

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
OCTOBER 26, 2021**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on October 26, 2021, was called to order by President Hayden at 12:02 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.

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, Engineering and CIP Program Manager Williams, Information Technology Manager Khattab.

Also Present Via Teleconference or Video Conference:

Legal Counsel Duran-Brown.

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)**

Legal Counsel asked the Board to consider adding an item to the agenda for Closed Session based on information received after the agenda was posted and was necessary for the Board to consider prior to the next Board meeting.

Motion:

To approve adding an item to the agenda for Closed Session.

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

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

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

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

There were no members of the public in attendance; therefore, the 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 12:04 p.m.

6. CLOSED SESSION

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

* Three Items (*including additional item per Item #3.*)

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.

The meeting reconvened at 1:20 p.m.

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

This item was addressed under Item #11.

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 October 26, 2021 was called to order by President Hamilton at 1:22 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 (*arrived at 1:27 p.m. via video conference*), Director Hamilton, Director Mack, Director Moss.

Also Present: General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Engineering and CIP Program Manager Williams, Operations Manager Gutierrez, Finance Manager Largent, Information Technology Manager Khattab.

Also Present Via Teleconference or Video Conference:

Legal Counsel Duran-Brown, Human Resources Manager Harp, Project Manager Tamimi, Project Manager Parra, Engineering Technician Rubio,

Customer Service and Communications Supervisor Gray, Construction and Maintenance Supervisor Lagunas, Grant Specialist Sisler, Wastewater Superintendent Zuniga, Associate Engineer Powers.

Eleven members of the public were present for Open Session with four in person and seven via teleconference or video conference.

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)

Legal Counsel stated for the record, the Board by a four-fifths (4/5) vote decided to add one item to Closed Session. It noted it was an item of anticipated litigation that came to the Board's attention after the agenda was posted but needed to have action considered before the next Board meeting.

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).

Discussion ensued regarding taking the items out of order to allow for the audience member who submitted a speaker slip an opportunity to address the Board at this time. Mr. Kennedy pointed out the items can be taken out of order; however, Item #19 must be taken up first to comply with the new law requiring the Board to adopt a resolution to authorize virtual meetings prior to any action being taken.

Motion:

To take the agenda items out of order with Items #19 and #21 first.

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

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

Ayes: Director Hamilton, Director Mack, Director Moss.

Absent: Director Gasca.

Discussion went to Item #19.

***15. APPROVAL OF MINUTES**

A. September 28, 2021 - Regular Board Meeting

Motion:

To approve the minutes.

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

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

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

Discussion went to Item #16.

***16. 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)

President Hamilton reported most of the Board Members attended the Farmer of the Year event at which there were opportunities to speak with many local politicians and farmers. He announced a Town Hall Meeting will be held on November 18, 2021 and encouraged everyone to attend. He reported FPUD was dedicating their portion of the Conjunctive Use Project at a dedication on November 6th between 11:00 a.m. and 1:00 p.m. for which Board Members may have been invited.

B. Representative Report (Appointed Representative)

1. SDCWA

A. Summary of Board Meeting September 23, 2021

Mr. Kennedy referenced the summary of the recent SDCWA Board Meeting as he noted some of the key elements being keeping the debt service coverage level at factor of 1.2 and possibly up to 1.5 if the revenue is available to do so. He pointed out the original proposal was to go to 1.5 as the minimum which would cost a great deal of money; therefore, there was support for the new proposal.

Mr. Kennedy noted some of the key things asked of SDCWA by the member agencies was to develop a five-year forecast in each budget cycle, third party consultants to review Cost of Service studies and rate designs as well as CIP planning and prioritization, excel versions of the rate model spreadsheets be provided to member agencies, and to work on identifying transfer opportunities for the contracted water supplies between desalination and QSA which are affecting water affordability. He noted this was all great and how he was not in favor of SDCWA's long-range financing plan, but with the City's amendments he felt it was in the best interest of RMWD ratepayers to at least get some transparency as part of the process. He mentioned SDCWA's response to these requests was to include an item in their agenda asking for an additional \$1 million for three full-time staff to produce the information and projections being sought as well as an additional couple of hundred thousand dollars for consultants. Discussion ensued.

2. CSDA

Director Mack reported he will be attending a Legislative Committee meeting via Zoom on October 28th.

3. LAFCO

Mr. Kennedy reported LAFCO recently completed a Municipal Service Review for the Ramona region and how one of the things they are considering is put Ramona on a path to incorporation. He explained the steps involved. Discussion ensued.

Director Gasca pointed out a few functions that can be picked up by becoming incorporated is land use planning authority as well as police.

4. Santa Margarita River Watershed Watermaster Steering Committee

President Hamilton reported he was unable to attend the recent meeting; however, he shared some of the topics listed on the committee agenda including the Watermaster Annual Report was out and how a new Chairperson has been elected for next year.

5. ACWA

Director Gasca mentioned there was a new law signed by Governor Newsom (Senate Bill 427) that provides authority for California water agencies to adopt enhanced penalties for water theft giving them a stronger deterrent to help and protect the public's valuable resource. He stated this may be something RMWD may want to explore assuming if climate change continues, the District will be able to take action to impact its ratepayers. He also stated as part of the Emergency Proclamation, Governor Newsom call for utilities including investor-owned utilities to establish an incentive program for large energy users including water purveyors; therefore, it may be worthwhile for RMWD to contact with SDG&E to see if there might be something going on that would be of interest to RMWD as well as its ratepayers. Mr. Kennedy stated this was something that could be added to newly hired Grant Specialists' task list.

Director Gasca mentioned he will be excusing himself from the meeting at 2:00 p.m. and will rejoin before 3:00 p.m. if possible.

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

1. Board Seminar/Conference/Workshop Training Attendance Reports

A. Conference Report – Director Moss

Mr. Kennedy mentioned a reimbursement he received from Director Rindfleisch with requests for compensation for meetings with the General Manager. He recalled the Administrative Code was amended earlier in the year with one item added that if a Board Member had a meeting with the General Manager, it could be a compensable event. He noted he had interpreted this amendment to mean meetings would be scheduled with him and a Board Member to discuss a matter or matters for a substantial amount of time; however, Director Rindfleisch had interpreted it as being a couple of phone calls he made to the general manager could collectively add up to a meeting which in turn would be compensable.

Mr. Kennedy said although he explained to Mr. Rindfleisch his reason for denying the request, he agreed to bring the matter to the Board for consideration. He asked the Board for clarification as to whether they disagree with his interpretation as well as direction as to an additional amendment should be made to the Administrative Code as to what qualifies for a meeting.

Director Gasca asked if there was any language right now that states it is accumulative. Mr. Kennedy confirmed it only states one meeting a month with the general manager, but not cumulative.

Director Moss recalled the specific conversation that took place at the meeting when this section of the Administrative Code was under discussion by the entire Board. She stated she does not consider it to be a meeting unless it is a formal meeting. Mr. Kennedy clarified it only states one meeting per month with the general manager; however, he interpreted that to mean a scheduled meeting to discuss a specific topic.

Director Mack stated meetings with the general manager should be scheduled. Director Moss agreed.

Director Gasca said he did not necessarily agree, but thinks it is more an accumulation of time spent meeting with the general manager or senior staff members that should be considered a working session for a director trying to gather information across different parts of the organization which should be accommodated. President Hamilton concurred with Director Gasca, but a conversation over the phone that is relatively short in duration does not constitute a meeting.

Mr. Kennedy stated unless the Board directs him otherwise, no Board action was required. He said should Director Rindfleisch's final per diem compensation report include a phone call, his intention would be to deny this request.

Director Mack asked how soon the Administrative Code would be amended. Mr. Kennedy it would be presented to the Board for consideration in December. He offered to reach out to Director Gasca for input as to how the proposed amendment should be written.

Director Gasca excused himself from the meeting at 1:58 p.m.

D. Directors Comments

Director Mack stated he was very impressed with the staff overseeing Concord as part of the Water Services Upgrade Project program, especially with the advance warning, signage, etc. Mr. Kennedy stated this would be Mr. Gutierrez.

E. Legal Counsel Comments

1. Attorney Report: Water Shut-Off Moratorium and Statute of Limitations for Water Fee Challenges

Legal Counsel summarized the information contained in his written report and update on a couple of new legislative items, including the Water Moratorium Shutoff Governor Newsom enacted due to the COVID conditions set to expire on September 30, 2021 that has been extended to the end of the year. He noted this extension was applicable to all water systems.

Legal Counsel noted the second item was for Senate Bill 323 which shortens the statute of limitations for rate charges both for water and sewer rates. He explained any challenge to a water or sewer rate must now be brought within one hundred and twenty (120) days starting January 1, 2022. He pointed out for RMWD to be able to take advantage of this shortened statute of

limitations, the next RMWD Proposition 218 notice must include a reference to this Bill regarding the new 120-day statute of limitations.

Director Mack inquired as to how frequent the Bill must be referenced. Legal Counsel clarified it must be referenced whenever RMWD does a Proposition 218 notice. Mr. Kennedy added anytime RMWD adopts any rate change that is subject to Proposition 218 which could take place in Spring 2022 for sewer rates.

President Hamilton asked for clarification regarding the report stating a water district could go to court and get an affirmation of their rates. Legal Counsel explained the process for exercising the validation procedure mentioned in the report. Discussion ensued.

Discussion went to Item #17.

17. COMMITTEE REPORTS

A. Budget and Finance Committee

Mr. Nelson reported the committee met on October 12th during which time a few items were considered including the State Water and Wastewater Arrearage Program which is being presented as Item #25 today as well as received an audit update and the possibility of the shutoff moratorium being extended which has now come into fruition. He expressed appreciation for Mr. Gutierrez in reaching the 75% milestone on the WSUP program.

B. Communications and Customer Service Committee

Mr. Shute reported this committee would also extend appreciation to Mr. Gutierrez as well as the Finance team finance for their achievements, respectively. He noted the committee covered a few items at the meeting including the potential drought restrictions, non-payment water shutoff, emergency notification programs, WSUP, and appointed committee officers for next year.

President Hamilton mentioned the customer service call back feature update received from Ms. Gray and that the system was working quite well.

C. Engineering and Operations Committee

Mr. Nelson reported the committee received an update on the North River Road Construction project which is proceeding well and on schedule. He stated the committee also considered three He noted there were items considered before the Board today that have been recommended for approval by the committee. He noted the committee spent some time discussing the Rainbow Heights Pump Station construction project as well as received a budget update for the Rice Canyon project.

Discussion went to Item #18.

CONSENT CALENDAR ITEMS

- *18. A. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 21-07 - AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 1.02.020 - CONFLICT OF INTEREST**
- B. NOTICE OF COMPLETION AND ACCEPTANCE OF INFRASTRUCTURE FOR THE HORSE CREEK RIDGE DEVELOPMENT BY D.R. HORTON (DIVISION 4, 5)**

C. DISCUSSION AND POSSIBLE ACTION TO APPROVE AND EXECUTE JOINT AGREEMENT TO IMPROVE MAJOR SUBDIVISION COUNTY OF SAN DIEGO TRACT NO. 5354-3 (VTM5354R2, A PORTION OF PDS2019-LDMJIP-50069, PA-5B) FOR CITRO DEVELOPMENT (DIVISION 4)

Motion:

To approve Items #18A, #18B, and #18C.

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

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

Ayes: Director Hamilton, Director Mack, Director Moss.

Absent: Director Gasca.

Discussion went to Item #20.

BOARD ACTION ITEMS

***19. DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTION NO. 21-19 – AUTHORIZING VIRTUAL MEETINGS IN ACCORDANCE WITH ASSEMBLY BILL 361 (AB 361)**

Mr. Kennedy explained under a recently enacted law (AB361) to address the Brown Act emergency orders that expired in September, legislature created a new process by which RMWD could continue to allow for virtual and hybrid meetings. He stated Resolution No. 21-19 needed to be enacted by the Board noting RMWD was following all of the rules of AB361. He pointed out part of AB361 will require the Board take repeated actions at meetings going forward.

Director Gasca joined the meeting at 1:27 p.m.

Motion:

To adopt Resolution No. 21-19 authorizing virtual meetings in accordance with AB361.

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.

Discussion went to Item #21.

20. DISCUSSION AND POSSIBLE ACTION FOR SOLE SOURCE SELECTION OF PRE-MANUFACTURED PUMP STATIONS FROM ENGINEERED FLUID SOLUTIONS, INC (EFI), CENTRALIA, IL (ALL DIVISIONS)

Mr. Kennedy explained RMWD has been utilizing EFI for a variety of things and staff cannot find another firm to provide these pump stations due to EFI's uniqueness and providing service in an efficient and effective manner. He noted one of the challenges is other firms will bid into something like this when specifications are put out; however, they were not of the same quality. He mentioned staff has sole sourced with EFI in the past and how each time Board approval is sought, a limit is provided with a limit that can be considered each time.

Mr. Kennedy noted RMWD has the Turner and Hutton pump stations coming up as well as a potential one for Dentre de Lomas; therefore, staff would like Board approval to proceed with sole sourcing EFI when those contracts come up.

Director Mack inquired as to how soon these contracts would be available. Mr. Kennedy answered probably within the next six months for Hutton and Turner.

President Hamilton asked for the typical cost for a pump stations RMWD would be utilizing. Mr. Williams stated approximately \$1 million.

Motion:

To accept Option 1 – Make a finding that the action before the Board does not constitute a “project” as defined by CEQA and authorize the sole source selection of pre-manufactured pump stations from Engineered Fluid Solutions, Inc (EFI), for procurement within the District in order to capitalize on timing, quality, and cost savings for the Turner, Hutton, and Dentre De Lomas pump stations.

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

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

Ayes: Director Hamilton, Director Mack, Director Moss.

Absent: Director Gasca.

Discussion went to Item #22.

***21. CONSIDER AWARD OF CONSTRUCTION CONTRACT IN THE AMOUNT OF \$15,181,157 WITH JAMES W. FOWLER COMPANY FOR THE LS-1 REPLACEMENT PROJECT PHASE 1 IN DIVISION 1, 2, AND 4**

Mr. Williams provided a background for this item noting this project was for the Lift Station 1 Replacement Project, formerly referred to by staff as the Thoroughbred Lift Station. He explained this was a large project and that the District decided to prequalify contractors so when the District received the lowest responsible and responsive bidder it would not be subject to just anyone coming out. He noted the solicitation was done for prequalification and eight contractors initially participated. He pointed out one of those eight was removed from the prequalified list due to not meeting the requirements, seven were authorized to proceed, and five of those seven submitted bids to the District. He mentioned the engineer's estimate for this project is \$16,674,000 and, as shown in the bid, James W. Fowler Company came in under that underestimate at \$15,181,157. He added this project does trigger CEQA, the District did perform all necessary CEQA

documentation, and that Resolution No. 21-02 was adopted at the January 26, 2021, Board meeting which enacted the Mitigated Negative Declaration (MND) for this project; therefore, there is no further CEQA action required. Mr. Kennedy added there have been two protests from bidders, with the second place bidder protesting the first place, and the third place protesting the first and second place bids.

President Hamilton took the opportunity to allow Chad Cameron to address the Board.

Mr. Cameron thanked the Board for moving this item forward and hearing him speak. He introduced himself as a partner at TC Construction which was the second lowest bidder last week for Lift Station 1. He stated TC Construction has turned in two separate letters outlining eight different issues that they discovered with Fowler's bid. He noted the most important issue that they discovered was Fowler did not list a painting subcontractor, do not hold a C33 license which is a specialty license for painting the building, do not have a five-year track record of coating the material required or something similar in the specifications, and do not have a QP1 Certification which is for a partial part of the painting as well.

Mr. Cameron pointed out TC Construction has several administrative issues as well with Fowler's bids; one being that the bond page was not notarized by a principal as well as other administrative items that were outlined in the instructions to bidders, i.e., the paragraphs in the instruction to bidders (highlighted in bold in the letter he held up) that stated if you do not do this, then your bid will be rejected. If a failure to do so will result in immediate rejection of the bid. He noted Fowler did not include all the pages in Volume II as required, including all the addendum pages. He said he understands these are administrative things; however, the thought TC Construction has is that this documentation and specifications are your word and bond. He mentioned he grew up with his father raising him in a way that his word is his bond and if he tells you he is going to do something, he is going to do something.

Mr. Cameron concluded stating if the Board was going to have a decision in front of them to waive these irregularities for a \$1.5 million savings (understanding that the District is looking out for the ratepayers by being fiscally responsible), the Board has a moral responsibility as well; thus, he feels Fowler should be deemed unresponsive based upon TC Construction's letters, copies of which he offered to provide to the Board if so desired.

Mr. Kennedy also pointed out to the Board that the third-place contractor, SCW, also filed a protest both on TC Construction's bid for certain asserted defects as well as Fowler's bid resulting in multiple people who are challenging different aspects of this; however, the staff's recommendation remains to move forward with the options provided to the Board.

Motion:

Based upon staff and legal counsel recommendation, the Board will waive the irregularities found in the bid as they were considered to be clerical, inadvertent, and non-substantiative and award the lowest bidder to James W. Fowler according to staff recommendation Option 1 to allocate funding and approve the Construction Agreement with James W. Fowler Co. in the amount of \$15,181,157, authorize the General Manager to execute the construction contract, and make a determination that the action identified herein was sufficiently analyzed in the Initial Study Mitigated Negative Declaration adopted by the Board in Resolution No. 21-02 on January 26, 2021 and does not require additional analysis.

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

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

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

Discussion went to Item #15.

***22. AWARD OF PROFESSIONAL SERVICES AGREEMENT WITH VALLEY CONSTRUCTION MANAGEMENT FOR THE LS-1 REPLACEMENT PROJECT PHASE 1 IN DIVISION 1**

Mr. Williams introduced Paul Mochel with Valley Construction Management who was in attendance.

Mr. Williams noted this Professional Services Agreement was for construction management and special inspection for the second part of the LS1 Replacement Project. He mentioned the District issued Requests for Proposals for this project and that five proposals were received which were reviewed and evaluated by members of staff as well as members of the Engineering and Operations Committee. He stated after individuals conducted their review, it was unanimously determined Valley Construction Management was the highest ranked among all reviewers and an interview was conducted with Valley Construction Management after which time it was confirmed this was the firm to select.

Mr. Williams noted this project encompasses Divisions 1, 2, and 4. He stated this project was anticipated to take between 18-36 months to complete; therefore, having a dedicated full-time construction manager and inspector will be of great assistance to the District.

Director Moss asked to hear from Mr. Mochel. Mr. Mochel stated he looks forward to a good project, appreciates the opportunity, and looks forward to working with RMWD.

Motion:

To approve Option 1 – Approve a professional services agreement with Valley Construction Management for a not to exceed amount of \$1,423,717, authorize the General Manager to execute the professional services agreement, 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 Moss.

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

Ayes: Director Hamilton, Director Mack, Director Moss.

Absent: Director Gasca.

Discussion went to Item #23.

23. DISCUSSION AND POSSIBLE ACTION REGARDING THE RAINBOW HEIGHTS PUMP STATION REHABILITATION PROJECT TO APPROPRIATE AN ADDITIONAL \$1,050,000 IN PROJECT COST TO THE CIP BUDGET (DIVISION 5)

Mr. Williams explained this project was originally scheduled to be completed last fiscal year and how staff made a budget recommendation and that the budget was adopted by the Board. He noted several Change Orders were received for this project that were mostly owner driven. He said after working with the Finance Department as the mid-year budget approaches, it was

realized allocations were needed that cannot wait; therefore, staff was requesting an additional appropriation of \$1,050,000 to the CIP budget so the project can be completed.

Ms. Largent added it was important to note these are funds that when the budget was brought to the Board it was forecasted the funds would have been spent by June 30, 2021; therefore, RMWD has more funds that will be rolling over into the new fiscal year that are available to be spent for this project that had not been accounted for.

President Hamilton asked for clarification the Board had already approved the funds that were not spent last year but rather rolled over into this year's budget. Ms. Largent explained they do not roll over; however, if they are not spent by the end of the fiscal year, they go into the fund balance as unused funds. She confirmed there was no negative impact.

Mr. Kennedy pointed out the project was not running over budget; however, the budget was slightly out of alignment as it is written so this was coming to the Board now as opposed to in February 2022.

Discussion ensued regarding the location of the pump station.

Director Gasca rejoined the meeting at 2:25 p.m.

Motion:

To accept Option 1 - Appropriate \$1,050,000 to the CIP Budget for the completion of construction of the Rainbow Heights Pump Station Rehabilitation Project and make a finding that the action before the Board does not constitute a "project" as defined by CEQA.

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

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

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

Discussion went to Item #23A.

23A. DISCUSSION AND POSSIBLE ACTION TO EXECUTE THE URBAN WATER SHORTAGE CONTINGENCY PLAN AND DECLARE A LEVEL 1 WATER SHORTAGE SCENARIO IN RESPONSE TO THE STATEWIDE STATE OF EMERGENCY DUE TO DROUGHT

Mr. Kennedy announced on the Governor declared RMWD needs to at least adopt its voluntary measures on October 19, 2021. He pointed out staff had already addressed this when preparing the District's Urban Water Management Plan last Spring. He clarified even though it was voluntary, it does prohibit ratepayers from doing things such as washing down their driveway.

Mr. Williams stated RMWD was enacting its lowest level voluntary drought requirements as noted in Option 1 of the Action Letter. He reiterated staff had conducted a great deal of this work under the Urban Water Management Contingency Plan to declare a Level 1 which is for voluntary restrictions.

Mr. Tamimi explained there are six different levels that are more stringent depending on the drought conditions. He stated Level 1 is optional that prohibits actions such as the application of potable water on outdoor landscape in a manner that causes excessive runoff i.e., over irrigation.

He pointed out Level 1 was more focused on residential use and do not necessarily apply to commercial growers or nurseries.

Mr. Kennedy pointed out RMWD does not have anyone assigned to monitor Level 1 restrictions; however, staff will keep an eye out.

Director Gasca recalled his reporting last month that Metropolitan Water District (MWD) had offered a water supply alert which is the third of four conditions in their framework. He asked whether what RMWD was doing was identical at a lesser degree of what MWD was doing and has San Diego County Water Authority (SDCWA) taken any action and how does what RMWD was doing compare to SDCWA. Mr. Kennedy stated MWD had moved up their alert, but it was not to the point where they were having any allocations or something similar; however, they do not deal with retail customers, thus they would not have the same restrictions as RMWD. He added when MWD gets serious, a Water Shortage Allocation Plan will be issued to member agencies. He stated SDCWA is going to be considering their similar voluntary type of early-stage Level 1 type of restrictions, but that would also not include any allocation plan. He noted if the State were to start enforcing mandatory cutbacks, it may be possible to receive leniency for those agencies that have been proactive in both their ongoing conservation efforts as well as local supply development.

Motion:

To accept Option 1 – Make a finding that the action before the Board does not constitute a “project” as defined by CEQA, execute the Urban Water Shortage Contingency Plan and declare a level 1 water shortage scenario in response to the statewide state of emergency due to drought.

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.

Discussion went to Item #24.

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

Director Gasca said he was interested in attending the Global Trends, Challenges, and Solutions for the Water Industry virtual conference being hosted by American Academy of Environmental Engineers and Scientists on November 3, 2021. He noted the cost was \$40.00 for non-members. He will forward the details so Ms. Washburn can get him registered.

Motion:

To approve Director Gasca’s attendance at the virtual webinar.

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.

Discussion went to Item #25.

BOARD INFORMATION ITEMS

25. INFORMATION REGARDING STATE WATER AND WASTEWATER ARREARAGE PROGRAM

Ms. Largent explained this was a program for which RMWD was applying and how there was some back and forth about the qualifications process. She noted staff applied for what was in arrearage as of June 15, 2021; however, if the customer has since paid, then the amount would not count. She said the State has said that they expect RMWD as well as any other agency receiving funds will have to reimburse some of the funds received as part of this program. She stated when the State actually issues the funds, there will be a few customers who have paid during the time the official application is submitted on November 1, 2021. She pointed out it was originally thought the amount would be close to \$1.5 million but appears to be more in the area of \$1.2 million.

Ms. Largent stated since RMWD may have to reimburse some of the funds, the District may want to choose to request all the administrative fees and then reimburse whatever monies that cannot be justified. Discussion followed.

Discussion went to Item #25A.

25A. DISCUSSION REGARDING BOARD MEMBER APPOINTMENT PROCESS

Mr. Kennedy stated with Carl Rindfleisch's resignation from the Board the previous week, the Division 4 seat was now vacant. He noted per the Government Code, the Registrar of Voters has been notified and the required notices have been posted in three locations throughout Division 4. He pointed out RMWD must make an appointment within sixty days, or it will fall to the County Board of Supervisors. He noted the Board must make an appointment before December 19, 2021; therefore, this can be done at the regularly scheduled December 7, 2021, Board meeting or at a Special meeting mentioned held by the Board after the deadline for applications of November 15, 2021, expires. He mentioned Bill Stewart, committee member and former Board member, has expressed an interest in serving out the remainder of the term and that Mr. Rindfleisch has recommended Justin Lowler as being a potentially interested party.

Director Moss inquired as to why the Board could not make an appointment November 17, 2021, at a short Special Board meeting to take care of business before the December 7, 2021, Board meeting. She pointed out if an appointment is made, it would make attending the 2021 ACWA Fall Conference on November 30, 2021.

Director Gasca stated it would be imperative for any appointee to get up to speed as quickly as possible.

Bill Stewart stated he was flattered to have been asked to consider applying for the balance of this term. He stated in regard to the ACWA Conference, he found those to be very helpful in the past and would be interested in attending. He noted participating in the Communications and Customer Service Committee and receiving information on the other recurring committee meetings has helped keeping him abreast of what has been happening at RMWD.

President Hamilton said it may be best to schedule a Special Board meeting in November after the application deadline expires. Director Gasca recommended holding interviews at a Special Board meeting.

Director Gasca pointed out it was the responsibility of any interested parties to notify the Board of their interest.

Mr. Kennedy confirmed Ms. Washburn will work with the Board to coordinate a Special Board meeting in November solely for the purpose of interviewing and considering making a Division 4 Board appointment.

Discussion went to Item #26.

26. REDISTRICTING UPDATE

Mr. Kennedy introduced this item noting every ten years the law requires RMWD to reapportion its director divisions meeting stipulated key components.

Mr. Khattab shared a presentation titled "Redistricting with Census Data presentation" noting the current locations of RMWD's five divisions. He explained the goal was to balance out the population as much as possible; however, there were challenges due to the voter precincts not matching RMWD's current divisions. He summarized and reviewed each of the steps taken.

Director Gasca inquired as to whether the maps presented were showing voter precincts or property and parcels. Mr. Kennedy confirmed they were voter precincts. Discussion followed.

Mr. Kennedy noted this item was informational and that copies of the maps are available for anyone interested. He encouraged the Board Members to review the information provided and notify staff of any proposed changes to be presented to the respective committees. He added if there are no changes, this matter will be brought back to the Board on December 7th for consideration at which time backup documentation will be provided.

Discussion ensued.

Mr. Khattab announced the submission date was May 5, 2022. Mr. Kennedy encouraged the Board to provide any feedback and proposed revisions as soon as possible.

Discussion continued.

Discussion went to Item #27.

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

A. General Manager Comments

1. Meetings, Conferences and Seminar Calendar

B. Communications

1. Staff Training Report - Largent

C. Operations Comments

1. Operations Report

D. Engineering Comments

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

- E. Human Resource & Safety Comments**
 - 1. Human Resources Report
 - 2. Organizational Chart
- F. 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

Ms. Harp announced at the December 14th North County Fire Protection Board Meeting, two RMWD employees will be recognized for stopping on their way back to the District offices to assist with putting out a house fire on Rainbow Heights Road. She stated this event will take place at 4:00 p.m. at the Fallbrook Public Utilities offices and both staff members will receive a Challenge Coin from the fire district.

The information and financial items were received and filed.

Discussion went to Item #28.

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

It was noted an amendment to Administrative Code Section 2.03.010.02, appointment of the Division 4 Director, acceptance of the audit, a redistricting update, as well as a series of items related to the Board appointment.

Discussion went to Item #29.

29. ADJOURNMENT

The meeting was adjourned by President Hamilton to a regular meeting on December 7, 2021, at 1:00 p.m.

The meeting was adjourned at 3:24 p.m.

Hayden Hamilton, Board President

Dawn M. Washburn, Board Secretary