

**MINUTES OF THE REGULAR BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
RAINBOW MUNICIPAL WATER DISTRICT
JANUARY 22, 2013**

Discussion went to Item #2.

1. SWEARING IN CEREMONY OF NEW DIRECTORS

Director Jack Griffiths

- 2. CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on January 22, 2013 was called to order by President McManigle at 12:01 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President McManigle presiding.

3. ROLL CALL:

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

Absent: None

Also Present: Finance Manager Buckley
Human Resources & Safety Manager Bush
Assistant General Manager/District Engineer Lee
General Manager Seymour
Executive Assistant/Board Secretary Washburn
Legal Counsel Moser
Water Operations & Customer Service Manager Atilano
Superintendent Maccarrone
Superintendent Miller
Superintendent Walker
Supervisor Zuniga
Senior Accountant Thomas

No members of the public were present before Open Session. Seven members of the public were present for Open Session.

Discussion went to Item #1.

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

There were no changes to the agenda.

(*) - Asterisk indicates a report is attached.

**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 none.

The meeting adjourned to Closed Session at 12:04 p.m.

Time: 12:04 p.m.

6. CLOSED SESSION

- A.** Appointment; Employment; Evaluation of Performance – General Manager (Government Code §54957)
- B.** Conference with Labor Negotiators (Government Code §54957.6 and §54957)

Agency Designated Representatives

Dave Seymour

Discussions regarding labor negotiations for:

Rainbow Employee Association
Rainbow Association of Supervisor and Confidential Employees
Rainbow Exempt Employees

7. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

This was addressed under Item #8 herein.

The meeting reconvened at 1:03 p.m.

Time Certain: 1:00 p.m.

8. PLEDGE OF ALLEGIANCE

9. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION

President McManigle stated there was no reportable action out of Closed Session.

President McManigle reported Director Griffiths was sworn in prior to Closed Session.

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

President McManigle stated there have been no additions, deletions or amendments to the agenda.

(*) - Asterisk indicates a report is attached.

**11. 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).**

Mrs. Maggie Tiehen introduced herself as well as her husband, Tom, to the Board of Directors. She noted they were cattle ranchers from Nebraska who are retired and live in the district. She stated they have been trying to get information related to the potential construction of the treatment plant across from her property to no avail.

Director Lucy asked where she lived in order for the Board to better understand what project Mrs. Tiehen was referring to. Mrs. Tiehen said RMWD was planning a treatment plant right up on the hill near the District offices. Director Sanford asked what treatment plant. Mrs. Tiehen claimed the District Engineer informed them the District's intention was to build a treatment plant on the land acquired next one of its reservoirs. Mrs. Tiehen noted although she may not be calling it the right thing, it was RMWD's intentions to build directly across from her property and have in fact acquired the property and have in fact started down the road.

Mrs. Tiehen claimed none of the neighbors are aware of what RMWD was doing and they are all concerned. She stated she apparently would be the spokesman for now until they find out as much information as they possibly can. She explained in Nebraska when the cattle ranchers get together they do so in a group and decide what was good for everybody and one does not go off and do something on their own. She reiterated they were here very specifically because they are not going to feel good about something being built directly across from their property and obviously diminishing the value of everyone's residential home on the hill.

Mrs. Tiehen restated they were here to gather information and then obviously to make a decision as to what course of action they will have to take.

Mr. Tiehen asked why RMWD cannot have the facility exactly where the present facility was located. President McManigle asked to what facility was he referring. Mr. Tiehen said rather than utilize the property directly across the street from their home for whatever type of facility, why not add it to the currently facility already in existence.

Mr. Seymour attempted to explain to Mr. and Mrs. Tiehen that RMWD does not currently have any plans to build at the site in question. He said the District has a concept that it would like to build a ultra-violet disinfection system on the property. He noted it would not be a conventional treatment plant with big tanks, but basically a building in which the system would be contained. He stated this was the only thing the Board has talked about at this point; therefore, there are no construction plans and/or permits. He explained this was just a "pipe dream" more or less at this stage; however, when the property became available for a good price RMWD bought it just in case the District decided to move forward with these plans at some point in the future. He pointed out RMWD does not have the funding for it, it was not something that was going to happen today or tomorrow, and if it were to be built it would not be for years down the road.

Mrs. Tiehen inquired as to where RMWD got the funding to acquire the land. Mr. Seymour answered the District has reserves in its water funds. Mrs. Tiehen claimed it was the District's intention to build a facility on that property regardless of how long it takes. Mr. Seymour reiterated it was staff's recommendation at this point; however, the Board of Directors has not voted on it.

Mr. Seymour pointed out if a facility were built on the property, it would not be a big treatment plant with smoke stacks, etc. when in fact it will be something contained in a building about the size of a big barn. He said whatever RMWD decides to build the District will make sure that it is esthetically pleasing, not noisy, and better than having an empty lot. Mrs. Tiehen stressed it was not going to happen. Mr. Seymour stated if the Board decides to move forward, RMWD will have public outreach. Mrs. Tiehen said public outreach has started today. Mr. Seymour stressed the District has not even planned to do anything yet. Mrs. Tiehen stated based on the fact RMWD has acquired the land and for the District to acquire such is the first step; therefore, there was no point in anyone lying to each other. She reiterated by RMWD purchasing the land, the plan was already underway. She said with her and her husband being directly affected by this matter, they will also develop a plan. Mr. Seymour acknowledged Mrs. Tiehen's comment as he reiterated the District has no plan to build today nor were there building plans to offer.

Mrs. Tiehen asked how much RMWD paid for the land. Mr. Lee said he would have to go back and look. Mr. Seymour stated it was approximately \$300,000. Mrs. Tiehen asked when the land was actually purchased by RMWD. Mr. Lee answered late 2011 to early 2012. Mrs. Tiehen inquired as to whether or not there has been any movement on the project other than acquiring the land. Mr. Lee noted RMWD has done basic studies on UV filtration; however, that was done in conjunction with a number of the reservoirs, not anything specific to this property.

Mrs. Tiehen pointed out RMWD's legal counsel was present and how they will obviously have to hire counsel. She reaffirmed it was her understanding RMWD has acquired the land and has an intention (whether short or long term) to put a "barn-like" facility across from their multi-million dollar home. She stressed this was never going to happen. She stated she has a legal background and assured every single neighbor in all of Vern, Calle Terrinaro, Citrus and anybody that will be affected by this construction on that street will be at the next RMWD Board meeting.

President McManigle pointed out the public is always welcome to attend any RMWD Board meeting. He added he does not understand where Mrs. Tiehen thinks she was getting her information. Mrs. Tiehen claimed from Mr. Seymour's comments. President McManigle clarified Mr. Seymour did not say that was for certain. Mrs. Tiehen recapped Mr. Seymour's comments and again stressed it was never going to happen.

Director Griffiths noted the Board of Directors has not wanted to do anything with this reservoir; however, the law came along and demanded that something be done in the form of treatment. Mrs. Tiehen said then the District will have to do that something somewhere else. Mr. Seymour stated and RMWD may; however, nothing was set in concrete.

Mrs. Tiehen acknowledged RMWD has a very big problem; however, that problem was not going to be fixed on their street.

Director Griffiths suggested Mrs. Tiehen ask FPUD for a visit of their Red Mountain Reservoir which may calm her fears of what RMWD may or may not do.

Mrs. Tiehen thanked the Board Members for their time and noted they, their neighbors, and their legal counsel at the next RMWD Board meeting.

Mr. Tiehen asked for clarification as to whether the Board had a concept as to what the treatment facility may look like. President McManigle stated they do not. Director Griffiths stated only something possibly similar to what FPUD has in place right now.

Mrs. Tiehen told the Board of Directors the District was in so much trouble. She claimed they have had two years of “behind closed doors” discussions and now they were going to have the press, lawyers, half of Fallbrook, etc. at upcoming Board meetings. She asked the Board whether or not they were getting a little tired of lawsuits. She charged RMWD was in debt, has lawsuits, a mess on its hands including sexual harassment in the last couple of years. She stated this information came from her lawyer. The Board stated they looked forward to meeting her attorney and Mrs. Tiehen stated he looked forward to meeting the Board as well.

Mrs. Tiehen concluded by stating they needed the minutes from the last two years of the “behind closed doors” meetings. It was noted there were no such minutes.

***12. APPROVAL OF MINUTES**

A. November 20, 2012 - Regular Board Meeting

Action:

Moved by Director Sanford to approve the minutes as written. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

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

NOES: None.

ABSTAINED: None.

ABSENT: None.

13. BOARD OF DIRECTORS’ COMMENTS/REPORTS

Directors’ comments are comments by Directors concerning District business, which may be of interest to the Board. This is placed on the agenda to enable individual Board members to convey information to the Board and to the public. There is to be no discussion or action taken by the Board of Directors unless the item is noticed as part of the meeting agenda.

A. President’s Report (Director McManigle)

President McManigle said he had nothing to report.

B. Representative Report (Appointed Representative)

1. SDCWA

Director Sanford reported it was unknown to him that although RMWD appointed Mr. Arant to serve as the proxy in the absence of the RMWD representative there was some administrative processes that did not take place which ultimately prevented RMWD from voting on the desalination project. He pointed out SDCWA’s counsel was looking into possibly changing their current policy on this matter.

2. CSDA

President McManigle said he had nothing to report.

(*) - Asterisk indicates a report is attached.

3. LAFCO

No report was given.

4. San Luis Rey Watershed Council

Director Brazier noted there was no Council meeting since the last RMWD Board met. She told the Board the schedule conflict she initially had with attending the Council meetings has since changed; therefore, she will continue to serve as the RMWD representative at the Board's pleasure.

5. Santa Margarita Watershed Council

Director Sanford reported at the last meeting there was discussion regarding future funding and how it will be paid for whether it is through participants in the watershed council or some other way.

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

Mr. Seymour pointed out he had emailed everyone a copy of the Taxpayers' Association Report regarding directors compensation which will probably be published in the newspapers in the near future. He noted RMWD was actually the lowest over the past few years.

D. Directors Comments

Director Sanford inquired about all the minutes being available to the public on the District website. It was noted the minutes requested in the Public Comment period of this meeting were available on the website; however, the request was for Closed Session minutes which do not exist.

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

A. Budget and Finance Committee

1. November 1, 2012 Minutes
2. December 4, 2012 Minutes

Mr. Carlstrom talked about the five-year forecast spreadsheet prepared for sewer service which became the basis for the rate reductions RMWD put in place. He mentioned there was some discussion on a previous committee meeting to the effect that RMWD was expecting increased charges to come in from the City of Oceanside; therefore, the committee updated the sewer spreadsheet accordingly to see how this may impact the district. He announced the City of Oceanside actually decreased their costs which were in fact incorporated into the spreadsheet.

Mr. Carlstrom also noted the committee acknowledged the new connections would not be revenue generated; therefore, no new revenue for new connections were put in the presented forecast period. He pointed out all identified Capital Improvements Projects are in the forecast. He noted with these two conservative assumptions there was still a positive cash flow in the water reserves through June 2018. He concluded by noting the committee voted and recommends that when considering setting the rates the Board carry through the present rates on sewers unless or until RMWD gets any new information that tells them to do something different.

(*) - Asterisk indicates a report is attached.

- B. Communications Committee**
1. November 5, 2012 Minutes

Kelly Bednarski introduced herself to the Board of Directors. She reported the committee talked at their last meeting about putting a list of topics together to assist Mr. Seymour and Mr. Lee with the newsletter and "Communicator" which they will be doing at the February 4th meeting.

- C. Engineering Committee**

Mr. Lee reported the Engineering Committee was dark in December and January.

***15. CONSENT CALENDAR**

(The consent calendar items are matters voted on together by a single motion unless separate action is requested by a Board member, staff or member of the audience.)

A. DISCUSSION AND POSSIBLE ACTION TO APPOINT BUDGET AND FINANCE COMMITTEE MEMBERS

Action:

Moved by Director Lucy to approve the appointment of Peter Hensley and Randy Ross as members of the Budget and Finance Committee. Seconded by Director Sanford.

After consideration, the motion CARRIED by the following vote:

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

NOES: None.

ABSTAINED: None.

ABSENT: None.

BOARD ACTION ITEMS

16. DISCUSSION AND POSSIBLE APPOINTMENT OF BOARD OFFICERS AND REPRESENTATIVES

Mr. Seymour pointed out the RMWD Administrative Code requires the appointments be done each odd year although it does not necessarily mean the positions cannot be held by the same people.

Action:

Moved by Director Sanford to keep the slate of officers and representatives that was in place for 2012. Seconded by Director Lucy.

(*) - Asterisk indicates a report is attached.

After consideration, the motion CARRIED by the following vote:

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

***17. DISCUSSION AND POSSIBLE ACTION TO ADOPT ORDINANCE 13-01 AMENDING AND UPDATING RMWD ADMINISTRATIVE CODE SECTION 3.01.010-REGULAR MEETINGS (REQUESTED BY: PRESIDENT MCMANIGLE)**

President McManigle explained his reason for this request and proposed the Board schedule its last meeting for the third Tuesday in November rather than the first Tuesday in December.

Director Griffiths said he preferred holding a meeting in December. President McManigle stated the Board could always call for a special meeting in December if necessary.

Action:

Moved by Director Brazier to adopt Ordinance 13-01. Seconded by Director Lucy.

After consideration, the motion carried by the following vote:

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

***18. DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF CHANGE ORDER FOR HIGHWAY 76 EAST SEGMENT REALIGNMENT DESIGN**

Mr. Lee explained how it has been difficult to try to get an alignment nailed down with Caltrans. He noted the changes being proposed requires a change order for the design contract with Tetra Tech which will hopefully finalize the alignment of RMWD's sewer system in the Caltrans right-of-way for centuries to come.

Director Griffiths asked if the changes were for actual work or plans for work. Mr. Lee clarified it was plans for work to be done. Discussion followed regarding various aspects of the plans.

Mr. Lee confirmed RMWD could always negotiate downward if necessary.

Action:

Moved by Director Griffiths to approve the change order for Highway 76 East Segment Realignment design. Seconded by Director Sanford.

After consideration, the motion CARRIED by the following vote:

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

19. DISCUSSION AND POSSIBLE ACTION REGARDING RMWD AND FPUD JPA/CONSOLIDATION

Mr. Seymour noted there were no employee comments for this meeting; therefore, he suggested moving to Item #20 due to the fact the two agenda items were basically the same.

***20. DISCUSSION AND POSSIBLE ACTION REGARDING NORTH COUNTY JOINT POWERS AUTHORITY JOINT EXERCISE OF POWER AGREEMENT**

Mr. Seymour pointed out how at the November meeting, the Board directed staff to work with FPUD to come up with a draft JPA Agreement the Board could then make comments on in order to prepare a final document ready for the next meeting for Board consideration. He said he was aware there may numerous questions and comments; therefore, he was unsure if this could be done in one meeting or not.

Director Brazier asked permission to make a statement. She mentioned how she spends a great deal of her time in and out of Fallbrook and how she hears she is an obstructionist. She said she would like to address that and to say where she stands and why. She pointed out this may be the last opportunity she will have to say that.

Director Brazier stated as far as she was concerned she has obstructed nothing. She said she did not believe anyone in the room could question her long term interest in the success of RMWD. She noted when the process of looking into the options for going forward started, she was totally open minded and her view was "wait and see". She said she waited, did not see much and she still has a lot of questions. She stressed to this day there were numerous questions that needed to be answered and she has yet to see any credible answers or crucial issues address that ought to be addressed. She noted her number one question (in the performance of due diligence) was this in the best interest of RMWD, its ratepayers and employees? She stated nothing she has seen so far convinces her that this was right for RMWD.

Director Brazier talked about the corrosive effects of the fears and uncertainties of this past year have become visible among employees. She assured everyone this was based solely on her observations of turf being guarded, power being grabbed, and comity being greatly damaged. She pointed out these were not good signs for maintaining a productive and cooperative workforce, a workforce she believes has been a large part of what has enabled RMWD to move forward.

Director Brazier pointed out the governance issue has not been discussed as well as how it will be decided who will be the general manager for the JPA, as well as what implications are for RMWD. She noted FPUD's Directors have made it very clear the things they think are in their best interest including RMWD's yard as well as selling their recycled water to RMWD customers or possibly storing it in Beck Reservoir. She stressed RMWD has just put a great deal of money into getting the safety of Beck approved with the dam people.

Director Brazier continued to note the major justification for the change in the district's situation has been finances and saving of money. She said she quite frankly has not seen anything that this was the case. She noted RMWD has spent a great deal of money exploring this with the general manager's salary for most of the year, bumping up other employees to take over responsibilities has its costs, legal fees, consultant fees, and other fees which puts RMWD in the hole. She stressed it would take some time to recoup the money already spent exploring this idea as noted in the JPA table.

Director Brazier said she has questions about the JPA table including how it was arrived at as well as what will be the actual savings. She also expressed concern because RMWD was entering into a period of expansion and how any business entering expansion would cut critical employees. She stated she was not convinced about where and how many employees could be cut at what savings. She added there has not been any offering of what the JPA itself will cost.

Director Brazier acknowledged the Board Members were all business people and how she had hoped during the course of this investigation to hear them raise some of the same questions as if their own business was undergoing this type of thing. She stressed there were still a lot of things unanswered for her and how although she was not a business person at this point she would not buy a dishwasher based on the available information she has to support the change to RMWD's situation.

Director Brazier referred back to the comments about her being an obstructionist. She said if expressing a different opinion from that held by the majority of your colleagues is obstructionism, then she pleads guilty. She stated if this was a local prevailing opinion, no pun intended, there must be something in the water. She talked about a recent situation she experienced where attitude was destructive to a relationship. She stated if this Board wants a cheering squad without any dissenting opinions she was sure they would find their way to work a way around to it; however, if this was not the case what she sees is what she says and that is what they get and if its consider as an obstructionist then so be it. She concluded with noting she has a lot of concerns, she was not standing in the way, she has not stood in the way, and how she will make her votes as she sees fit to do so because that was what she owes the people in Division 1 and she wanted it out on the table.

Director Sanford told Director Brazier that he thinks her input was very valuable and if other people consider her an obstructionist that was their problem. He stressed he values her dissenting opinions when she has them due to the fact if everyone was a "yes" person you are probably going to end up making a bad decision. He stated by someone to say "have you thought about this or I do not think so because of that" was helpful to his thought process. He encouraged Director Brazier to keep asking those "dissenting" or "obstructionist" questions as people might perceive them.

President McManigle concurred with Director Sanford's comments. He said he has not perceived anyone on this Board to have considered Director Brazier's comments as obstructive and he was surprised. Director Brazier clarified this was what she was receiving from the Fallbrook community; therefore, she felt she had to address it with the Board because it was out there.

Director Lucy said he has encouraged Director Brazier to speak up and get going.

Director Griffiths asked whether or not Director Brazier's notes would be read into the minutes. It was confirmed they would be noted in the minutes.

Director Lucy told Director Brazier he thought this was a hard forum for the Board to get to where she wanted them to go. He noted there were some Budget and Finance Committee members that wanted to look closer into some things also and it may be necessary to have a workshop. He stated although he was very comfortable with the presentation Mr. Seymour and Dr. Brady gave the Board and voted yes to move forward, he understood Director Brazier's concerns and wanted to make sure they are heard. He proposed the Board hold some kind of Saturday morning or some session where the Board sits around with the Fallbrook Board and really put this stuff on the table and get it addressed.

Director Sanford stated now that there was a draft of the bylaws, it enables him to start asking the kinds of questions being referenced. He pointed out some of the types of things he would like addressed including the governance.

Director Lucy reiterated the type of forum he would like to see, especially when some of this stuff was very unfamiliar to all of the Board Members. He again proposed the Board hold some type of joint meeting and get Director Brazier as well as everyone else more informed. Director Brazier stressed she has been saying she cannot make a decision based on the information provided to her.

Director Sanford said given some of the items on the agenda that probably need to be addressed would it be best to review the draft agreement today or schedule a Special Board Meeting or workshop. He stated he would like to have a specific meeting for this single item on the agenda would make him feel better.

Action:

Moved by Director Sanford the Board hold a Special Meeting with one single agenda item addressing the proposed JPA and that the meeting be in conjunction with the FPUD Board of Directors during the month of February with a workshop setting. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

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

NOES: None.

ABSTAINED: None.

ABSENT: None.

Ms. Rhyne said she would like to see the Board hold a workshop due to the fact it would be less formal and allow for items to be addressed even after the fact prior to a vote being taken.

Director Lucy said something has to be done due to the fact Director Brazier has finally come out and stated she was frustrated with this process and this setting. Director Brazier clarified the only discussion she has had about this whole consolidation issue outside of this Board room has been with Director Lucy at which time she expressed her same feelings she presented to the entire Board today.

Director Sanford pointed out the Board had the ability to expand the three minute limit on public comment to unlimited at the workshop.

Director Griffiths recommended the meeting be in a workshop setting. This amendment to the motion was accepted by both Directors Sanford and Lucy.

Director Lucy encouraged employees from both organizations be allowed the time to come to the meeting. He pointed out he was only suggesting a Saturday; however, it could be at any time. Director Sanford stated he was not setting a date or time just that it be done in the month of February.

21. DISCUSSION AND POSSIBLE ACTION REGARDING VACANT POSITIONS WITHIN THE ORGANIZATION (REQUESTED BY: DIRECTOR GRIFFITHS)

Director Griffiths suggested there was no protection from employees being added to the organizational chart without any type of restriction. He recommended any positions not on the present organizational chart be defunded. He said this would not prevent the district from obtaining additional employees, but new staff members would need to be authorized by the Board of Directors prior to hiring.

Director Sanford said he was not arguing for or against Director Griffiths' suggestion; however, he asked that perhaps it would be better to delay this specific discussion given some of the changes that are happening including the JPA.

Director Brazier pointed out the matter of hiring and firing employees was within the jurisdiction of the General Manager according to the RMWD Administrative Code. Director Griffiths suggested the Administrative Code be changed in that the General Manager should justify the need for additional employees with the Board.

Director Sanford reiterated this may be better discussed after the JPA due to the fact it may be an easier argument to make to defund some positions if it is shown there are some excess employees between the two organizations. He said right now he was uncomfortable defunding anything due to the fact the Board did not know what will happen.

Action:

Moved by Director Sanford to reject the proposal as submitted. Seconded by Director McManigle.

After consideration, the motion carried by the following vote:

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

INFORMATION ITEMS

***22. LEGAL UPDATE ON 2013 RALPH M. BROWN ACT CHANGES**

Legal Counsel referred to the memorandum provided in the agenda packet as he explained the potentially significant recent change to the Brown Act. He said up until this change if someone thought a Director violated the Brown Act in the last 60-90 days, they could send that individual a letter saying fix this or you will be sued. He pointed out last year the legislature stated if the claim was beyond the 90 days and someone thought a Director has a pattern of doing things that violate the Brown Act they can send a cease and desist letter. He explained if the Board Member does not agree in a public setting in a particular way to stop doing the kind of activity that violates the Brown Act, then they can be sued for not ceasing and desisting that alleged unlawful practice and the complainant will be able to go back ninety days.

Legal Counsel noted it was interesting that within 60-90 days the complainant can actually sue to set aside your alleged unlawful action, but with this new change prevents the complainant from suing to set aside anything.

There was no action taken.

***23. LEGAL UPDATE ON NEW ATTORNEY GENERAL OPINION ON VOTING AT SAN DIEGO COUNTY WATER AUTHORITY**

Legal Counsel noted this came out in late December. He said he wanted to make sure the entire Board had seen this due to the fact it was the California Attorney General Opinion on the San Diego Water Authority Act. He explained apparently there was a split of views at the San Diego County Water Authority in regards to when a Director who also is a Board Member of a member agency can vote of something that comes before San Diego County Water Authority, specifically a contract. He pointed out in dealing with other conflict of interest laws, sometimes Directors are not only prohibited from voting on a contract, but they cannot participate in the discussion or anything related to that thing from which they are disqualified from voting on. He stated the question the Attorney General answered was does the same rule apply to this SDCWA rule that if you are a Director of the district are you allowed to vote on a contract between your agency and SDCWA or even participate in the discussion. He concluded with noting the Attorney General stated the statute says what it means and that was all that was precluded and the Director may discuss a contract between their agency and SDCWA.

Director Brazier asked for clarification that if there came a time when RMWD had a contract issue with SDCWA, Director Sanford could discuss it but could not vote on it at the SDCWA. Legal Counsel confirmed this was the case.

Director Sanford said with all the agencies having a representative on the SDCWA Board there are a number of agencies that have direct or indirect contracts with SDCWA. Legal Counsel clarified it was just about direct contracts.

(*) - Asterisk indicates a report is attached.

Legal Counsel pointed out the Attorney General did not address proxies; therefore, he did not see why a proxy could not vote on an issue on behalf of a Director. He stated this will probably need to be addressed in the future. Mr. Seymour pointed out he could not remember the last time RMWD had a director contract with SDCWA.

Discussion ensued.

There was no action taken.

***24. RECEIVE AND FILE INFORMATION ITEMS FOR NOVEMBER AND DECEMBER 2012**

A. General Manager Comments

1. Meetings, Conferences and Seminar Calendar

B. Construction & Maintenance Comments

1. Construction and Maintenance Report (November)
2. Construction and Maintenance Report (December)
3. Valve Maintenance Report (November)
4. Valve Maintenance Report (December)
5. Garage/Shop Repair (November)
6. Garage/Shop Repair (December)

C. Engineering & Wastewater Comments

1. Engineering Report (November)
2. Engineering Report (December)
3. Wastewater Report (November)
4. Wastewater Report (December)

D. Customer Service & Water Operations Comments

1. Water Operations Report (November)
2. Water Operations Report (December)
3. Electrical/Telemetry Report (November)
4. Electrical/Telemetry Report (December)
5. Water Quality Report (November)
6. Water Quality Report (December)
7. Field Customer Service Report (November)
8. Field Customer Service Report (December)
9. Meters Report (November)
10. Meters Report (December)
11. Cross Connection Control Program Report (November)
12. Cross Connection Control Program Report (December)

E. Human Resource & Safety Comments

1. Safety Report (November and December)

Action:

Moved by Director Brazier to receive and file information items for November and December. Seconded by Director Sanford.

After consideration, the motion CARRIED by the following vote:

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

Discussion ensued regarding the current SDCWA shutdown and whether or not it has seriously impacted RMWD. Mr. Seymour noted it has cost RMWD a little more than \$20,000 in fuel to run the pumps during this shutdown. Mr. Atilano added RMWD was recently notified of two more SDCWA shutdowns scheduled to take place in February. Mr. Maccarrone told the Board staff has worked around the clock to ensure the customers have had water throughout the shutdown.

Mr. Maccarrone said he would provide the Board with the new 2013-2014 Valve Maintenance Schedule at the next Board meeting.

Discussion ensued regarding the few reports made regarding frozen pipelines.

Discussion ensued regarding minor repairs being made at Lift Station #2.

Director Griffiths made an inquiry on Item #24C2-1. Mr. Lee stated the contractor was Gateway Pacific.

Director Griffiths asked a question and commented on Item #24C2-2. It was confirmed the design standards would be for the new EDU rates. Discussion ensued regarding the Passerelle development being referred to as Campus Park from this point forward due to an ownership change. It was noted the schedule has been accelerated; therefore, RWMD needs to get moving on some things.

Mr. Miller reported half of the RMWD sewer has been cleaned and some manholes were replaced.

Director Griffiths referenced Item #24D5 when he made an inquiry on the numbers provided. Mr. Atilano provided a response.

It was noted there have been no problems with the reservoir covers to date. Discussion followed.

Director Sanford excused himself from the meeting at 2:33 p.m.

Director Griffiths asked about the report on 48-hour notices referenced in Items #24D7 and #24D8.

***25. RECEIVE AND FILE FINANCIAL STATEMENTS AND INFORMATION FOR NOVEMBER AND DECEMBER 2012**

A. Finance Manager Comments

1. Interim Financial Statement
2. Monthly Investment Report
3. Visa Breakdown (November Only)

(*) - Asterisk indicates a report is attached.

4. Directors' Expense
5. Check Register
6. Water Purchases & Sales Summary
7. Statistical Summary
8. Metropolitan IAWP Reduction Programs
9. San Diego County Water Authority SAWR Reduction Program
10. RMWD Domestic Reduction Program
11. Projected CIP Cash Flow Report
12. RMWD Sewer Equivalent Dwelling Units (EDU's) Status
13. Budget Calendar FY 2013/14
14. Five-Year Cash Forecast

Action:

Moved by Director Brazier to receive and file financial statements and information for November and December. Seconded by Director Lucy.

After consideration, the motion CARRIED by the following vote:

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

NOES: None.

ABSTAINED: None.

ABSENT: None.

Mr. Buckley reported December's rain cut into the water sales. He also talked about a recent positive return on investments for the first time in probably three years.

Director Griffiths made inquiries on Item #25A5.

Director Sanford rejoined the meeting at 2:41 p.m.

Director Griffiths asked for project numbers on certain checks.

Director Lucy asked why avocado trees needed to be removed for \$20,000. Mr. Lee noted due to the wild fires the grove on Citrus Drive the trees needed to be removed. Mr. Seymour pointed out this tree removal service was done at the request of Mr. and Mrs. Tiehen and their neighbors.

Director Griffiths continued to make inquiries on Item #25A5.

President McManigle inquired about the checks written for ITRON.

Director Sanford asked where the reimbursements from past directors for health benefits shows in the check register. Mr. Buckley pointed out it would show as a miscellaneous receivables.

Director Sanford inquired about the ongoing computer problems RMWD was experiencing. Discussion ensued.

Director Griffiths made additional inquiries on Item #25A5.

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

Director Sanford requested an item regarding possibly acquiring electronic devices for the Directors to use in terms of agenda packets as opposed to using hard copies and whether or not it would be a savings to RMWD. Mr. Seymour stated staff would look into what the other agencies are doing and then bring something back in the future for Board consideration since it may take longer than a month to gather the information.

Discussion ensued regarding dates for the Special Board meeting. Director Lucy suggested it be on a Saturday; however, he was open to doing it any time including in the evening. It was decided it should be held prior to the next RMWD Board meeting.

27. ADJOURNMENT - To Tuesday, February 26, 2013 at 1:00 p.m.

Action:

Moved by Director Sanford to adjourn. Seconded by President McManigle.

After consideration, the motion CARRIED by the following vote:

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

The meeting was adjourned at 3:05 p.m.

George McManigle, Board President

Dawn M. Washburn, Board Secretary

(*) - Asterisk indicates a report is attached.