

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
AUGUST 24, 2021**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on August 24, 2021, was called to order by President Hamilton at 11:32 a.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.)* President Hamilton presiding.

2. **ROLL CALL**

Present: Director Gasca *(via video conference)*, Director Hamilton, Director Mack, Director Moss.

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Information Technology Manager Khattab.

Absent: Director Rindfleisch.

Also Present Via Teleconference or Video Conference:

Human Resources Manager Harp.

No members of the public were present via teleconference or video conference before Closed Session.

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

There were no amendments to the agenda.

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

There were no public members present; therefore, these instructions were not read aloud.

5. **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 11:34 a.m.

6. **CLOSED SESSION**

A. Conference with Legal Counsel-Anticipated Litigation (Government Code §54956.9(d)(2))

* Two Items

(*) - Asterisk indicates a report is attached.

- B. Conference with Legal Counsel - Existing Litigation Pursuant to Government Code Section 54956.9(d)(1)

* Rainbow Municipal Water District v. Blum, Inc., et al.

- C. Appointment, Employment; Evaluation of Performance – General Manager (Government Code §54957(B)(1))

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

This item was addressed under Item #8.

The meeting reconvened at 12:56 p.m.

Time Certain: 1:00 p.m.

8. REPEAT CALL TO ORDER

The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on August 24, 2021 was called to order by President Hamilton at 1:00 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.)* President Hamilton presiding.

9. PLEDGE OF ALLEGIANCE

10. REPEAT ROLL CALL

Present: Director Gasca *(joined via video conference at 1:19 p.m.)*, Director Hamilton, Director Mack, Director Moss.

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Finance Manager Largent, Information Technology Manager Khattab.

Absent: Director Rindfleisch.

Also Present Via Teleconference or Video Conference:

Operations Manager Gutierrez, Human Resources Manager Harp, Project Manager Tamimi, Superintendent Zuniga, Water Operations Supervisor Coffey, Construction and Maintenance Supervisor Lagunas, Project Manager Parra, Senior Accountant Rubio, Customer Service and Communications Supervisor Gray, Engineering Technician Rubio, District Services Representative Constant.

Forty-Five members of the public were present for Open Session with eleven in person and thirty-four members via teleconference or video conference.

(*) - Asterisk indicates a report is attached.

11. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

Legal Counsel reported the Board met in Closed Session to discuss four items and there was no reportable action.

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

There were no amendments to the agenda.

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

President Hamilton read aloud the instructions for those attending the meeting via teleconference or video conference.

14. 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).

Bob Helling addressed the Board regarding meter costs noting he had recently split land into five lots on which three have meters on them in return for trading in one 2" meter. He said the remaining two meters are expected to cost him approximately \$30,000 and wanted to know why RMWD charges this much for a \$400 meter. Mr. Kennedy explained the cost of the capacity fee is not the cost of the meter itself, but rather the cost of buying into the system itself. He pointed out the system is owned by all the other ratepayers in the District; therefore, when someone wants to add a meter, they must buy into that system based on the total value of the system all the other ratepayers, including Mr. Helling, have paid into over the years through monthly service charges to maintain and operate the system. He explained how the charges for such are calculated. Mr. Helling inquired as to whether his off-site 2" meter could be traded in to get meters on these two lots. Mr. Kennedy stated there is a mechanism in place for this; however, he recommended Mr. Helling contact RMWD's Engineering Department for more information.

Mr. Helling inquired as to whether capacity fees will be increased. Mr. Kennedy stated these fees are primarily paid by new developments which generates a great deal of money to help pay to restore and rehabilitate pipelines that would otherwise be generated from rates. He said although it is unknown when these fees would be scheduled to increase, he recommended Mr. Helling participate on the Budget and Finance Committee and welcome his input. Director Moss thanked Mr. Helling for his comments.

Mr. Griffiths addressed the Board regarding present and future plans for the Beck Reservoir. He stated the reservoir is wonderful and how he has requested a report from the Board regarding plans for this reservoir now and in the future. He mentioned newspaper articles where there is a need for reservoirs and asked if it were possible for RMWD to put Beck Reservoir in operation and rent it out as opposed to leaving it empty and non-operational when RMWD has paid for it. He recommended RMWD follow FPUD's example used for the Red Mountain Reservoir. He explained this may be an opportunity for RMWD to make some money. He urged the Board to do something with the reservoir. Mr. Kennedy acknowledged Mr. Griffiths comments noting they will be taken into consideration as well as suggested Mr. Griffiths attend the Engineering and Operations Committee to talk about this matter further.

(*) - Asterisk indicates a report is attached.

Director Moss stated as a former member of the Budget and Finance Committee, the District has consistently re-evaluated all of the assets and properties it owns annually to see where they are best used or disposed to help the ratepayers.

Ms. Washburn read aloud a written comment submitted at the request of the writer regarding a concern related to RMWD's mailing system. Ms. Largent explained RMWD uses Infosend for its bulk mailing services and how a new law went into effect in August 2019 where any address changes that happened at the Postal Service are communicated with Infosend or any mass biller. She stated if the customer changed their address at the Post Office, then Infosend is required to use that new address change on bills mailed out on behalf of RMWD without notifying RMWD. She stated what she believes happened in this situation is that the bill was being sent to the customer's changed address; however, since address changes expire after one year it reverted to their previous billing address. She added unless a customer contacts RMWD directly to request an address change, staff is unaware of the address to which bills are to be sent; therefore, what most likely happened in this situation is that the customer received the bill, saw the address was changed, and thought they had changed it with the District. She noted this was a complex process staff has been actively looking into since this matter was brought to their attention a few months ago. She concluded with mentioning, staff has requested a report from Infosend with any of these addresses that are changed to provide for an opportunity for staff to research whether those customers were in arrears; however, this is the only situation that has come up.

Time Certain: 1:00 p.m. Public Hearing

***15. PUBLIC HEARING**

A. PUBLIC HEARING TO CONSIDER ADOPTING ORDINANCE 21-03 AUTHORIZING INCREASES IN THE RATES FOR RAINBOW MUNICIPAL WATER DISTRICT SERVICE FEES EFFECTIVE SEPTEMBER 1, 2021

President Hamilton opened the public hearing at 1:19 p.m.

Mr. Griffiths addressed the Board expressing his concern with the value of the dollar decreasing and how everyone was due for an extreme change. He noted the proposed resolution gives the District an automatic change every year without public input; something he opposed. He stated although he appreciates there will be increases, there should be an opportunity to receive public input each year due to the volatile conditions the politicians have put everyone in. He said while noticing the price of food and necessities increasing, he finds this proposed automatic change being implemented each year without receiving public input to be wrong. He reiterated he was absolutely opposed to automatic increases being implemented without public input. He thanked the Board for the opportunity to speak regarding this matter.

Mr. Kennedy recommended prior to hearing more public comments, Ms. Largent share a presentation that may answer some of the public member questions.

Ms. Largent gave a presentation titled "Rate Hearing – Rainbow MWD" noting the rate hearing today was the result of over two years of thoughtful analysis and planning by staff, the Budget and Finance Committee, and Board of Directors. She stated the ratepayer-lead Budget and Finance Committee meets monthly to work through the fiscal challenges of operating and maintaining the water district and how public participation is welcome in the process as well as in those meetings. She shared a timeline of each step taken throughout the two-year process. She pointed out RMWD rates have not been raised in almost three years as well as shared each of the options presented to and deliberated by both the Budget and Finance Committee and the

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Board consideration noting how the option for an 80% CIP with a 9% rate increase for FY 2021-2022 was selected to mitigate future rate increases. She pointed out RMWD's finance, operating and engineering staff are working together to find means for doing more for less. She concluded with noting staff and the Board have recommended a 5-year maximum rate increase plan with a 9% revenue adjustment in Year 1 to mitigate year 2-5 increases with the new rates going into effect September 1, 2021 to support the Board-approved Capital Improvement Program and ensure Operating and Capital Reserves are at the minimum Board-approved levels. She noted there would still be a public hearing process for each of the five years, but rather RMWD would not be able to exceed the proposed rates should detachment be delayed.

Art Gilbert stated he lives in an area where most have small groves with 100-200 trees and how at a recent meeting everyone was saying their groves may have to be abandoned due to water rates and other production costs increasing without the price of avocados doing the same. He said it would be a shame to lose those commodities but also create a potential fire hazard. He asked what type of considerations could be made or pressure could be put on for detachment, but there are numerous impacts to come should groves disappear. He asked what ratepayers could do to add pressure to LAFCO approving RMWD's detachment from SDCWA. Mr. Kennedy mentioned meetings available for public members to provide comments. Mr. Gilbert inquired as to whether there was any connection to the agricultural board. Mr. Kennedy mentioned the Farm Bureau and Avocado Commission have been reluctant to take a position on the possible detachment; however, this does not preclude the public from contacting either regarding their concerns.

Discussion ensued regarding RMWD's representation at LAFCO.

A member of the public said he too could be loosely referred to as a "gentleman farmer" like Mr. Gilbert. He expressed concern the proposed increases will result in fixed rates making up 90% of his total water bill as opposed to the 75% they do currently for a 2" meter; therefore, it seems there is very little consideration for water usage for those where the fixed rate charges are a larger percentage than those with the bigger groves who utilized a great deal more water. He asked what options would be available to him in terms of downsizing his meter. Mr. Kennedy mentioned the options available and recommended he contact the RMWD Finance Department for more information. The public member recommended RMWD tie its fixed charges to usage. Mr. Kennedy explained some of challenges associated with such.

Judy Roach said after reviewing Page 104 of the RMWD Five-Year CIP Plan, she wanted to inquire as to whether RMWD was still looking at updating the District headquarters which totals approximately \$3 million in expenditures over the next three years. Mr. Kennedy explained the plans for this project was to have it fully funded by having the land zoned for residential and sold to cover the costs; however, the Board was not committed to spend any money until someone can be found to purchase the land from RMWD. He mentioned RMWD was working with North County Fire and the Sheriff's Department to potentially build a three-agency joint facility where the temporary Park N Ride was located across the street from the District and let the County build market-rate housing at the District's current location. He stated the District's goal was to build a headquarters with zero costs; however, money must be included in the budget so the expenditures are understood but there should be offsetting revenues received on those. He confirmed the rate increases were not to offset any of these costs.

Ms. Roach asked which independent consultant assisted with the rate study. Ms. Largent noted this information was in the agenda packet as well as published on the website. Mr. Kennedy pointed out the consultant was present in the audience. Ms. Roach stated she has been conducting research regarding why RMWD's water rates were so high. Mr. Kennedy pointed out

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RMWD was so rural with so much infrastructure which causes the rates to be higher than other areas throughout the county. Ms. Roach asked for an update on RMWD's possible detachment from SDCWA. Mr. Kennedy provided a brief update noting RMWD was hoping to get this matter before the commission by the end of 2021 and to the ratepayers for vote in June 2022.

A member of the public stated she was new resident in the area and would like a quick breakdown on the concept of capital funding. Mr. Kennedy explained RMWD's normal rates cover the District's operating expenses; however, there is a great deal of pipeline for which replacement is necessary and how the major driver for the District's rates is to develop funds to pay for those capital projects. He noted RMWD's rates are 80% of what the engineers would like to bill to replace the pipeline; however, should RMWD detach from SDCWA, RMWD would not need to raise rates to hit those capital numbers where the pipeline system has to be rebuilt which is now 70+ years old and failing on a regular basis. The public member asked whether the capital funding presentation only addressed the fixed rate part of the customer water bills. Mr. Kennedy said not necessarily, but the reason RMWD tries to recover rates on the fixed rates is due to not knowing what the weather will bring to the area. He pointed out the RMWD Budget and Finance Committee looks at the District's revenue stability to determine what it will take to make sure capital programs can be funded without going over or under the District's targets. The public member stated she did not seem to make herself understood but appreciated Mr. Kennedy's efforts and yielded the floor.

Harry Bateman who resides on Rainbow Glen asked the Board to summarize why there is such a large increase of 25% to the agricultural customers as part of the proposed rate increase. Ms. Largent explained RMWD has a Cost of Service Study that allocates the costs based on different drivers and how the agricultural rates did increase more on the fixed rate, but not quite so much on the variable rate. She noted everything was moved to a uniform tier; therefore, the District must allocate all its costs based on the costs to provide that service. Mr. Bateman asked why the fixed rate was going up 25%. Mr. Kennedy pointed out the total bill would not increase 25%, but rather the fixed rate components. He suggested this may have something to do with meter sizing where some agricultural users may have too large meters for their consumption in which cases, the customer may want to consider downsizing their meters to save money on their water bills. Mr. Bateman noted the smallest meter allowed by RMWD was a 3/4". Mr. Kennedy confirmed this was the smallest size meter allowed; however, if a customer has a 1 1/2"-2" meter and using less than 50 units per month, the meter is too large.

Mr. Bateman reiterated his inquiry regarding the 25% increase to agricultural rates. Ms. Largent explained these rates were taken under consideration in terms of what would be the high and low for each rate class which has been detailed in the Cost of Service Study. She stated when looking at the impact, the average use would be for each rate class was also taken into account. She pointed out RMWD has not raised rates in almost three years and agreed it is a significant rate increase this year; however, if RMWD keeps pushing out increasing the rates and the detachment from SDCWA is unsuccessful, the result would be astronomical rate increase at that point. Mr. Bateman stated if the rate increases are 25% when rates have not gone up for three years, it would be 8% per year which well exceeds any CPI. Ms. Largent mentioned RMWD also absorbed \$1 million in costs not passed through to the customers in 2020, the District plans to recover over time.

Mr. Kennedy stated raising the rates was a difficult process and how the Budget and Finance Committee has spent several months working on different iterations of the rate study which was considered by the Board of Directors and how that being presented today seemed to make the most sense for the population of customers. Mr. Bateman inquired as to why agricultural was increasing so much as opposed to single family residence. Mr. Kennedy explained that was all

included in the Cost of Service Study on how the costs were apportioned based on demands on the system which some has to do with seasonal variations and demands as well as total usage as a percentage. He pointed out, RMWD was currently in a Prop 218 lawsuit in which the District is defending its rates against for somebody who believes the agricultural rates are illegal and how another local agency recently lost a rate suit; therefore, it is vital the District is very careful to follow the rules established by the courts related to Prop 218 and Prop 26 when rates are established and how the rates presented are part finance and part legal defense against lawsuits. Mr. Bateman asked how he could be categorized as a single-family residence versus agricultural. Ms. Largent recommended Mr. Bateman contact her so she may share the most financially beneficial option available to him.

Mr. Bateman asked whether the Horse Creek development was a part of RMWD. President Hamilton confirmed. Mr. Bateman inquired as to whether the connection fees RMWD collects from that development were not helping the District. Mr. Kennedy stated this development helped the District a great deal in that RMWD was able to not increase rates for quite some time; however, to continue with the goal of maintaining and operating the system while continuing to fund the capital program, implementing a rate increase was necessary. He reiterated the main driver of RMWD's rate increases as well as to detach from SDCWA is to provide funding for capital programs, especially when RMWD's old system was built by mutual water companies and farmers a long time ago. Mr. Bateman expressed concern the District knew these expenses would be coming before increase agricultural water bills by 25%. Mr. Kennedy stated previous boards did not plan as well as they should. Mr. Bateman encouraged the Board to take care of its ratepayers noting when the gentleman farmers go away, it will be a major impact.

President Hamilton closed the public hearing at 1:58 p.m.

Motion:

To adopt Ordinance No. 21-03.

Action: Approve, Moved by Director Moss, Seconded by Director Gasca.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

The Board thanked the members of the public for sharing their input and taking the time to address the Board today.

Discussion returned from Item #32.

Ms. Largent reported for the record RMWD received a total of nine protest letters and how a majority did not exist.

Discussion went to Item #33.

***16. APPROVAL OF MINUTES**

A. July 27, 2021 - Regular Board Meeting

Motion:

To approve the minutes of July 27, 2021.

Action: Approve, Moved by Director Gasca, Seconded by Director Moss.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***17. 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 Hamilton)

There was no report given.

B. Representative Report (Appointed Representative)

1. SDCWA

A. Summary of Board Meeting July 22, 2021

Mr. Kennedy reported SDCWA was bringing forth a draft long range financing plan and how during a special meeting last Thursday where SDCWA showed up to 10% rate increases per year for the next five years partly due to funding a \$200 million to replace the dam at Lake Hodges; however, since SDCWA has no water in Lake Hodges or need it, he will be pushing to have this item removed from their CIP to at least show what it looks like without it. He also mentioned with the CIP as well as overpaying for QSA water and desal water, the water costs have swamped SDCWA which will be the topic of discussion later this month, especially when none of these rate increase forecasts were provided during the budget approval process. He stated his goal was to work as an active Board Member to figure out a different path. Discussion ensued.

2. CSDA

Director Mack noted the CSDA Annual Conference will take place next week as well as reported on the August 19, 2021 CSDA Quarterly Dinner meeting during which discussions took place regarding the current drought situation.

3. LAFCO

There was no report given.

(*) - Asterisk indicates a report is attached.

4. Santa Margarita River Watershed Watermaster Steering Committee

There was no report given.

5. ACWA

Director Gasca mentioned the ACWA Fall Conference has been scheduled for later this year.

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

1. Board Seminar/Conference/Workshop Training Attendance Reports

D. Directors Comments

Director Mack notified the Board he will need to leave the September Board meeting at 2:30 p.m. and cautioned with Director Moss attending training, there may not be a quorum should any other Board Members be absent.

E. Legal Counsel Comments

1. Attorney Report: CEQA Updates 58211376-1

Legal Counsel summarized the information contained in the written report provided.

President Hamilton asked if the level of threshold of fairness occurs in the filing briefs so that the judge can determine whether it does or does not merit. Legal Counsel confirmed when the parties are providing their briefs, they must provide their analysis which must be based on substantial evidence along with expert testimony.

18. COMMITTEE REPORTS

A. Budget and Finance Committee

Mr. Nelson reported the committee made four recommendations on items being presented to the Board today noting they recommended the Board approve the variance request presented under Item #23, deny approving the leak adjustment presented in Item #24, grant approval of Item #25 which generated a split vote, as well as approve the work provided under Item #26.

B. Communications and Customer Service Committee

President Hamilton reported the August committee meeting due to lack of a quorum. Mr. Shute mentioned the committee will be reviewing the Rapid Aerial Water Supply (RAWS) pamphlet at their meeting scheduled for September 2, 2021.

C. Engineering and Operations Committee

Mr. Nelson reported the committee discussed the easement vacation for Rice Canyon (Item #20), Mastercraft Change Order (#21). He also mentioned the work the committee and staff have been collectively working on related to the District's Request for Proposal (RFP) and Professional Services Agreements (PSA) that were in need of updating and streamlining. He thanked Mr. Williams and Mr. Guiterrez for their efforts involved with this process. Mr. Kennedy thanked Mr. Nelson for participating in the recent workshop with staff on these documents in determining a framework that will assist with financial and communications processes.

(*) - Asterisk indicates a report is attached.

BOARD ACTION ITEMS

***19. DISCUSSION AND POSSIBLE ACTION TO QUITCLAIM WATER EASEMENT ON NORTH COUNTY FIRE PROTECTION DISTRICT PROPERTY AT THE INTERSECTION OF PALA MESA DRIVE AND OLD HWY 395 APN 125-050-69-00**

Mr. Tamimi explained this item was a request for approval to quitclaim several existing easements on a single parcel on a North County Fire Protection District property known as Fire Station No. 4 located at the intersection of Pala Mesa Drive and Old Highway 395. He mentioned the fire station is located within Division 4 and how the Fire District is looking to replace their 40-year-old modular building with a permanent fire station. He stated RMWD has several easements on their parcel with no existing or planned infrastructure and how multiple easements exist due to multiple alignments for Pala Mesa Drive that were never realized. He noted the Fire District was requesting RMWD quitclaim the easements so they can move forward with their project.

Mr. Kennedy pointed out should RMWD and the Fire District jointly develop, removing these easements will make it easier for the Fire Department to sell this property.

Director Moss inquired as to why this process was being handled via a quitclaim as opposed to a grant deed. Mr. Kennedy stated this was the normal process in that it was cheapest and easiest manner for relinquishing an easement. Mr. Tamimi explained this was how RMWD has relinquished easements in the past and how through working with a surveyor it was found several of these easements were from the 1950's. Director Moss clarified she did not disagree about dating them, but rather opposed the instrument being utilized. Legal Counsel pointed out this was pretty much the standard methodology most agencies utilize for quitclaiming water easements.

Motion:

To approve Option 1 – Authorize the General Manager to execute a Quitclaim Deed for the portion of the water easements within the Fire Station 4 parcel and make a determination that the action identified herein does not constitute a “project” as defined by CEQA.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***20. CONSIDER AND APPROVE A REQUEST TO QUITCLAIM WATER EASEMENTS ON RICE CANYON ROAD FOR THE CITRO DEVELOPMENT (FKA MEADOWOOD) WITH TRI POINTE HOMES**

Mr. Kennedy explained this was for a quitclaim of easements within the new development for which RMWD had easements that do not contain easements. He mentioned part of the easement will remain which is where part of RMWD's pipeline will go through.

(*) - Asterisk indicates a report is attached.

Motion:

To approve Option 1 – Authorize the General Manager to execute the Quitclaim Deeds associated with the easements that are no longer required and make a determination that the action identified herein does not constitute a “project” as defined by CEQA.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***21. DISCUSSION AND POSSIBLE ACTION TO APPROVE A CONTRACT CHANGE ORDER FOR THE MASTERCRAFT PROFESSIONAL SERVICES AGREEMENT FOR THE PREPARATION OF ADDITIONAL SITE PLANS AND ON-GOING PROJECT MANAGEMENT IN THE AMOUNT OF \$28,787**

Mr. Kennedy recalled where this project started with Helix Environmental looking at RMWD’s property as well as the one owned by North American Resort Properties environmentally and pointed out it was clear some of the biological buffers and setbacks would reduce the available land for RMWD. He said as part of the process of looking at this matter again, Helix Environmental conducted a more detail biological survey as well as Mastercraft prepare a few different options depending on how aggressive RMWD may want to be related to this matter. He pointed out this second process did increase a potential of 30-40% more units and was also the result of this Change Order being presented today.

Mr. Kennedy addressed the concern Mr. Nelson had related to Task 7 appearing to be a little higher in price than anticipated and how after holding many discussions, Mastercraft has agreed to split the costs with RMWD 50/50. He pointed out Option 2 would need to be modified to \$24,787 as opposed to \$28,787.

Motion:

Adopt Option 1 – Authorize the General Manager to execute CCO #3 to the PSA with Mastercraft in the amount of \$24,787 and make a determination that the action identified herein does not constitute a “project” as defined by CEQA.

Action: Approve, Moved by Director Hamilton, Seconded by Director Gasca.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

(*) - Asterisk indicates a report is attached.

22. NOTICE OF COMPLETION AND ACCEPTANCE OF THE DENTRO DE LOMAS ROAD IMPROVEMENTS

President Hamilton inquired as to whether the County was repaving over RMWD's road repairs. Mr. Tamimi explained staff had to negotiate the restoration for 17,500 square feet of asphalt; however, it was his understanding they would avoid the area recently restored by RMWD and restore those areas needing additional improvements.

Motion:

To approve Option 1 – Accept the Dentro De Lomas Paving Improvements, approve filing the Notice of Completion, add installation costs to the District's total valuation, release the Payment Bond in the amount of \$95,250.00, release 90% of the Performance Bond in the amount of \$85,725.00, and retain 10% of the performance bond in the amount of \$9,525.00 as the warranty bond for one year.

Action: Approve, Moved by Director Hamilton, Seconded by Director Moss.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***22A. PIPELINE PROJECT TO APPROPRIATE AN ADDITIONAL \$1.825M IN PROJECT COST TO THE CIP BUDGET AND AUTHORIZE THE GENERAL MANAGER TO NEGOTIATE THE ANNEXATION AND PARTICIPATION AGREEMENT WITH TRI POINTE HOMES**

Mr. Kennedy mentioned the Annexation and Participation Agreement with Tri Pointe Homes contained a project cost of \$3.7 million but was subject to bid opening. He stated only two bids were received with the lowest being \$4.485 million and the other \$4.9 million. He pointed out this matter was only brought to staff's attention last week; therefore, this item was added to the agenda to allow for an opportunity for the Board to consider appropriating the whole CIP budget to price hold at the current costs as opposed to when prices increase.

Mr. Kennedy pointed out staff was not seeking authorization for him to negotiate the Annexation and Participation Agreement with Tri Pointe Homes, but rather present the Board with an agreement under which Tri Pointe Homes will agree to pay actual costs as opposed to a straight percentage. He added as part of this, Tri Pointe Homes would also like to place a cap on how many homes can be online by March 2023 until the wastewater system can be completed by RMWD which staff was in the process of bidding.

Director Moss pointed out this type of scenario has been occurring more and more frequently.

Mr. Kennedy stated the agreement with Tri Pointe already authorizes him to proceed with this project subject to bid conditions; however, he wanted the Board to formally approve a modification to the CIP plan to show the District recognizes more money would be spent on this project than expected.

(*) - Asterisk indicates a report is attached.

Director Gasca requested more background information related to the cause of the increased costs. Mr. Kennedy explained a significant portion of the increases were due to rising costs of materials, pressure reducing stations, and how nobody wants to hold a price due to belief that price will be higher in three months. He mentioned RMWD does not have the capacity to build this one due to it being located on a very steep hill.

Motion:

To approve Option 1 – Appropriate the additional \$1.825M in project costs for the CIP budget for this Project, authorize the General Manager to negotiate the Participation and Annexation Agreement with Tri Pointe Homes on behalf of the District, and Find that the Project was adequately evaluated under the 2020 Addendum to the Pardee Final Environmental Impact Report.

Action: Approve, Moved by Director Moss, Seconded by Director Hamilton.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***23. DISCUSSION AND POSSIBLE ACTION TO APPROVE A VARIANCE FROM ORDINANCE 19-04 TO ALLOW A LOT, LARGER THAN 0.5 ACRES, TO QUALIFY FOR CAPACITY CLASS “B” AND APPROVE THE CAPACITY CLASS WATER USE AGREEMENT (Division 3)**

Ms. Largent explained this customer has requested to change from a 1” to a 3/4” meter and that because they are on 2.32 acres, this matter is being presented to the Board for consideration. She noted the customer’s average use is at 31 units which is below the required 50 and how the customer has reduced their 220 avocado trees down to eight.

Motion:

To approve Option 1 – Approve the variance to Ordinance 19-04 to allow a property larger than 0.5 acres to qualify for capacity class B and approve the New Water Service Agreement.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***24. DISCUSSION AND POSSIBLE ACTION TO APPROVE A LEAK ADJUSTMENT FOR DECEMBER 2020 BILL REFLECTING SPIKE IN USAGE A TOTAL ADJUSTMENT OF \$170.80. (Division 2)**

Ms. Largent explained this customer requested a leak adjustment although they did not meet the criteria for a leak adjustment. She stated the customer experienced an excessive amount of usage in December 2020 and how a meter technician visited the property as well as discussed

(*) - Asterisk indicates a report is attached.

the matter with the customer on several occasions. She briefed the Board on the specific criteria that must be met for using a leak adjustment noting the customer failed to comply with the some of the criteria in that they did not submit a leak repair, nor did they inform RMWD of attempts to mitigate a leak. She pointed out the customer wrote an extensive letter regarding this matter to the District and that although the usage was more than 50% of the property's monthly average use, the customer has not agreed that they had a leak.

Ms. Largent explained after the customer contacted the District multiple times regarding this matter during which time staff informed the customer staff did not have authorization to do anything, the customer requested this item to be brought to the Board for consideration. She pointed out the customer's detailed letter has been attached to this item for reference; however, staff was recommending the Board deny this request even though the amount to bring the cost of the water to the wholesale rate would be \$170. She added the Budget and Finance Committee did have an opportunity to review this matter and agreed the leak adjustment request should be denied.

Mr. Nelson agreed this was not a large sum of money; however, the Budget and Finance Committee's concern was whether the Board would want to set a precedence of waiving three of the four Administrative Code criteria based solely on it not being a large amount of money.

President Hamilton agreed the District does have policies and procedures in place and how the ratepayers should be obligated to conform to those just like the Board and staff are required to do.

Director Moss inquired as to whether the amount being sought was solely for water. Mr. Kennedy pointed out this was RMWD's revenue from that water and how although RMWD has been to the property on several occasions witnessing the meter spinning, the customer has not provided evidence a leak had occurred. Director Moss stated unless the customer shows a leak repair occurred, the customer should not receive a leak adjustment.

Director Gasca pointed out the customer was seeking an honest, fair, and justifiable outcome. He stated if the customer did not follow the provisions provided in the Administrative Code, how can the Board be consistent to the entire community of ratepayers by honoring this leak adjustment request. Director Moss agreed. President Hamilton suggested RMWD reinforce in its communication that the District is only responsible to the meter and any water that passes through the meter is the responsibility of the customer.

Jeanne Meadow stated she attended meetings during the times when customers would continually request leak adjustments from the District without being required to meet any criteria and how this has since stopped since the implementation of current processes. She said as an outsider and a ratepayer, the District cannot grant leak adjustments in any amount to any customers who do not follow the rules or refuse to understand they own from the meter to wherever the water goes on their property. She said she appreciated Mr. Kennedy's efforts in improving this process.

Motion:

To adopt Option 2 – Deny the request for a leak adjustment including notifying the customer they are responsible for everything after the meter and how the District made every effort to assist.

Action: Approve, Moved by Director Hamilton, Seconded by Director Moss.

(*) - Asterisk indicates a report is attached.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***25. DISCUSSION AND POSSIBLE ACTION TO APPROVE A VARIANCE FROM MAXIMUM CAPACITY AND 12 MONTH ROLLING AVERAGE REQUIREMENTS IN ORDER TO DOWNSIZE FROM A 1 ½” TO A 1” METER (Division 1)**

Ms. Largent explained this request for a variance discussed extensively between staff and the Budget and Finance Committee due to the fact it was so close to the limit allowing for a meter downsize. She noted the rolling average requirement is to be below an 80-unit per month average and how this customer's rolling average came in at 82 units. She mentioned two committee members supporting denying this request for the concern the customer would go over the average resulting in having to upsize the meter. She pointed out the when the committee first discussed this matter, the monthly usage was 115 units; however, when she looked at it the most recent month's usage, it was 72 units. She stated the current rolling average was just below the 80-unit requirement.

President Hamilton inquired as to whether the Board could defer this item. Mr. Kennedy stated it may be best for the customer to request a downsize in December at which time the rolling average may meet the requirement. Ms. Largent pointed out if the Board defers this item for one more month, staff will have an additional two months to look at the average.

Motion:

To table this item until September.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

26. EXPIRATION OF CALIFORNIA EXECUTIVE ORDER N-42-20 MORATORIUM FOR WATER SHUT-OFFS UPDATE

Ms. Largent stated although it is unknown whether the Executive Order will be extended, it is scheduled to expire September 30, 2021, staff needs to mail letters no later than September 15, 2021, to meet the 15-day requirement as well as be prepared to begin the process of shutting off customers on October 1, 2021. She pointed out RMWD has approximately 350-370 customers who qualify to receive these letters. She mentioned although RMWD has not been able to shut off customers for a considerable amount of time and was not advocating such, sending these letters has proven to be very effective in that customers either pay their bills or arrange for a payment plan.

(*) - Asterisk indicates a report is attached.

Mr. Kennedy pointed out according to the Administrative Code, the District is supposed to initiate these proceedings; however, this has not been done due to the Governor's Executive Order. He stated although the Administrative Code will be executed as written once the Executive Order is released, staff wanted to bring this matter to the Board's attention. Ms. Largent noted this item is to provide the Board with an opportunity to direct staff to proceed with mailing the letters on September 15, 2021 or delay the mailing until a later date.

President Hamilton asked whether the notices can be sent with an effective date of October 1, 2021 providing notice regardless of the Executive Order being extended. Ms. Largent confirmed this information would be included in the letters.

Director Moss inquired as to whether the owners would be sent notifications as well as renters. Ms. Largent stated the owners have to decide who would receive the letters.

President Hamilton asked when transition of office would take place should Governor Newsom be recalled. Mr. Kennedy stated the Secretary of State has until October 22, 2021 to certify the election.

Director Moss recommended staff proceed with sending the letters. President Hamilton concurred.

Ms. Largent stated she will mail the letters explaining the steps those impacted can take to pay their bills. She noted there was one for a 21-unit resident apartment building with which she was concerned because it was rejected by the County to be added to tax rolls due to the Assessor's Parcel Number in that it did not qualify due to not be associated with a value. Director Moss asked Ms. Largent to provide her with the address so she can locate the correct Assessor's Parcel Number.

No action taken.

27. DISCUSSION AND POSSIBLE ACTION REGARDING THE APPOINTMENT; EMPLOYMENT; EVALUATION OF PERFORMANCE; OR COMPENSATION OF THE GENERAL MANAGER

Motion:

I move to approve an increase to the General Manager's compensation by a 3.3% cost of living adjustment per the existing contract between Rainbow Municipal Water District and Tom Kennedy, bringing his annual salary to \$261,219.92 beginning August 28, 2021; and a base pay merit increase to bring the General Manager's annual salary to \$268,307.52 beginning August 29, 2021; and a one-time lump sum discretionary bonus of \$25,000 to be paid on September 9, 2021.

Action: Approve, Moved by Director Hamilton, Seconded by Director Moss.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

Mr. Kennedy thanked the Board expressing his appreciation.

(*) - Asterisk indicates a report is attached.

Discussion returned from Item #33.

Director Gasca pointed out it was important to capture each of the comments provided in the chat box by those attending the meeting virtually. Ms. Meadow mentioned she was showing her support for Mr. Kennedy's performance evaluation by posting a thumbs up in the chat box but was unsure if it came through.

Discussion returned to Item #33.

***28. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 21-18 — A RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT ESTABLISHING CLASSIFICATIONS AND MONTHLY PAY RANGES FOR DISTRICT EMPLOYEES AND THE GENERAL MANAGER EFFECTIVE AUGUST 24, 2021, THROUGH JUNE 30, 2022**

Ms. Harp explained when the Board adjusts pay grades and salary ranges in accordance with labor agreements, the pay grade and salary range for the General Manager is generally not adjusted. She stated because the General Manager pay grade and salary range had not been adjusted since 2017, the contracted 3.3% COLA for this year was going to bring the General Manager's base pay above the existing approved salary range for the General Manager. She noted after conducting a market analysis, she was recommending the Board approve a new salary grade and range for the General Manager which starts just below the lowest comparator agency and a range width of 45% which is consistent with the width of the pay ranges for other job classifications at the District. She pointed out approving this adjustment will also provide the Board with discretion to make base pay adjustments in accordance with existing COLAs per the General Manager's contract as well as discretionary base pay adjustments in the next few years without having to update the General Manager's range each year.

Motion:

To approve Option 1 – Approve Resolution No. 21-18 as presented.

Action: Approve, Moved by Director Gasca, Seconded by Director Hamilton.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***29. DISCUSSION AND POSSIBLE ACTION REGARDING ASSOCIATION OF CALIFORNIA WATER AGENCIES (ACWA) REGION 10 BOARD ELECTION FOR THE 2022-2023 TERM**

Mr. Kennedy briefed the Board on some of the candidate backgrounds noting the Board has the option of approving the suggested slate of officers or select from the list of individuals.

Motion:

To approve the slate of candidates presented.

Action: Approve, Moved by Director Gasca, Seconded by Director Mack.

(*) - Asterisk indicates a report is attached.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***30. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE NO. 21-05 AMENDING AND UPDATING ADMINISTRATIVE CODE CHAPTER 6.05 – WATER AND SEWER LINE EXTENSIONS AND SECTION 6.06.010 – PARCEL MAPS**

Mr. Kennedy stated this was a part of the series Ms. Washburn updating the Administrative Code formatting; however, since there were changes to these section numbers, they require Board approval.

Motion:

To approve Option 1 – Adopt Ordinance No. 21-05 amending and updated Administrative Code Chapter 6.05 and Section 6.06.010 as presented.

Action: Approve, Moved by Director Hamilton, Seconded by Director Moss.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

***31. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE NO. 21-06 AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 2.03.010 – REMUNERATION AND REIMBURSEMENT POLICY**

Mr. Kennedy explained in the past staff would purchase the lowest airfares possible which are sometimes non-refundable. He stated in cases where purchase flights are cancelled, some airlines issue travel credits to the individual as opposed to refunding the District which has cause situations where travel credits are co-mingled with the individuals personal travel credits. He said by updating this policy, the District will be able to purchase non-refundable flights to avoid confusion when air travel is cancelled due to unforeseen circumstances.

Director Gasca explained when a non-refundable flight purchased by the District on his behalf was cancelled due to the pandemic, the airlines issued travel credits to his personal travel account as opposed keeping them separate. He said in not realizing what had occurred, those travel credits were unintentionally applied to a flight he had booked for personal travel resulting in him having to reimburse the District for the cost of the flight initially purchased. He stated to avoid a reoccurrence, he had recommended the policy be updated to address this type of scenario as simply as possible.

President Hamilton stated although it may cost the District more to purchase non-refundable flights, this was a reasonable resolution.

(*) - Asterisk indicates a report is attached.

Motion:

To adopt Option 1 – Adopt Ordinance No. 21-06 amending and updated Administrative Code Section 2.03.010.04 as presented.

Action: Approve, Moved by Director Gasca, Seconded by Director Hamilton.

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

Ayes: Director Gasca, Director Hamilton, Director Mack, Director Moss.

Absent: Director Rindfleisch.

32. BOARD MEMBER REQUESTS FOR AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS

There were no requests.

Discussion returned to Item #15.

BOARD INFORMATION ITEMS

33. 2021 REDISTRICTING PROCESS UPDATE

Mr. Kennedy shared a presentation updating the Board on the redistricting process noting the Water Code directs the Board to adjust the boundaries in accordance with the Elections Code which requires the Board of Directors adjust the boundaries after each Federal decennial census. He clarified the Board may choose to redistrict at other times due to changes in population that may occur between decennial census events. He noted the law states the Board may consider topography, geography, cohesiveness, contiguity, integrity, and compactness of territory, and communities of interest of the District. He explained the six “Traditional Districting Principles” settled by the US Supreme Court under case law.

President Hamilton inquired as to whether anticipated growth is taken into consideration when redistricting. Mr. Kennedy stated no, it is a numeration of who is included in the Census; however, if there are existing changes in the District’s forecast estimates may be utilized, but not during the once every ten-year process.

Mr. Kennedy talked about how data is normally received in the first half of the year following the Census; however, due to COVID and challenges at the US Census Bureau has caused delay in receiving the data this year. He stated RMWD received the raw data last week, but there are some anomalies in the data to work through.

Mr. Kennedy sought input from the Board as to how to proceed in terms of whether a special workshop should be scheduled, an ad-hoc committee established, or if staff should prepare a few options for Board feedback. He pointed out two staff members have experience with redistricting; therefore, the Board would need to decide whether it was preferred to have staff perform the analysis in-house or contract with a special consultant instead. He asked the Board Members if they have any specific requests for alternations to their divisions.

(*) - Asterisk indicates a report is attached.

Mr. Kennedy explained there was no specific deadline mentioned; however, the County of Supervisors and cities must redistrict by early 2022 and how the data analysis and preparation of options should take approximately 4-6 weeks to complete.

Director Moss said she would like to have some visible overlays utilizing the map Mr. Kennedy presented today.

President Hamilton stated he would like to understand the current distribution on which to base decisions; therefore, it may be better to hire a consultant to perform the analysis. Director Gasca pointed out if RMWD has the skills in-house to perform the analysis, it would be a potential savings to the District. President Hamilton stated he did not disagree with Director Gasca; however, his concern was that the two principles capable of performing the analysis have other significant tasks to do. Discussion ensued.

It was confirmed the Board's preference was for staff to perform this analysis in-house. Mr. Kennedy mentioned this matter will be brought to the Board as well as standing committees in September.

Discussion returned to Item #27.

Discussion returned from Item #27.

Ms. Meadow pointed out North County Fire faced a great deal of challenges associated with them with redistricting as well as how her experience with the healthcare district going through this process brought about many lawsuits against that district. She asked whether this same threat of lawsuit would apply to RMWD. Mr. Kennedy explained the steps required to be taken noting staff will work closely with Legal Counsel throughout the process. Discussion followed.

34. MORRO MIXERS UPDATE

Mr. Gutierrez provided an update on the Morro Mixers noting all the mixers were working except for one which will be investigated. He explained the biggest challenge was associated with the dosing of the water going into the tank which is taking a little more effort to get worked out. He noted these issues were all part of the commissioning process. He reported everything was working well and how the focus was now on gaining a residual inside the reservoir.

Mr. Gutierrez mentioned RMWD operators have found a means for pushing through more water directly from the Metropolitan Water District (MWD) connections. Discussion ensued. Director Gasca inquired as to who came up with the idea of getting the water pushed off the MWD connection. Mr. Gutierrez explained the idea came up during the course of many conversations among him and the operators.

***35. RECEIVE AND FILE INFORMATION AND FINANCIAL ITEMS**

A. General Manager Comments

1. Meetings, Conferences and Seminar Calendar

B. Operations Comments

1. Operations Report

C. Engineering Comments

1. Engineering Report
2. As-Needed Services Expenditures Summary
3. RMWD Sewer Equivalent Dwelling Units (EDU's) Status

(*) - Asterisk indicates a report is attached.

D. Human Resource & Safety Comments

1. Human Resources Report

E. Finance Comments

1. Board Information Report

A. Budget vs. Actuals

B. Fund Balance & Developer Projections

C. Treasury Report

D. Five Year Water Purchases Demand Chart

E. Water Sales Summary

F. Check Register

G. Directors' Expenses Report

H. Credit Card Breakdown

I. RMWD Properties

The information and financial items were received and filed.

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

It was noted an update on the Water Service Upgrade Project (WSUP) and redistricting process should be on the next meeting agenda.

37. ADJOURNMENT

The meeting was adjourned by President Hamilton.

The meeting was adjourned at 3:51 p.m.

Hayden Hamilton, Board President

Dawn M. Washburn, Board Secretary