

**MINUTES OF THE ENGINEERING AND OPERATIONS COMMITTEE MEETING  
OF THE RAINBOW MUNICIPAL WATER DISTRICT  
MAY 4, 2022**

1. **CALL TO ORDER** – The Engineering and Operations Committee Meeting of the Rainbow Municipal Water District on May 4, 2022 was called to order by Chairperson Nelson at 3:30 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. *(All meetings are being held with in-person attendance following County and State COVID guidelines as well as virtually.)* Chairperson Nelson, presiding.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:**

**Present:** Member Marnett, Member McKesson, Member Nelson, Member Brazier *(arrived at 4:30 p.m. via teleconference)*.

**Also Present:** General Manager Kennedy, Operations Manager Gutierrez, Engineering and CIP Program Manager Williams, Engineering Technician Rubio, Information Systems Specialist Espino.

**Absent:** Member Gasca, Member Johnson, Alternate Largent.

**Also Present Via Teleconference or Video Conference:**

IT Manager Khattab, Associate Engineer Powers, Project Manager Parra, Grant Specialist Kim, Construction and Meters Supervisor Lagunas.

One member of the public was present in person, via teleconference or video conference.

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

Mr. Nelson read aloud the instructions for those attending the meeting via teleconference or video conference.

5. **SEATING OF ALTERNATES**

There were no alternates seated.

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

There were no amendments to the agenda.

7. **PUBLIC COMMENT RELATING TO ITEMS NOT ON THE AGENDA (Limit 3 Minutes)**

There were no comments.

**\*8. APPROVAL OF MINUTES**

**A. April 6, 2022**

***Motion:***

***To adopt the minutes.***

***Action: Approve, Moved by Member McKesson, Seconded by Member Marnett.***

***Vote: Motion carried by unanimous roll call vote (summary: Ayes = 3).***

***Ayes: Member Nelson, Member McKesson, Member Marnett.***

***Absent: Member Brazier, Member Gasca, Member Johnson.***

**9. GENERAL MANAGER COMMENTS**

Mr. Kennedy noted Mr. Gasca and Ms. Largent were attending the 2022 ACWA Spring Conference at which Mr. Gasca will participate on an Innovations Award panel for the Heli-Hydrant project for which RMWD was one of the four finalists.

Mr. Kennedy mentioned ACWA/JPIA through which RMWD receives its health insurance through. He noted they used to provide the District with property and liability insurance until approximately 2006-2007 at which time RMWD was removed due to being too high of a risk. He stated over the last few years, RMWD has been working with ACWA/JPIA to be allowed to rejoin. He reported after visiting RMWD facilities and collecting documentation, the ACWA/JPIA Board met on May 10<sup>th</sup> to approve RMWD's ability to apply to rejoin and provided a quote for property and liability insurance that is approximately \$250,000 less per year than RMWD's current provider. He noted staff was actively evaluating other pricing through the use of a broker to try to get the best pricing possible; however, this reflected the commitment of the staff and Board to ensure there is consistency and professionalism being displayed throughout.

Mr. Kennedy reported the recent Town Hall meeting was very well attended.

Mr. Nelson asked if ACWA/JPIA was prepared to allow RMWD rejoin midstream. Mr. Kennedy stated the current insurance provider will end after June 30<sup>th</sup>. Mr. Nelson inquired as to whether RMWD would receive a refund from the current carrier when the change takes place. Mr. Kennedy said no since RMWD would be fulfilling the remainder of the term. Discussion ensued.

Mr. Nelson stated he was in attendance and agreed with Mr. Kennedy's assessment. He said he was impressed with the questions asked of LAFCO and Chairperson Desmond; however, he found the two LAFCO representatives responding gave signals that were not entirely favorable. Discussion followed.

**10. ENGINEERING AND CIP PROGRAM MANAGER COMMENTS**

Mr. Williams reported staff was still in the process of obtaining four of the necessary easements for Lift Station 1. Mr. Kennedy added there were challenges filed related to the bid process as well as a lawsuit filed by TC Construction which was rejected by the RMWD Board. He explained because TC Construction filed a lawsuit without filing a claim first, it was unknown whether additional action may be taken or how the project may be impacted.

Mr. Williams reported RMWD received two proposals for the San Luis Rey Return Flow Recovery Project with interviews held with both consulting firms. He stated staff will be continuing to evaluate these firms and expect to bring a recommendation to the Board in June for consideration. He also noted the \$300K from CalOES grant funding has been expended on emergency generators as well as the Heli-Hydrant project. Discussion followed.

Mr. Williams pointed out the Sumac Communications Solar project did not receive any proposers; therefore, Legal Counsel has recommended staff expand the parameters of the proposal process. He stated in the event there are no proposers received after the second round, the District may have to declare an emergency due to the critical nature of the tower where it would then be able to award to a contractor that may be interested.

Mr. Nelson inquired as to the scope of work. Mr. Williams stated it was to install the solar system with battery backups for approximately \$75,000. Mr. Nelson asked why RMWD would not directly approach a company known to be capable to doing the work as a sole source as opposed to a second round of RFP's. Mr. Kennedy stated the amount was over his signing authority; therefore, it needed to go before the Board. Mr. Williams added it was also more than the California Bidding Code limit as well. Mr. Nelson recommended directly contacting a company of RMWD's choosing to ask what they would charge to do this project. Mr. Williams explained this could be done; however, it would have to be backwards because once RMWD engages with a consultant, that consultant is precluded from bidding on the project which is similar to what occurred with the Rainbow Cathodic Protection project. Discussion ensued.

#### **11. OPERATIONS MANAGER COMMENTS**

Mr. Gutierrez talked about the information he gathered from speaking with several companies that peaked Director Gasca's interest when he attended the recent AWWA Conference. Discussion ensued.

#### **12. COMMITTEE MEMBER COMMENTS**

Mr. Nelson stated he lives off Live Oak Park Road where there is a \$5.78 million project to build a bridge and relocate a waterline. He recalled RMWD contracted with Hazard Construction to hang and run its pipes at this location for \$508,000. He inquired as to why it is costing so much for a small project. Mr. Gutierrez stated that each utility company had to pay to move their own facilities out of the way at their own cost. Mr. Williams added staff really wanted to perform this work in-house, but it was more involved due to the hangers, specialty equipment, coordinating with the contractor on a County project, etc.

#### **13. BOARD ACTION UPDATES**

Mr. Williams reported the Board approved the Notice of Completion for the Water Services Project (WSUP), the Notice of Completion for the Rainbow Heights Pump Station, a contract change order for Cass Arrieta, an amendment to the Acquisition Agreement, awarding a construction contract with Hazard Construction for the Live Oak Park bridge project, adopted an ordinance updating RMWD's engineering fees, an amendment to the Rice Canyon Participation Agreement, as well as approved Qualtek filing their applications with the County.

Mr. Marnett inquired as to how many meters were remaining for the WSUP project. Mr. Gutierrez stated there were 53 remaining.

Mr. Kennedy announced there will be small safety luncheon on May 10<sup>th</sup> with those working on the Lift Station 1 project to celebrate no incidents.

#### 14. QUALTEK WIRELESS UPDATE (OPERATIONS)

Mr. Gutierrez said he and Mr. Marnett met with Qualtek staff to discuss questions raised regarding the installation of cell towers. He said they are still waiting on responses to some of those inquiries.

Mr. Marnett provided handouts to the committee members. He reviewed the information contained in each handout including a list of questions asked of Qualtek, some of which are still unanswered. Mr. Kennedy directed Mr. Gutierrez to monitor the progress of this as it goes through the County approval process.

Mr. Marnett expressed concern regarding the biological effects of radiation. Discussion followed.

#### ***Member Brazier joined the meeting at 4:30 p.m.***

Mr. Marnett mentioned during a meeting he had with his neighbors, they expressed they did not want the tower installed near their homes and if it were to be installed, they wanted to see detailed radiation patterns, any road damage during construction to be 100% reimbursed, as well as tag Dish with the yearly road maintenance fee. Mr. Kennedy stated staff would need to research how this can be done under Civil Code 845.

Mr. Marnett pointed out there was a big caveat regarding rebuilding the road that has been put off for years. He noted a bid has been received for a cost of \$200,00 for which RMWD's and his share would be \$21,000.

Mr. Marnett reviewed the radiation data provided in the handout explaining how the numbers provided were calculated.

Mr. McKesson stated for the purpose of business at hand today, he would like to know the executive summary, recommendation, and next steps. Mr. Marnett stated to actually do testing and find out the real numbers as well as receive additional information from Qualtek at which point it would be determined if it is safe or not. He added if it ends up being close to safe, then it will be recommended to proceed and mitigate the steps.

Mr. Kennedy noted it was important to keep RMWD staff and neighbors safe. Discussion ensued.

Mr. Kennedy pointed out the direction of the Board was to allow Qualtek to proceed with their process. He said during the six-month approval process, staff will amass all the data for the Board to consider so they can make an informed decision.

Mr. Nelson stated he was very uncomfortable with this discussion. He said based on what has transpired, it would be his recommendation that this process be stopped immediately because, in his opinion, the District has injected itself into setting design and requirements for this site making RMWD liable should anything occur in the future such as a homeowner lawsuit, attempt to get an injunction, or someone becomes ill. He noted traditionally in a situation with cell towers, the entire liability for all of this is placed on the cell tower. He expressed concern all of this could be subject to discovery at some point.

Mr. Kennedy stated this was a committee made up of ratepayers at which members can speak on topics and how staff has not made any recommendations. Mr. Nelson clarified he has the utmost respect for Mr. Marnett; however, there was a part of him that is concerned about this from the District's perspective that it may have exceeded its level of involvement and possibly brought upon itself liability that it would not have otherwise. Mr. Kennedy understood Mr. Nelson's concern

but noted this committee has no legal authority to take any action. Mr. Nelson stated his concern is that neighbors have been provided with a great deal of data and information about all of this stuff. Mr. Kennedy explained discussion among neighbors occur all the time. Mr. Nelson agreed, but reiterated he was still uncomfortable. Mr. Kennedy assured the committee members before anything is presented to the Board staff is obligated to perform due diligence.

Mr. Kennedy pointed out discussions that happen at this committee meeting are not binding. Discussion ensued.

Mr. Marnett clarified the information presented was available on the internet. He said he will proceed with putting equipment together, take some measurements, etc. and update the information provided today. Mr. Kennedy stressed this was Mr. Marnett working as an individual to bring committee information he compiles to share; however, it was not the stance or position of this committee to determine whether Mr. Marnett was correct or not in his findings.

Mr. Marnett concluded with stating the cell tower was absolutely not safe for RMWD employees and it must be turned off whenever an employee is in the near vicinity. Mr. Gutierrez agreed this would be something to ensure is included in the contract.

Mr. Nelson thanked Mr. Marnett for his level of work and commitment he has put into this matter.

**\*15. AS-NEEDED SERVICES EXPENDITURES SUMMARY**

Mr. Nelson noted there was only one change.

Mr. McKesson recommended the report only show the current and prior year detail only.

**16. LIST OF SUGGESTED AGENDA ITEMS FOR THE NEXT SCHEDULED ENGINEERING AND OPERATIONS COMMITTEE MEETING**

It was noted the San Luis Rey Groundwater Study should be on the next agenda.

Mr. Nelson announced he would not be attending the June 1, 2022 Engineering and Operations Committee meeting. He solicited the committee members as to whether they would have any difficulty with moving this meeting to June 8, 2022. Mr. Marnett, Mr. McKesson, and Ms. Brazier did not have any objection to rescheduling the June meeting. It was noted Ms. Washburn would follow up with those absent to get their input and report back to the committee.

**17. ADJOURNMENT**

*The meeting was adjourned by Chairperson Nelson.*

The meeting adjourned at 5:03 p.m.

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**Flint Nelson, Committee Chairperson**

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**Dawn M. Washburn, Board Secretary**