

**MINUTES OF THE SPECIAL BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
DECEMBER 30, 2013**

1. **CALL TO ORDER** - The Special Meeting of the Board of Directors of the Rainbow Municipal Water District on December 30, 2013 was called to order by President McManigle at 1:02 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President McManigle presiding.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:**

Present: Director Griffiths
Director Lucy
Director McManigle
Director Sanford
Director Brazier

Absent: None

Also Present: General Manager Brady
Assistant General Manager Buckley
Executive Assistant/Board Secretary Washburn
Legal Counsel Moser
Water Operations & Customer Service Manager Atilano
Senior Accountant Thomas

Two members of the public were present.

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

Director Griffiths suggested Item #7 be delayed until the next Board meeting. There was no objection.

BOARD ACTION ITEMS

*5. **APPROVAL OF MINUTES**

A. December 10, 2013 – Special Joint Board of Directors/Budget & Finance Committee Meeting

It was noted “much interference” should be changed to “many crossings” on Page 5A-5.

(*) - Asterisk indicates a report is attached.

Action:

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

After consideration, the motion CARRIED by the following vote:

AYES: Director Lucy, Director McManigle, Director Sanford and Director Brazier.
NOES: None.
ABSTAINED: Director Griffiths.
ABSENT: None.

6. DISCUSSION AND POSSIBLE ACTION REGARDING GOVERNANCE OF THE SUCCESSOR AGENCY

Dr. Brady mentioned a copy of the Procopio Memorandum provided at the December 18, 2013 NCJPA meeting has been passed out again today as well as a list of the Board of Director term expiration dates.

President McManigle stressed he saw the last NCJPA meeting as a good reason for RMWD to pull out of the consolidation altogether. He said the NCJPA Board was advised by Legal Counsel and LAFCO not to have the new Board elected at large; however, this appeared to be the direction the majority of the Board was taking. He stressed he saw nothing even considering RMWD ratepayers and it was FPUD running the show and making the decisions. Director Sanford disagreed noting his perspective of what took place was a healthy discussion with agreement for a seven member board but no decisions being made to go at large or by division. He stated the purpose of the meeting today was for the RMWD Board to discuss their position as it relates to go at large or by division based on information to be provided by Legal Counsel.

President McManigle stressed the fact of the matter is the person who made the motion made it very plain they wanted it done their way which was against Legal Counsel's and LAFCO's recommendations. He pointed out that four of the seven Board Members were ready for it and proceeded to vote for it before it was rescinded. He reiterated his concern that this did not represent RMWD's ratepayers.

Director Brazier dissented in that she did not consider it to be a healthy discussion but rather an arrogant, controlling discussion. Director Sanford said just getting it out on the table for discussion was a positive step.

Director Lucy said although he did not totally agree with what took place he thinks the FPUD members were concerned about RMWD putting so much credence into potential lawsuit threats. He noted Legal Counsel stated it was his responsibility to provide a head's up there could be an issue. Director Brazier noted it was her concern the Board was not willing to take into consideration the possibility that ratepayers would be on the hook for a lawsuit the Board could have avoided. President McManigle pointed out it was just publicized the City of Escondido had to settle on something exactly like the original motion made by the NCJPA Directors.

Director Brazier noted her concern the majority of the Board would hold the same type of arrogant attitude toward anything involving RMWD ratepayers. She expressed unease RMWD

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was at the bottom of the barrel. She said it was her personal opinion that when one of the directors said “FPUD was dying” it was indicative of FPUD needing RMWD, its assets, and its possible future revenues and they would try to get it any way they can.

Director Lucy stressed it was his concern that the Board heard him argue passionately for the interest of agricultural customers and he wanted to know if there was a chance the farmers he was trying to protect would be hurt in the process. President McManigle and Director Brazier agreed they would be unless there were divisions due to the fact the domination would come from downtown Fallbrook. Director Lucy noted he was playing devil’s advocate in suggesting by using an at large process could lead activists that care about the community to run for the Board.

Director Sanford stated if the RMWD and NCJPA Board agree to proceed with divisional elections, adjustments could be made to address concerns such as Fallbrook having a village area that could potentially dominate. He noted the focus needs to be on determining the best administrative process collectively.

Director Brazier reminded the Board they were elected to represent RMWD’s ratepayers and they would not be doing them justice. Director Sanford concurred.

It was noted there was no answer as to why the NCJPA directors wanted to ignore the benefits of geographical elections. President McManigle stated he was present at the NCJPA meeting when the discussion took place and how it was stated holding elections at large would be the better way to go.

Director Lucy noted by going at large, there would be no self interest; however, some outlying areas of RMWD need to be protected. He pointed out the argument used as a positive, he and Director Brazier view as a real negative.

Director Brazier mentioned another problem was the FPUD having four votes and RMWD having three should the Board Members be elected at large. President McManigle agreed noting that although this was proposed by Procopio, it was not going to happen either.

Director Sanford pointed out if there are seven divisions made up of boundaries that create representation from the outlying district as well as downtown Fallbrook, the “we” and “us” would be eliminated. Director Brazier agreed this would be true if the NCJPA Board agrees to hold elections divisionally; however, she did not think this would happen based on the four votes opposed to going divisional.

Legal Counsel elaborated on the memorandum provided in which two variations were provided but not explored. He noted governance could be completely at large or by seat which would change the dynamics. He explained there would be seven seats by which elections would be held for each specific seat number. It was confirmed this was how FPUD was currently operating. Legal Counsel stressed a pure at large governance would be the most risky given this community’s demographics; therefore, he was providing information regarding another at large option for consideration.

Legal Counsel noted this deal would not go forward unless both agencies agree to the conditions stipulated.

(*) - Asterisk indicates a report is attached.

Director Brazier stressed the importance of requiring the Board Members to reside in the areas in which they represent in order to stay informed of what was transpiring as a means of providing true representation of the people. Legal Counsel said depending on how the boundaries are drawn, the Board could wind up with the majority being from the Fallbrook district based on population.

Dr. Brady said it was conceivable that an interest group could run seven candidates from the Rainbow area as it could the Fallbrook. Director Brazier pointed out there were 2,000 more registered voters in Fallbrook. Dr. Brady suggested there are advantages with incumbency due to their knowledge and experience. He stated if handled logically, running elections at large by seats would provide a very big advantage for both Rainbow and Fallbrook in that the majority of incumbents on the two boards would remain relatively intact.

Director Brazier expressed concern if divided geographically all the incumbents could conceivably live on the same block which could in turn create community concern that RMWD was being run by a cabal that resides in one specific area.

President McManigle stressed when he left the NCJPA meeting he had every intention of coming to the meeting today to make a motion that RMWD call off the entire consolidation due to the fact it was not working in the best interest of this water district. He said he would rather see RMWD's best interest being looked after than what was happening at the NCJPA meetings.

Director Sanford asked Legal Counsel to explain the possibility of having division as well as perhaps 1-2 truly at large members. Legal Counsel explained should there be a seven member board three of those seats should be at large according to statute. He said it appears to him LAFCO may have more flexibility to do more than what the statute provides; therefore, this may be something worth discussing with Mr. Ott to see what they would be willing to accept in terms of combining at large and divisional governance.

President McManigle talked about his meeting with Senator Anderson concerning the CalPERS matter and going to the legislature. He noted the advice received was to hire a consultant to assist which RMWD was in no position to do. Legal Counsel stated he has taken several (including LAFCO matters) to legislature that were found acceptable; however, this was ten years ago and the process may have changed since then.

Legal Counsel noted the reason for the reconsideration of the original vote taken at the NCJPA meeting on behalf of the Fallbrook Board Members was due to their not wanting to see the process fail over this issue without first seeing a divisional map from which to base their decision. He said he did not believe it was a foregone conclusion those Board Members would absolutely insist on an at large governance of any species.

Director Sanford added he has also received some indication that if the Board Members were able to come up with some combination of governance it would pass. President McManigle inquired as to why Director Sanford wanted at large elections. Director Sanford answered it would eliminate the psychological imbalance of "them" against "us".

Director Lucy explained one of the reasons he has considered going at large was there could be a possibility some Fallbrook residents who are large land owners may want to run for the board who have not been able to do so in the past. He reiterated he was trying to think of practical means of protecting the district's interests.

(*) - Asterisk indicates a report is attached.

Director Griffiths suggested starting off with divisional elections and then any future appointments come from at large. Director Brazier challenged Director Griffiths premise that time would meld districts into at large noting there are still some states within the country still represented by their own people because of their divergent interest in both areas. She stressed the Board needs to be looking out for everybody's interest and she was not sure at large was the way to do so. Director Griffiths said he views the two agencies as two small inefficient groups the Board needs to administer frugally. President McManigle pointed out there were other means of running things with one being to continue with the NCJPA the way it is and continue saving money which in turn would negate Director Griffiths' premise.

Legal Counsel confirmed continuing with the NCJPA was another option. President McManigle suggested this may be something RMWD should consider. Legal Counsel offered to provide a copy of the Sweetwater Joint Powers Agreement as a reference.

Director Sanford said although he was not advocating a continuation of the NCJPA, he wanted to know how the NCJPA seats would be populated. It was noted it would be as per the terms of the agreement. Discussion ensued regarding problems appointing the seventh board member.

President McManigle suggested it was premature for the RMWD Board to make any type of decision prior to seeing the proposed map being prepared by Shepherd & Staats. It was noted the divisions would be established by population. Director Sanford agreed with President McManigle in deferring a decision until the map has been provided; however, he would hate to see the Board destroy the merger based on not being able to reach a mutual decision which would be disservice to the ratepayers. Director Brazier noted the Board rushing into making a decision would also be a disservice.

Legal Counsel offered to write an opinion to tell LAFCO the six plus one at large would be the proposed structure; however, if the Board wants selection by appointment for the seventh seat, special legislative approval would need to be sought. Director Sanford asked for clarification that in having a six-member Board with the seventh member being appointed would require legislature approval but a six member Board with the seventh member elected at large by the voters would not require such approval and might be acceptable to LAFCO. Legal Counsel confirmed this was correct.

President McManigle stated he was unclear as to why at large anything was required at all. It was noted redistricting would take place as population changes and the successor agency would be able to draw new boundary lines wherever it desires.

Director Griffiths said he would be very much in favor of seven districts. Director Brazier suggested the divisions should be as contiguous as possible with seven pies terminating at Main and Alvarado.

(*) - Asterisk indicates a report is attached.

Director Lucy suggested the RMWD Board make a recommendation to the NCJPA Board that it would like to see redistricting create seven divisions. President McManigle recommended the RMWD Board take a stand to have seven divisions at this point. Director Lucy agreed with the concept of divisions initially; however, he was unsure it would be best twenty years from now. Director Sanford said he would like to see the seven divisions continue forever with one district philosophy and attitude regardless.

It was decided to support divisional representation.

Action:

Moved by Director Sanford the RMWD Board support the concept of divisional governance as opposed to at large governance. Seconded by Director Brazier.

After consideration, the motion CARRIED by the following vote:

AYES: Director Griffiths, Director Lucy, Director McManigle, Director Sanford and Director Brazier.
NOES: None.
ABSTAINED: None.
ABSENT: None.

It was clarified LAFCO was not involved with the NCJPA at all but would most certainly be involved in the public utility district attempting to be formed.

***7. DISCUSSION AND POSSIBLE ADOPTION OF RESOLUTION NO. 13-12 SUPPORTING THE ASSOCIATION OF CALIFORNIA WATER AGENCIES' (ACWA) STATEWIDE WATER ACTION PLAN**

This item was deferred until the January 28, 2014 regular Board meeting.

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

It was noted an update on the monitoring group, an item on the Caltrans matter may be included in Closed Session, and information regarding possible back door deals be on the next agenda.

Director Griffiths proposed an item be included on the next agenda regarding the potential increase in Director per diems to \$300.00 per meeting at the time of the next elections. Legal Counsel noted he would provide information at the next meeting regarding the statutory restrictions involved with per diems.

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9. ADJOURNMENT - To Tuesday, January 28, 2014, at 1:00 p.m.

The meeting was adjourned with a motion made by Director Brazier and seconded by Director Lucy to a regular meeting on January 28, 2014, at 1:00 p.m.

The meeting was adjourned at 2:11 p.m.

George McManigle, Board President

Dawn M. Washburn, Board Secretary

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