

**MINUTES OF THE REGULAR BOARD MEETING  
OF THE BOARD OF DIRECTORS OF THE  
RAINBOW MUNICIPAL WATER DISTRICT  
JULY 23, 2013**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on July 13, 2013 was called to order by President McManigle at 1:01 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/Finance Manager Buckley  
Executive Assistant/Board Secretary Washburn  
Legal Counsel Lemmo  
Water Operations & Customer Service Manager Atilano  
Construction and Maintenance Superintendent Maccarrone  
District Engineer Plonka  
Human Resources & Safety Manager Bush  
Superintendent Walker  
Supervisor Zuniga

Three members of the public were present.

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

There were none.

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).**

There were none.

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

**6. ANNIVERSARY ACKNOWLEDGEMENT**

**A. Chris Hoelscher (5 Years)**

Dr. Brady provided a brief history on Hoelscher and presented him with a check and plaque as he congratulated him for his service.

**\*7. APPROVAL OF MINUTES**

**A. June 25, 2013 - Regular Board Meeting**

**Action:**

***Moved by Director Lucy to approve the minutes as amended. Seconded by Director Brazier.***

***After consideration, the motion CARRIED by the following vote:***

**AYES:** Director Griffiths, Director Lucy, Director McManigle and Director Brazier.

**NOES:** None.

**ABSTAINED:** Director Sanford.

**ABSENT:** None.

Director Griffiths referenced Page #7A-11 as noted the word “and” should be moved from after “engineering” to after “capacity”.

Director McManigle noted several changes to the minutes to include the word “numbers” should be “members” on Page #7A-9, “some” should be “same” on Page #7A-10, the word “from” should be added after “assistance” on Page #7A-13, and a space needed to be added between the words “were” and “replaced” on Page #7A15.

Director Griffiths expressed concern about “Exhibit A”. Dr. Brady noted this was a bona fide part of the minutes.

**8. 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 McManigle)**

There was no report given.

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

**1. SDCWA**

Director Sanford reported SDCWA discussions were focused on their becoming an operational organization due to the recent occupying discussions.

**2. CSDA**

There was nothing to report.

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

3. LAFCO

There was no report given.

4. San Luis Rey Watershed Council

Director Brazier reported the Council talked about their goals set last year as well as the release of the San Diego County Air Pollution Control report on Gregory Canyon. She confirmed the comment period on this report has been extended for thirty days after their revised report is provided.

5. Santa Margarita Watershed Council

Director Sanford reported the meeting was extremely short and there was nothing reportable.

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

There were no reports given.

D. Directors Comments

Director Lucy apologized for missing the last Budget and Finance Committee meeting. He pointed out he may miss the August meeting as well due to scheduling conflicts.

Director Griffiths expressed concern regarding the CalPERS item discussed at the June Board meeting, especially LAFCO not allowing layoffs in the event of a consolidation. Dr. Brady explained Mr. Ott of LAFCO had indicated they are very most careful to avoid having their process used as a means of implementing layoffs.

**\*9. COMMITTEE REPORTS (Approved Minutes have been attached for reference only.)**

A. Budget and Finance Committee

1. June 6, 2013 Minutes

Mr. Stitle reported the Committee mainly focused on reserves and how they anticipated having a proposal within the next couple of months for Board consideration.

B. Communications Committee

1. June 3, 2013 Minutes

Mr. O'Leary reported the Committee met on July 1<sup>st</sup> at which time they voted to make a recommendation to reduce the number of newsletters published to every other month. He also noted staff presented an outline of a "road show" to be given to local community groups on several district topics. He concluded by noting further exploration of how to better join RMWD and FPUD together. President McManigle recommended the Bonsall Chamber of Commerce and Environmental Affairs Committee on the list for the "road show".

C. Engineering Committee

Mrs. Plonka reported the committee did not meet in July.

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

## **BOARD ACTION ITEMS**

### **\*10. REQUEST TO DEFER PROPERTY OWNED BY H.F. BEYER ESTATE FROM CHARGES FOR WATER AVAILABILITY AND IMPROVEMENT DISTRICT ASSESSMENTS**

Mr. Buckley pointed out this was the first waiver to consider since a procedure was established a few years ago. He noted this was an application to defer the charges, not an exemption and how the required criteria have been met. He explained deferral was available to RMWD customers who meet the requirements including not needing water at the site at all. He added; however, there would be recourse should the property owners decide they want water later.

Director Lucy inquired as to whether one person acting as executor was sufficient in this matter. Dr. Brady stated if this was handled by the property owners inappropriately, they would face serious ramifications both legally and with RMWD.

Director McManigle asked about the rectangle area outlined on the map for property not within RMWD's boundaries. Mr. Atilano stated he believed this was tribal land.

#### **Action:**

***Moved by Director Lucy to approve staff recommendation Option 1; approving deferral of the parcel listed above from water availability charges or improvement district assessments subject to the above listed requirements. This option will reduce tax revenues by approximately \$770 per year based on the current assessment level of \$10.54 per acre. Seconded by Director Brazier.***

***After consideration, the motion carried by the following vote:***

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

### **\*11. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE 13-08 AMENDING AND UPDATING THE RMWD ADMINISTRATIVE CODE TO INCLUDE SECTION 1.04-EMERGENCY AUTHORITY**

It was noted the number on the Ordinance should be 13-06 as opposed to 13-08.

#### **Action:**

***Moved by Director Lucy to accept staff recommendation that the Board adopt Ordinance 13-06 amending and updating Administrative Code to include Section 1.04-Emergency Authority. Seconded by Director Brazier.***

***After consideration, the motion carried by the following vote:***

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

Dr. Brady pointed out the item description on the agenda should be “four-fifths”.

Director Griffiths referenced Page #11-3 suggesting word “shall” replace the word “may” in the second paragraph. Legal Counsel pointed out the Resolution stated “shall”.

Dr. Brady confirmed the Emergency Operation Center Manager can be changed by the general manager.

**12. DISCUSSION AND POSSIBLE ACTION REGARDING IMPLEMENTATION OF A MONITORING GROUP (REQUESTED BY: DIRECTOR SANFORD)**

Director Sanford explained that after listening to the audio recording of the June 25<sup>th</sup> meeting, he thought it would be best to discuss the matter in greater detail and fully understand the ramifications of the decision that was made. Director Brazier stated in defense of that decision, she had carefully worded her motion that it be pursued.

Director Griffiths suggested the RMWD tell the Regional Water Quality Control Board the RMWD was moving forward with implementing a monitoring group. Discussion ensued.

President McManigle pointed out there were 300 individuals signed up for RMWD’s group. Director Sanford expressed his concerns that these individuals have no idea what to expect as well as what happens should 200 of them change their minds to work with another group.

President McManigle pointed out the Board had to respond no later than July 9<sup>th</sup> or 10<sup>th</sup>. He explained RMWD’s Engineering Committee was looking into the specifics of what was happening including the costs; therefore, he suggested tabling this item until that information becomes available. Director Lucy agreed this item should be tabled in order to allow more time to research the specifics and make sure the Board knows what it is talking about.

Director Sanford expressed concern RMWD was doing the ratepayers a disservice by continually delaying this matter to a point where they may not be able to join The Farm Bureau. He added regardless of the costs, it was still unclear as to whether this could be done legally.

Discussion ensued regarding the costs involved. Director Sanford stated The Farm Bureau will charge \$210 for membership and \$250.00 an acre to a maximum of \$1,250.00 total for the first year.

Mrs. Plonka said in light of the fact it was voted on to pursue this matter, she has floated the idea by consultants and received estimates from different firms on what they think it would cost to do. She noted she also consulted with The Farm Bureau for comparison purposes. She pointed out after RMWD performs a study to where the district recommends sampling points, the Regional Board will then dictate where the sampling points will be located which in turn determine the annual testing fees. She explained both RMWD and the Regional Board will not have control over the costs for annual testing fees. She said the only comparison that can be made right now will be the upfront and maintenance fees to run the program. She noted RMWD will not be dictating how many samples or how often they will be taken. It was noted each individual region has its own rules.

Mrs. Plonka pointed out the fee estimates she has received are quite high and that the District was too short staffed for the amount of time this program will require. She noted RMWD has applications, but no monies have been collected. She said once people pay to be a part of a monitoring group, RMWD will then have to work with them to create a sketch of their property, document all the best management practices, and submit all of this information to the Regional Board so that they will have documentation of every agricultural user signed up in the group. She explained that in order for staff to pursue this matter as directed, engineering would need to go out with a Request for Proposal to consultants which will need to be brought back to the Board for consideration due to the fact the fees will exceed Dr. Brady's spending limit.

Director Sanford asked for verification as to whether anyone has been billed. Mrs. Plonka confirmed RMWD has received applications but has not billed anyone. She added this would have to be a self funded project. Director Sanford inquired as to whether or not RMWD has communicated to the enrollees that they would be charged for some fee regardless. Dr. Brady stated the enrollees have not been effectively contacted since 2010. It was confirmed RMWD has not invoiced any enrollees at this point. Mrs. Plonka pointed out RMWD will eventually have to invoicing them in order to fund the program with a consultant.

Director Griffiths inquired as to whether the Assessors Parcel would provide the necessary information. Mrs. Plonka talked about the amount of detail being sought by the Regional Control Board.

Director Sanford pointed out RMWD was has been out of compliance for approximately one year already. Mrs. Plonka said in order to put out a Notice of Intent the District must have the infrastructure in place so that when it is determined what testing is required RMWD is ready to go. Director Griffiths expressed his discontent with this process.

Dr. Brady said it appeared the minimum cost to implement a monitoring group would range from \$125,000 to \$150,000, but for RMWD to do so it would approach \$300,000. Mrs. Plonka pointed out staff time was included in these costs because they needed to be supplemented.

Director Sanford said it was up to this Board to help the growers make a business decision by providing them with all the appropriate information.

Dr. Brady pointed out if the Board authorizes implementing a monitoring group, the District can front the cost and in turn charge the customers to recover those funds. President McManigle said all that has been discussed at this point is having engineering send out a letter to the agricultural users as a means of starting communications.

Director Sanford noted The Farm Bureau costs will be spread across 41,000 acres as opposed to RMWD costs being over 3,000 acres. Director Lucy said he has been contacted by individuals who have signed up with The Farm Bureau that are upset with RMWD implementing its own group because they fear they may be charged twice to subsidize others.

President McManigle stated he has been approached by growers asking whether RMWD was moving forward with this so they could get signed up. He and Director Lucy agreed one way or the other growers are going to be impacted and communication needs to start.

Mrs. Plonka acknowledged the Board wanted a letter sent out to all growers within the District that includes the estimated costs. She asked for direction on how the Board would like to proceed with the Request for Proposal for completing this project. She stated based on the information she has received, the estimated costs would be \$300,000 for the approximate 300 applications received with no changes. She pointed out there would be some staff costs as well as annual maintenance costs which have yet to be determined for any monitoring group. Director Sanford suggested the costs should be estimated at closer to \$350,000.

Discussion ensued regarding the estimated costs.

Director Lucy stated he was frustrated The Farm Bureau did not fight this matter more on behalf of the farmers.

Director Sanford mentioned the great deal of time he has spent with the Hines Growing Organization to see how they would be establishing their own monitoring group which they have estimated to cost \$150,000 per year.

President McManigle suggested a Request for Proposal was premature at this time and communications should be sent out stating that although requirements remain unknown, research shows the numbers provided are the best cost estimates. Director Griffiths disagreed.

Dr. Brady asked for clarification as to the Board's directive to staff.

**Action:**

***Moved by Director Sanford to direct staff to communicate with the RMWD agricultural customers regarding the monitoring group formation noting the best guess estimates are \$1,000 or more per customer to pursue this in order to get some idea as to whether the customers want to have a group with RMWD or go somewhere else. Seconded by Director Lucy.***

Director Brazier asked if the \$1,000 mentioned in the motion are for the cost of pursuing this or was it for setting up a monitoring group. Director Sanford clarified it was \$1,000 for participation. Mrs. Plonka suggested this number may be too low based on verbal conversations.

Director Sanford amended his original motion.

**Action:**

***Moved by Director Sanford to direct staff to communicate with the RMWD agricultural customers regarding the monitoring group formation noting the best guess estimates are \$1,000-\$2,000 per customer to pursue this in order to get some idea as to whether the customers want to have a group with RMWD or go somewhere else. Seconded by Director Lucy.***

Dr. Brady stated staff would include the most reasonable range in the communications.

President McManigle questioned from where the number provided was derived. Director Sanford provided the name of his resource and how this person said for RMWD to anticipate having a monitoring group for anything less than \$200,000 would be a surprise. Discussion followed.

Director Sanford amended his amended motion.

**Action:**

***Moved by Director Sanford the Board direct staff to communicate with the RMWD agricultural customers providing them with the estimated cost determined by staff for administering a monitoring group program. Seconded by Director Lucy.***

***After consideration, the motion carried by the following vote:***

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

Director Sanford showed Director Griffiths a copy of legal documentation.

President McManigle confirmed Mrs. Plonka understood the intent of the motion. Mrs. Plonka reaffirmed staff was to send out letters to all RMWD agricultural customers providing them with staff's best estimate on costs and asking them to correspond back on whether or not the program should be pursued. She added the customers will be notified they are required to be part of a group, but not necessarily RMWD's. It was noted The San Diego County Irrigated Lands information and anything else relevant should be provided in the communications.

Director Lucy asked how the district will address those individuals that chose to sign up with RMWD. Director Sanford said then those individuals will have to cover the costs.

Director Griffiths stressed RMWD should perform due diligence prior to sending out a letter.

Mrs. Plonka pointed out RMWD filed a Notice of Intent with the Regional Water Quality Control Board to which they have not yet responded. She clarified the need for a consultant was due to the fact RMWD and FPUD does not have the staff to take on this program at this time.

Director Sanford read aloud from the official document from the Regional Water Quality Control Board that says "by December 31, 2012, each monitoring group and each individual operation not participating in a monitoring group must submit one Monitoring Program Report (MRP) to the San Diego Water Board consistent with the MRPPQAPP. Mrs. Plonka pointed out testing has been delayed and was not required at this time. Discussion continued.

**\*13. DISCUSSION AND POSSIBLE ACTION REGARDING RMWD AND FPUD JPA/CONSOLIDATION**

Dr. Brady pointed out there were five employee comments collected. He mentioned his email entitled "Rumor Has It" that will address these types of concerns. He clarified both agencies were currently hiring for entry-level utility worker positions and RMWD was recruiting for a lead position.

Director Brazier reported she had received an employee comment in her mailbox. She said although she appreciated the confidence in her ability to communicate the problems to the Board; however, she wanted it known that she will not entertain any further contributions like this in the future. She noted one of the comments was regarding some of the employees being opposed to change were not so merely because of change, but opposed to change for the sake of change. She said the employee stated the employees would like to see any changes that are a benefit to RMWD and not told something would be changed because it was the way FPUD does it. She also reported she was approached by a constituent out in public who asked her "have you people lost your minds over there?" She stated this person repeated some of the rumors he had heard customer service was going to FPUD followed by finance and human resources. She said her only regret was not encouraging this person to submit his concerns in writing to the district for reading at the public comment section of the meeting. She noted his main concern was who was looking out for Rainbow.

Dr. Brady commented on the concern regarding RMWD doing things like FPUD does them. He noted one thing changed was tracking hours worked by having everyone completing time sheets. He pointed out he would prefer RMWD's methodology of handling the budget process and rate setting.

President McManigle found the comments to relay a message things were happening too fast. He added how pleased he was to see employee comments coming in.

Director Brazier recalled another of the constituent's concerns was whether the public would receive an interim report of pluses and minuses prior to a decision being made. Dr. Brady said it was his hopes to that by the end of the year something would be brought back to both boards.

Mrs. Plonka stated in conversations she has had with various staff members the general feeling was that RMWD employees were in limbo which makes it difficult. Dr. Brady endorsed this comment. Director Lucy asked Mrs. Plonka to elaborate. Mrs. Plonka explained not knowing whether RMWD was moving forward or if there was potential for this to unwind was causing staff to think about how some changes can be undone if a merge does not transpire. She summarized their concerns are in regarding to the amount of time being spent on this was stemming from being in limbo. President McManigle acknowledged this Board was in limbo as well. Director Brazier asked if there was some level of understanding that even if the decision was made to not totally merge, there could be arrangements made for mutual assistance and working together. Mrs. Plonka expressed her opinion that even if the merge was unwound, she would still be working with the other local agencies on various levels regardless.

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

Director Griffiths said he found the comments to be unhappy yet fairly minor complaints. He said he would like to have a better feeling as to how much the displacement is impacting the employees. It was noted this was currently being studied.

Director Sanford said he was glad to see the districts trying to align the Administrative Code, MOU's, etc. combined or not. It was noted the Administrative Code has not been addressed.

No action taken.

**\*14. RECEIVE AND FILE INFORMATION ITEMS FOR JUNE 2013**

**A. General Manager Comments**

1. Meetings, Conferences and Seminar Calendar
2. North County Joint Powers Authority Report (NCJPA)
3. State's Drinking Water Program Legislative Progress Update

**B. Construction & Maintenance Comments**

1. Construction and Maintenance Report
2. Valve Maintenance Report
3. Garage/Shop Repair

**C. Engineering & Wastewater Comments**

1. Engineering Report
2. Wastewater Report

**D. Customer Service & Water Operations Comments**

1. Water Operations Report
2. Electrical/Telemetry Report
3. Water Quality Report
4. Field Customer Service Report
5. Meters Report
6. Cross Connection Control Program Report

**E. Human Resource & Safety Comments**

1. Safety Report

**Action:**

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

***After consideration, the motion CARRIED by the following vote:***

**AYES:** Director Griffiths, Director McManigle, Director Sanford and Director Brazier.

**NOES:** None.

**ABSTAINED:** None.

**ABSENT:** Director Lucy.

Dr. Brady mentioned the updated report on the NCJPA shared expenses.

Dr. Brady referred to the handout he provided entitled "Capitol Track" as he briefed the Board on AB145. He reminded the Board that any time the Regional Water Quality Control Board is contacted by district representatives, RMWD will be charged.

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

Dr. Brady mentioned a huge compliment received from a ratepayer on behalf of the Construction and Maintenance crew.

Discussion ensued regarding Item #14B2.

Mrs. Plonka noted there was a pre-meeting scheduled regarding Beck Reservoir prior to meeting with California Department of Public Health. She mentioned the meeting with Campus Park West has been scheduled to discuss an annexation agreement. She talked about the developers being in talks regarding the costs associated with upgrading the pipes. She noted the name of the Passerelle development was now called Horse Creek Ridge. Discussion followed.

***Director Lucy excused himself from the meeting at 3:04 p.m.***

Mrs. Plonka mentioned the positive comment submitted by the employees regarding the wastewater department to which she credited to the supervisor and his past superintendent in that they focused on the job being done and providing good customer service.

Mr. Walker mentioned there would be a SDCWA shutdown in March, 2014 that would impact RMWD for approximately 3-4 days.

Discussion continued.

**\*15. RECEIVE AND FILE FINANCIAL STATEMENTS AND INFORMATION FOR JUNE 2013**

**A. Finance Manager Comments**

1. Interim Financial Statement
2. JPA Expenses
3. Monthly Investment Report
4. Visa Breakdown
5. Directors' Expense
6. Check Register
7. Water Purchases & Sales Summary
8. Statistical Summary
9. Projected CIP Cash Flow Report
10. RMWD Sewer Equivalent Dwelling Units (EDU's) Status

**Action:**

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

***After consideration, the motion CARRIED by the following vote:***

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

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

Mr. Buckley reported RMWD finished the year nice and strong in water sales. He also announced RMWD received almost \$33,000 in tax funds the government took in 2009.

Director Griffiths made inquiries on Items #15A1, #15A3, #15A6, #15A9, and #15A10 respectively.

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

Director Brazier requested an agenda item for clarifications on sections of The Brown Act.

**17. ADJOURNMENT - To Tuesday, August 27, 2013 at 1:00 p.m.**

**Action:**

***Moved by Director Sanford to adjourn. Seconded by Director Brazier.***

***After consideration, the motion CARRIED by the following vote:***

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

The meeting was adjourned at 3:26 p.m.

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**George McManigle, Board President**

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**Dawn M. Washburn, Board Secretary**

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