned he had contacted the third candidate, Jim Fergus, upon hearing he would not be in attendance at this meeting. He stated he found Mr. Fergus' resume to be complete noting some of the background Mr. Fergus has with development.

Mr. Kennedy pointed out there are no rules and regulations as to how the Board makes an appointment to an open seat on the Board as long as it is within sixty days.

(\* ) - Asterisk indicates a report is attached.

Director Mack suggested delay making a decision until the next meeting when Mr. Fergus could be in attendance. It was noted the Board must make a decision no later than March 1, 2017 or the County will make an appointment on the District's behalf. Director Stewart agreed with deferring this matter to the next Board meeting in order to meet the third candidate with the Board possibly having questions for the candidates at that time.

***Motion:***

***Defer the appointment selection until the next Board meeting.***

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

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

President Brazier thanked the candidates for attending this meeting. Director Stewart encouraged at least two of the candidates be present at the next meeting. It was noted the candidates would be notified of the next meeting date.

**\*10. APPROVAL OF RESOLUTION NO. 17-01 ESTABLISHING CHECK SIGNING AUTHORITY**

Mr. Kennedy explained this Resolution was necessary to update the list according to the changes on the Board of Directors.

***Motion:***

***Approve Resolution No. 17-01.***

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

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

**\*11. CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 17-02, A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT COMMENDING DENNIS SANFORD FOR HIS OUTSTANDING SERVICE AS A DIRECTOR AND BOARD PRESIDENT**

President Brazier noted Mr. Sanford's tremendous efforts during the LAFCO matter with FPUD, especially after initially coming from the opposite position.

***Motion:***

***Approve Resolution No. 17-02 with tremendous thanks.***

***Action: Approve, Moved by Director Stewart, Seconded by Director Hamilton.***

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

- \*12. CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 17-03, A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT COMMENDING RICHARD BIGLEY FOR HIS OUTSTANDING SERVICE AS A DIRECTOR**

***Motion:***

***Approve Resolution No. 17-03.***

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

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

- \*13. CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 17-04, A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT COMMENDING TORY WALKER FOR HIS OUTSTANDING SERVICE AS A DIRECTOR**

***Motion:***

***Approve Resolution No. 17-04.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Stewart.***

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

- \*14. CONSIDER REVISION OF EXISTING AGREEMENT (#99-026) BETWEEN RAINBOW MUNICIPAL WATER DISTRICT AND OAK CREST ESTATES, INC. CO-OP**

Mr. Kennedy noted the location of the Oak Crest Estates mentioning how RMWD has been cooperatively operating a wastewater treatment facility for the 110 units since the 1980's. He explained how recently the State changed their requirements stating a certain level of certification has changed. He pointed out the required certification was not available to those who work for RMWD since they do not work full time at a higher level plant. He said since the State came down with the new rules, he notified Oak Crest that RMWD would pay to hire an operator for 120 days in order to renegotiate a new contract so that Oak Crest could take over full payment. He pointed out RMWD's work at Oak Crest would scale way back; however, RMWD would remain a co-permittee which is favorable to a plant of this age.

Mr. Kennedy talked about the amendment to the agreement which will have all operational duties handled by another contractor and how the new contract has very stringent indemnity and protections for RMWD in the event a mistake is made. He explained after the Oak Crest Board deliberated, they decided they would rather have RMWD administer the contract within since the District has more skill with these sorts of contracts. He pointed out Oak Crest agreed to pay 100% of the contractor's cost as well as pay RMWD \$100 for staff time involved with administering the contract. He added Oak Crest also agreed that should RMWD's or the contractor's cost change, Oak Crest will need to pay those costs as well and should they refuse to do so, RMWD will cancel the contract and pull out of the permit which would not be favorable for Oak Crest at the State level.

President Brazier asked Mr. Kennedy if he saw any downsides or pitfalls. Mr. Kennedy explained although there are always risks with wastewater systems, he believes staff tried to mitigate the risk in this case as much as possible with the indemnity clauses as well as with the contractor holding the most risk.

Director Mack inquired as to the 120-day requirement. Mr. Kennedy explained when the State sent out a form to reclassify the plant, the manner in which it would be reclassified would mean to have a certified operator. He stated due to the long standing relationship between RMWD and Oak Crest Estates, an agreement was reached to give the Oak Crest Estates Board of Directors 120 days to make a decision as to how Oak Crest could best take over the responsibility of the plant.

Discussion ensued.

***Motion:***

***Option 1 - Approve newly revised agreement between Rainbow Municipal Water District and Oak Crest Estates, Inc., Co-Op.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Stewart.***

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

**\*15. DISCUSSION AND POSSIBLE ACTION ON ADMINISTRATIVE CODE VARIANCE REQUEST TO ALLOW EXCHANGE FOR LARGER METER TO MULTIPLE METERS ON THE SAME PROPERTY**

Natalie Helling explained how she and her husband had initially purchased their property and that when they were in escrow, her husband had inquired as to whether the two 1" meters could replace the 2" meter on the property to which he was told it would not be a problem. She stated after the close of escrow when her husband came to RMWD and met with staff at which time an agreement was reached; however, the next day he was informed by RMWD it was against the District's policy to have one or more meter on a single parcel. She said her husband returned to RMWD and met with additional staff from various departments after which he was told it would be okay to have different 1" meters, but there would be no credit as initially thought. She said at this time she was asking for clarification as to where this matter stands and to have their request to split the 2" meter into two 1" meters be granted.

Mrs. Kirkpatrick pointed out the property is located next to RMWD's Canonita Tank. She explained RMWD's Administrative Code allows credit for a larger meter to be split into multiple smaller meters; however, the request for it to be on the same lot was rare. She stated the request before the Board now was for a variance to receive credit for the larger meter (which is in the Administrative Code), but to allow it to be installed on one lot as opposed to multiple lots.

Mr. Kennedy stated due to the fact this was a rare situation, staff wanted to bring it to the Board for consideration. He noted there did not appear to be any operational issues with granting this request.

Director Stewart inquired about RMWD accessing the tank. It was confirmed the District would have access.

Mr. Kennedy pointed out the one thing that may come into question is serving an agriculture portion of this property with a ¾" meter; however, that was not being considered at this time. Mrs. Helling noted the main request at this time was to exchange the 2" meter to two 1" meters.

Director Brazier mentioned there may be other customers who would like to request the same type of change. Director Hamilton asked if a precedence exists in terms of multiple meters on single properties. Mrs. Kirkpatrick confirmed there were some other properties with this type of arrangement. Mr. Kennedy stated any matters such as this which would involve a variance to the Administrative Code would need to be brought before the Board for consideration.

Director Mack inquired as to whether there would be a risk should the Board approve this request and then deny another. Legal Counsel explained as long as there was a fair and rational decision making process documented, the District would not be at a high level of risk. Director Mack stressed he really did not like the idea of these matters being considered on a case-by-case basis and suggested specific criteria be spelled out in an amended Administrative Code. Director Stewart pointed out per the Administrative Code, requests such as this would require Board approval. Mr. Kennedy explained staff considered altering the Administrative Code; however, one cannot predict every situation that may come into play. He said based on this particular situation being an isolated one and the first in more than ten years, it was determined it would be best to bring it to the Board for consideration.

Discussion followed.

***Motion:***

***Approve the variance and allow the exchange and credit of the 2-inch meter to multiple smaller meters to be installed on the same property with the proviso the Engineering Manager approves the location of the meters to be installed.***

***Action: Approve, Moved by Director Stewart, Seconded by Director Hamilton.***

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

**\*16. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE NO. 17-01 AMENDING AND UPDATING RMWD ADMINISTRATIVE CODE SECTION 3.01.010-REGULAR MEETINGS**

Director Stewart stated he would prefer having the November/December meeting scheduled for the first Tuesday in December as opposed to the second Tuesday in November.

***Motion:***

***Keep the current calendar in place with the fourth Tuesday of the month with the exception of the November/December meeting be held the first Tuesday in December.***

***Action: Approve, Moved by Director Stewart, Seconded by Director Hamilton.***

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

It was suggested the Closed Session of the February 28, 2017 meeting start at 11:00 a.m. and should the discussion not be completed by the start of the Regular Board meeting, the Board could reconvene into Closed Session at the end of Open Session.

**\*17. DISCUSSION AND POSSIBLE APPOINTMENT OF BOARD OFFICERS AND REPRESENTATIVES**

President Brazier pointed out those selected to attend meetings as the official District representative will be paid a per diem for each meeting.

Director Stewart stated he was interested in the San Luis Rey Watershed Council. President Brazier pointed out the Council was making greater progress than in the past; however, they were still looking for an agricultural member. It was noted the meetings were now being held at the Pala Tribal Center the Monday before RMWD's Regular Board meetings at 12:30 p.m.

The nominations were made as follows:

Director Helene Brazier to serve as President.

Director Bill Stewart to serve as Vice President.

Director Hayden Hamilton to serve as Board Secretary.

Finance Manager Vanessa Martinez to serve as Treasurer.

Director Michael Mack to serve as CSDA representative.

Director Hayden Hamilton to serve as Santa Margarita Watershed Council representative.

Director Bill Stewart to serve as San Luis Rey Watershed Council representative.

Director Michael Mack to serve as ACWA representative and Bill Stewart to serve as ACWA alternate representative.

(\*) - Asterisk indicates a report is attached.

General Manager Tom Kennedy to serve as SDCWA representative.

***Motion:***

***To approve all nominations.***

***Action: Approve.***

***Vote: All nominations were approved by unanimous vote (summary: Ayes = 4).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

Discussion ensued regarding the various CSDA and ACWA conferences.

**BOARD INFORMATION ITEMS**

**18. UPDATE ON ACQUISITION WITH D.R. HORTON FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT (CFD)**

Mr. Kennedy stated staff expected to have information on this matter by this meeting date; however, the legal documents are not prepared as of yet. He when he approached D.R. Horton about increasing the sewer fee rate to be paid to RMWD, D.R. Horton stated they would leave the negotiations.

President Brazier proposed some questions that should be asked prior to the next Board update on this matter. She asked Mr. Kennedy to research the records to explain what took place with this particular property in order to assist the Board in making decisions on matters such as this in the future. Mr. Kennedy noted this matter goes back as far as 1987 when this was the Hewlett Packard property; however, he would research it as far back as possible.

Discussion ensued regarding the difference between connection fees and disconnected fees.

Director Stewart asked for confirmation that D.R. Horton told RMWD the \$2.75 million was their final number and should RMWD not accept that offer, then D.R. Horton would choose not to do a Mello-Roos which in turn would mean RMWD would not collect \$2.75 million. Mr. Kennedy confirmed this was true.

Director Stewart asked when RMWD takes over this subdivision, would all the infrastructure already be installed by D.R. Horton and would RMWD have any technical capital investment. Mr. Kennedy explained the District would have some technical capital investments associated with the upsizing for this project as well as other developments which will be partially paid for from different development fees.

Mr. Kennedy confirmed what D.R. Horton had initially paid to RMWD, that amount was short by approximately \$5 million. Director Stewart stated with D.R. Horton approaching RMWD regarding putting a Mello-Roos on this project, it would mean RMWD would collect \$2.75 million with the District having very little liability risk as was discussed at the December 6, 2016 Board meeting.

(\*) - Asterisk indicates a report is attached.

It was noted this matter would come back to the Board at their February meeting.

**\*19. RECEIVE AND FILE INFORMATION AND FINANCIAL ITEMS FOR NOVEMBER/DECEMBER 2016 AND JANUARY 2017**

- 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
- G. Finance Manager Comments**
  - 1. Interim Financial Statement
  - 2. Credit Card Breakdown
  - 3. Directors' Expense
  - 4. Check Register
  - 5. Water Sales Summary
  - 6. RMWD Sewer Equivalent Dwelling Units (EDU's) Status

Mr. Kennedy spoke on the letter to be sent regarding the drought declaration which was provided as a handout. He also talked about the WaterFix handouts provided for the Board's reference and possible discussion at a later time.

***Motion:***

***To receive and file information and financial items.***

***Action: Approve, Moved by Director Stewart, Seconded by Director Mack.***

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

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Stewart.***

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

It was noted the draft asset valuation study, appointment the Division 3 Director, and the D.R. Horton matter should be on the next agenda for Open Session and the Memorandum of Understanding (MOU) discussion would be on the next agenda for Closed Session.

(\*) - Asterisk indicates a report is attached.

21. **ADJOURNMENT - To Tuesday, February 28, 2017 at 11:00 a.m. Closed Session and 1:00 p.m. Open Session.**

*The meeting was adjourned with a motion made by Director Brazier and seconded by Director Hamilton to a regular meeting on February 28, 2017 at 11:00 a.m. for Closed Session and 1:00 p.m. for Open Session.*

The meeting was adjourned at 3:58 p.m.

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**Helene Brazier, Board President**

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**Dawn M. Washburn, Board Secretary**