

**MINUTES OF THE REGULAR BOARD MEETING  
OF THE BOARD OF DIRECTORS OF THE  
RAINBOW MUNICIPAL WATER DISTRICT  
AUGUST 27, 2019**

1. **CALL TO ORDER** - The Regular Meeting of the Board of Directors of the Rainbow Municipal Water District on August 27, 2019 was called to order by President Brazier at 12:02 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President Brazier presiding.

2. **ROLL CALL**

**Present:** Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.

**Also Present:** General Manager Kennedy, Legal Counsel Smith, Executive Assistant Washburn, Administrative Analyst Gray, District Engineer Strapac, Operations Manager Gutierrez, Finance Manager Largent, Human Resources Manager Harp, Associate Engineer Powers.

**Absent:** Director Gasca.

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

Discussion went to Item #4.

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

President Brazier noted Item #32 will be discussed between Items #16 and #17.

She inquired about Item #17 in that it appears to be planned and studied to double or triple the cost of a project without Board discussion which possibly violates Administrative Code provisions. She requested this item to be delayed until the September Board meeting if possible. Mr. Kennedy explained this was an item discussed in Closed Session previously after which time he and Legal Counsel regarding whether it should be discussed in Closed or Open Session prior to presenting this matter to the Board in Open Session at this meeting. He noted this was not an as-needed service, but rather related to the hydraulic analysis required for evaluation. He stated he understood the concerns and agreed it could be discussed at the September Board meeting; however, he stated there was certainly no intention to shield anything from the Board or violate the Administrative Code especially when the Board granted authority in a previous Closed Session to move forward with the hydraulic analysis. He pointed out a separate contract could have been issued to complete the work under his authority provided in the Administrative Code, but instead he chose to use this contract since it had already been signed by the parties involved, including Legal Counsel, and it had all the indemnity clauses, insurance, etc. already in place. He noted it was determined bringing this to the Board was the more open and transparent than the minimum standards provided with no intention of shielding anything from the Board.

Director Hamilton asked what the purpose would be for delaying this item. President Brazier stated possibly to gain more information. Director Hayden said if nothing is going to change between today and in one month from now, then why the delay. He stated if there was a legitimate reason to investigate the matter further, he would support deferring this item to September.

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

President Brazier said due to what occurred at the last meeting, she may have been quick to request delaying this item. Director Hamilton agreed the change order discussed at the August meeting was totally inappropriate; however, this item was a continuation of an existing contract being presented in a relatively timely manner.

President Brazier withdrew her request.

Discussion returned to Item #3.

**4. 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 12:09 p.m.*

**5. CLOSED SESSION**

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

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

*The meeting reconvened at 1:34 p.m.*

**6. REPORT ON POTENTIAL ACTION FROM CLOSED SESSION**

This item was addressed under Item #8.

Time Certain: 1:00 p.m.

**7. PLEDGE OF ALLEGIANCE**

**8. REPEAT REPORT ON POTENTIAL ACTION FROM CLOSED SESSION**

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

Discussion went to Item #10.

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

It was noted Item #32 would be discussed after Item #16.

Discussion went to Item #11.

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

**10. 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).**

Susan Trump addressed the Board on the letter published in the newspaper regarding fluoride in the water. She expressed concern the FDA classifies fluoride as an unapproved new drug that is being added to our water. She talked on the points provided in her handout. She asked the Board to reconsider what is being done to younger generations and how they are being affected.

Discussion returned to Item #9.

**11. EMPLOYEE RECOGNITIONS**  
**A. Tom Kennedy (5 Years)**

President Brazier noted five years ago at this meeting she was the only Board Member present when Mr. Kennedy was hired. She said she was happy to be able to present him with a five year plaque and check in recognition of all the really good things he has accomplished.

**B. Dawn Washburn (15 Years)**

Mr. Kennedy stated Ms. Washburn has been the RMWD Executive Secretary for the past fifteen years noting the many hats the positions wears and how he relies heavily on her in his scheduling as well as ensuring all meeting agendas are posted in a timely manner. He presented her with a plaque and check in recognition of her tenure.

Discussion went to Item #12.

**\*12. APPROVAL OF MINUTES**

**A. July 23, 2019 - Regular Board Meeting**

***Motion:***

***Approve the minutes as stated.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Mack.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca***

Discussion went to Item #13.

**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.

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

**A. President's Report (President Brazier)**

President Brazier noted five years ago today, the Board selected a new General Manager. She stated the Board at that time gave the General Manager one clear instruction to contact the Lessee of the old Bonsall Reservoir and inform the Lessee the RMWD Board wanted to raise the lease rate. She explained the 6+ acres were leased on an annual basis for \$125 per month which was honored year after year since. She said when the new General Manager was hired, she began speaking out again making requests for updates at each meeting she attended followed with a request to find out the lease and sale value of all the District's properties. She noted the sale values were provided; however, the lease value for the Bonsall Reservoir was not forthcoming.

President Brazier mentioned a letter she recently received from the County Planning and Development Land Use Department notifying her that because she resided adjacent to the property owned by the Lessee, they were seeking her comments on a request for a discretionary permit the Lessee was requesting. She pointed out fifteen years after the fact, the Lessee was looking to have a portion of his property approved for agricultural use and how the acreage matched the same size as the Bonsall Reservoir RMWD had begun leasing to the Lessee in 2003. She stated this raised some questions; therefore, she contacted the County as well as RMWD for additional information. She said she was flabbergasted to find in the information provided by RMWD that the General Manager had extended the Bonsall Reservoir lease for five more years at the same \$125 per month; something not disclosed to the Board. She explained before she decided to say anything, she spent a great deal of time over the past month going through agendas and minutes in which Bonsall Reservoir was mentioned and found the lease extension had never been disclosed. She mentioned when she attended the August Budget and Finance Committee, the General Manager stated he was negotiating for the sale of the reservoir. She pointed out the Board is elected by the ratepayers to look after the District properties, real and otherwise, as well as its financials situations. She recalled when the General Manager was hired, the Board was assured they would be updated and kept informed on this matter which did not happen. She requested an agenda item for the October Board meeting to include a report from the staff on what has transpired, the current status, and what can be done going forward regarding the Bonsall Reservoir lease matter.

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

**1. SDCWA**

**A. Summary of Board Meeting July 25, 2019**

Mr. Kennedy noted he and Mr. Bebee were excluded from the Closed Session matter of anticipated litigation at the July meeting at which time they certainly made it clear it was not RMWD or FPUD..

**2. CSDA**

Director Mack reported on the August Quarterly meeting at which time Ms. MacKenzie mentioned all Special Districts must meet website compliance. Mr. Kennedy confirmed RMWD's website was already in compliance. Director Mack talked about information provided by the Mayor of Santee regarding the widening of Highway 52 to relieve the county of traffic congestion.

Director Rindfleisch added the speaker also solicited any special districts impacted from the widening of Highway 52 to pledge their support of this initiative. He stated although RMWD may not directly benefit from this project; however, many constituents who travel a further distance to work may experience some traffic relief.

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

**3. LAFCO**

Mr. Kennedy stated he did not attend the last LAFCO meeting; however, RMWD expects to be working more with LAFCO in the next several months. He mentioned there was no Special District Advisory Committee meeting until October.

**4. San Luis Rey Watershed Council**

There was no report given.

**5. Santa Margarita River Watershed Watermaster Steering Committee**

Director Hamilton reported the next meeting will be held in October.

**6. ACWA**

There was no report given.

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

**1. Board Seminar/Conference/Workshop Training Attendance Reports**

There were no reports given.

**D. Directors Comments**

Director Rindfleisch requested a break between 4:00-4:15 p.m. should this meeting run late.

Director Mack thanked the Board for voting for him in the CSDA Seat C election although he did not win.

**E. Legal Counsel Comments**

**1. Attorney Report - Water Rate Resolutions (501668-0002)**

Legal Counsel reviewed the information provided in his report noting water rate increases cannot be challenged by reperaturum.

Discussion went to Item #14.

**14. COMMITTEE REPORTS**

**A. Budget and Finance Committee**

Ms. Largent reported the surplus property and outstanding construction units report will now be a recurring monthly agenda item. She noted the committee was provided with a financial software demonstration, an audit update, as well as discussed the MOU with Eastern Municipal Water District and SDCWA emergency shutdown. She mentioned the preliminary year-end financials were deferred to the next committee meeting.

## B. Communications and Customer Service Committee

Director Hamilton noted the committee was considering expanding the committee's mission statement to include the customer service component, discussed generic response to media posts, reviewed a brochure for meeting participation, considered legislative guidelines for addressing supporting or opposing legislative matters, and were briefed on the MOU with Eastern Municipal Water District. He mentioned one of the interesting aspects the committee reviewed were the website analytics to determine how to improve communications with members of the public and those visiting the website. It was noted any comments regarding the website should be referred to Ms. Gray.

## C. Engineering and Operations Committee

Mr. Nelson noted the committee continued the review of a few important capital projects that appear to be proceeding at pace as well as were briefed on the SDCWA emergency shutdown. He mentioned a meter reduction request presented to the committee by the Terrace at San Luis Rey HOA for discussion. He stated although the committee is the place to start the discussion, the customer was made aware the Board would make any final decisions regarding this matter. He mentioned at the request of President Brazier, the committee did hold initial discussions regarding the role and inventory of the committee with a follow up discussion scheduled for the September meeting.

Discussion ensued regarding the meter reduction request. Mr. Nelson stated the customer will meet with both Mr. Kennedy and Mr. Strapac to discuss this matter further prior to bringing the matter to the Board for consideration.

Discussion went to Item #15.

### 15. PIPELINE 5 RELINING PROJECT UPDATE BY SAN DIEGO COUNTY WATER AUTHORITY

Teresa Penunuri of SDCWA provided a project close out on the Pipeline 5 Relining project noting the project was completed. She recalled the project specifics including those impacting RMWD's boundaries. She noted the project was finished under budget and it completed almost 60% of all SDCWA's relining projects going forward.

Denise Vedder of SDCWA gave a brief presentation on the SDCWA 75<sup>th</sup> anniversary. She presented SDCWA's 75 Year Anniversary Challenge coins to the RMWD Board Members.

Discussion went to Item #16.

## **BOARD ACTION ITEMS**

### **\*16. DISCUSSION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 19-11, FINDING OF PUBLIC HEALTH AND SAFETY EMERGENCY RELATED TO A SAN DIEGO COUNTY WATER AUTHORITY EMERGENCY PIPELINE SHUTDOWN**

Mr. Kennedy explained Sandy Kerl, Acting General Manager at SDCWA, declared an emergency confirmed by the Board of Directors last week in a similar manner to take the appropriate steps to address the water outage, including but not limited to being able to procure the amount of materials required totaling approximately \$90,000 in pumps and temporary pipelines without having to experience an extended procurement process for which time does not allow. He noted

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

should the Board declare the emergency an update will be presented to the Board each month until the emergency has been mitigated.

Director Hamilton inquired as to the tremendous amount of costs incurred by the RMWD ratepayers to mitigate the problem and if SDCWA should be asked to compensate the District. Mr. Kennedy explained it may be in the SDCWA Administrative Code that unless SDCWA damages RMWD's facilities specifically, it may not be subject to compensation; however, he would consult with Legal Counsel on the matter. President Brazier pointed out RMWD had to spend the money to get water to the customers regardless.

***Motion:***

***To approve Option 1 - Approve Resolution 19-11, finding the SDCWA Pipeline Emergency Shutdown an emergency so the General Manager can proceed with replacement of the pipeline per Administrative Code Section 1.04 Emergency Authority and increase emergency authority to a not to exceed amount of \$150,000.***

***Action: Approve, Moved by Director Rindfleisch, Seconded by Director Hamilton.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca***

Discussion went to Item #32.

**17. DISCUSSION AND POSSIBLE ACTION REGARDING CONDITION ASSESSMENT CHANGE ORDER**

Mr. Kennedy recalled as the initial analysis was being conducted on the hydraulic implications from SDCWA, an existing contract was utilized with a slight scope change to the work to be performed. He noted the consultant looked into the system demands, upgrading the District's hydraulic model, and water supply alternatives, as well as held numerous workshops with RMWD's staff as part of the preparatory work. He explained this work was winding down and reviewing the contract, the nature of the work needing to be completed under the original contract requires a Change Order to allow for an additional amount. He pointed out in accordance with the Administrative Code the amount exceeds the General Manager's statutory authority due to there already being one Change Order for this project; therefore, it was being presented to the Board for consideration.

***Motion:***

***To approve Option 1 - Approve a Change Order in the amount of \$34,900 for additional services for the District's Condition Assessment of Water Facilities.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Mack.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca.***

*Discussion went to Item #18.*

**\*18. DISCUSSION AND POSSIBLE ACTION TO PURCHASE TEN (10) PRE-MANUFACTURED PRESSURE-REDUCING STATIONS**

Mr. Strapac talked about the District's terrain and the impact it has on the water pressure. He gave a presentation showing the self-contained stations noting their many benefits.

Director Hamilton inquired about the costs being approximately \$35,000 out of budget. Mr. Kennedy explained it will need to be appropriated for this next fiscal year. He said if and when the contracts come forward requiring additional appropriations, adjustments will be made mid-year for the installation costs. Director Hamilton noted for the price of ten, RMWD could have added another pressure reducing stations using the savings.

***Motion:***

***Authorize the General Manager to execute the Pressure Reducing Station proposal from EFI dated August 7, 2019 in the amount of \$831,648.27 and execute the early pay option. Appropriate \$35,000 in additional funds in the fiscal year 2019-2020 CIP Budget.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Mack.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca.***

***President Brazier called for a break at 3:01 p.m.***

***The meeting reconvened at 3:07 p.m.***

*Discussion went to Item #19.*

**19. DISCUSSION AND POSSIBLE ACTION REGARDING QUIET TITLE ACTION ON PROPERTY NEAR THE DISTRICT HEADQUARTERS DRIVEWAY**

Mr. Strapac recalled a record survey was conducted on the property at which time it was discovered a 7.91 foot gap exists between two adjacent deeds that did not touch located near the RMWD offices driveway. He explained the ownership has to be resolved and the land has to be incorporated into existing conforming parcels in some manner. He mentioned Legal Counsel attempted to research all the previous owners; however, they have not been able to locate one survivor of the original four owners. He stated another option would be to obtain a Quiet Title Action where the court essentially wipes out anyone's interest in the gap which could cost approximately \$25,000.

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



Legal Counsel stated given the age of this matter, it is anticipated they would be able to file the papers and receive a default judgement which would take approximately one year to complete due to the notice requirements, service, and scheduling multiple hearings to ensure there are no property interests. He explained should the matter be challenged, it could take approximately eighteen months to complete. Discussion ensued.

***Motion:***

***To approve Option 1 - Authorize the District Counsel Nossaman to begin the Quiet Title process.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Rindfleisch.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca.***

Discussion went to Item #20.

**\*20. POSSIBLE ACTION REGARDING APN 127-540-19 WATERLINE EXTENSION CONSTRUCTION AGREEMENT**

Mr. Strapac noted this matter came to his attention when a homeowner for the property in question came to the District regarding a development requiring a fire hydrant on her property. He explained RMWD preferred having an easement on the property as part of the water replacement plan to which the property owners agreed. He mentioned RMWD had asked the property owners to upgrade their 8" line to a 12" line the District could tie into at a later date, it would be beneficial to the District which would possibly pay the price differential between an 8" and 12" pipe. He noted the cost of the differential would be approximately \$80 per foot as opposed to nearly \$360 per foot. He stated staff was asking the Board to allow them to enter into an agreement with the District paying the cost differential.

***Motion:***

***To approve Option 1 - Approve the construction agreement allowing the reimbursement of \$15,793.43 for upsizing the proposed 8" waterline to a 12" waterline.***

***Action: Approve, Moved by Director Rindfleisch, Seconded by Director Hamilton.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca.***

Discussion went to Item #21.

**\*21. DISCUSSION AND POSSIBLE ACTION REGARDING THE APPOINTMENT; EMPLOYMENT; EVALUATION OF PERFORMANCE; OR COMPENSATION OF THE GENERAL MANAGER**

Ms. Harp explained the law requires any action taken on the General Manager's compensation is discussed in Open Session and read aloud. She noted Mr. Kennedy's existing contract calls for a Cost of Living Adjustment effective August 28, 2019 as well as the options available to the Board.

Mr. Kennedy inquired about the CPI in that his contract was on a different scale than the other RMWD employees. Ms. Harp clarified the General Manager contract has always been on a different scale according to the employee MOU's. She explained the contract states the most recent twelve month change for the most recent CPI data publicly available and how the CPI data was now published every two months as opposed to just the first or second half of a year.

***Motion:***

***To approve Option 2 as modified by Director Hamilton - an increase to the General Manager's compensation by 1.4% Cost of Living Adjustment to the annual salary in accordance with the existing contract between Rainbow Municipal Water District and Tom Kennedy and a base merit increase of .6% to bring the General Manager's annual salary to \$241,638 and a one-time lump sum discretionary bonus of zero.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Mack.***

***Vote: Motion passed (summary: Ayes = 3, Noes = 0, Abstain = 1, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack.***

***Abstain: Director Rindfleisch.***

***Absent: Director Gasca.***

*Discussion went to Item #22.*

**\*22. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 19-08 ADOPTING ADMINISTRATIVE CODE CHAPTER 3.06 – CONFIDENTIALITY OF BOARD CLOSED SESSIONS**

Director Hamilton noted this item was postponed for a future date at the last Board meeting and how he asked to have this put back on the agenda. He stated it does behoove the District to have policies and procedures in the Administrative Code relating to the handling of confidential information coming out of Closed Sessions.

***Motion:***

***To approve Ordinance No. 19-08.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Mack.***

***Vote: Motion carried by roll call vote (summary: Ayes = 3, Noes = 0, Abstain = 1, Absent = 1).***

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

**Ayes: Director Hamilton, Director Mack, Director Rindfleisch.**

**Abstain: Director Brazier.**

**Absent: Director Gasca.**

Discussion went to Item #23.

**\*23. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 19-09 AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 5.05.050.04 – RECORDS RETENTION - FINANCE**

Mr. Kennedy noted this was a housekeeping item relating where a document type was inadvertently omitted from the record retention program schedule.

**Motion:**

**To approve Ordinance No. 19-09.**

**Action: Approve, Moved by Director Hamilton, Seconded by Director Rindfleisch.**

**Vote: Motion carried by roll call vote (summary: Ayes = 4, Noes = 0, Absent = 1).**

**Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.**

**Absent: Director Gasca.**

Discussion went to Item #24.

**\*24. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 19-10 AMENDING AND UPDATING ADMINISTRATIVE CODE CHAPTER 2.09 - COMMITTEES**

President Brazier explained this item was on the agenda to provide for an opportunity for her to explain the reason it was postponed at the last Board meeting. She stated because the committees had not been asked for their input; therefore, it will be on the September Board meeting agenda should the committees provide their feedback.

No action taken.

Discussion went to Item #25.

**\*25. DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. 19-11 AMENDING AND UPDATING ADMINISTRATIVE CODE SECTION 2.03.010 – REMUNERATION AND REIMBURSEMENT POLICY**

Mr. Kennedy explained this item was to address Board Members obtaining pre-approval for conference, training and workshop attendance from the Board President as well as establish certain recurring conferences to be automatically approved.

President Brazier noted one of the provisions required an endorsement of the Board President's decision by the remainder of the Board at which time the paperwork must be remitted from the applicants.

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

Director Hamilton questioned the need for this amendment. He said with the recurring conferences being scheduled months in advance allows the Board Members plenty of time to remit an attendance request. He also did not want to have an incident should the Board not endorse the Board President's decision. President Brazier agreed.

***Motion:***

***To approve Option 3 - Do not approve Ordinance No. 19-11.***

***Action: Do not approve, Moved by Director Hamilton, Seconded by Director Mack.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca.***

*Discussion went to Item #26.*

**\*26. ACWA COMMITTEE APPOINTMENT CONSIDERATIONS FOR THE 2020-2021 TERM**

Mr. Kennedy explained ACWA was looking for individuals to sit on committees and should any RMWD Board Members wish to participate, paperwork will need to be remitted.

Director Mack asked if a vote was required at this time. It was noted the vote would not take place until after September 30, 2019.

President Brazier stated anyone interested needs to let the Board know at the September 24, 2019 Board meeting. Director Hamilton said he has been contemplating appointment.

Director Hamilton noted it was his understanding the District incurs the cost associated with support of committee activity.

Director Rindfleisch inquired as to whether there would be compensation for participation. Director Hamilton answered he did not believe compensation was available through ACWA.

This item was deferred to the September Board meeting.

*Discussion went to Item #27.*

**\*27. ACWA REGION 10 ELECTION BALLOT FOR 2020-2021**

Mr. Kennedy pointed out ACWA has provided their recommended slate as well as a list of individuals interested in serving. He noted Director Hamilton was on the list. He clarified ACWA's nominating committee puts together the slate of candidates. Discussion ensued.

***Motion:***

***To vote for Director Hayden Hamilton.***

***Action: Approve, Moved by Director Brazier, Seconded by Director Mack.***

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

***Vote: Motion passed (summary: Ayes = 3, Noes = 0, Abstain = 1, Absent = 1).***

***Ayes: Director Brazier, Director Mack, Director Rindfleisch.***

***Abstain: Director Hamilton.***

***Absent: Director Gasca.***

*Discussion went to Item #28.*

**\*28. CALL FOR NOMINATIONS FOR SAN DIEGO LOCAL AGENCY FORMATION COMMISSION (LAFCO) SPECIAL DISTRICTS ADVISORY COMMITTEE**

Mr. Kennedy mentioned in 2015 he was elected within the LAFCO election to serve on the Special Districts Advisory Committee and how the term ends in Fall 2019. He pointed out LAFCO was calling for nominations and how he was interested in serving again at the Board's pleasure.

***Motion:***

***To nominate Tom Kennedy.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Mack.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca.***

*Discussion went to Item #29.*

**\*29. LAFCO CALL FOR BALLOTS FOR THE SAN DIEGO COUNTY CONSOLIDATED REDEVELOPMENT OVERSIGHT BOARD**

Mr. Kennedy noted RMWD has no stake in this matter and no redevelopment money. He mentioned the candidates spoke at recent CSDA Quarterly Dinner meetings and how LAFCO was experiencing difficulty getting a quorum on this election. He stated the deadline to vote is August 30, 2019.

***Motion:***

***To vote for Mitch Thompson.***

***Action: Approve, Moved by Director Rindfleisch, Seconded by Director Hamilton.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca.***

Discussion went to Item #30.

**\*30. BOARD MEMBER REQUESTS FOR AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS**

- A. 2019 CSDA Annual Conference
- B. 2019 ACWA Fall Conference

Director Hamilton noted there were four requests for the 2019 CSDA Annual Conference in Anaheim and one request for the 2019 ACWA Fall Conference in San Diego. Director Mack noted he also provided a request to attend the 2019 ACWA Fall Conference to include attending the JPIA luncheon to which he was invited. He pointed out Ms. Washburn had notified the Board in order to make hotel accommodations, registration must be completed.

Director Rindfleisch stated he was interested in attending the 2019 ACWA Fall Conference; however, he was not absolutely certain he could attend and did not provide a request for consideration at this meeting. Director Hamilton pointed out he will be driving each day to the conference and should Director Rindfleisch decide to attend, they could carpool thereby eliminating the need to make hotel reservations.

***Motion:***

***To support and vote on all the annual conference requests for both CSDA and ACWA in one vote.***

***Action: Approve, Moved by Director Rindfleisch, Seconded by Director Hamilton.***

***Vote: Motion passed (summary: Ayes = 4, Noes = 0, Absent = 1).***

***Ayes: Director Brazier, Director Hamilton, Director Mack, Director Rindfleisch.***

***Absent: Director Gasca.***

Discussion went to Item #31.

**BOARD INFORMATION ITEMS**

**\*31. SAS 114 - THE AUDITOR'S COMMUNICATION WITH THOSE CHARGED WITH GOVERNANCE (THE BOARD OF DIRECTORS)**

Ms. Largent explained this was a document from the auditors notifying the Board of Directors the services they will be providing since the Board hires the auditor.

Discussion went to Item #33.

**32. MEMORANDUM OF UNDERSTANDING BETWEEN RMWD, FPUD, AND EASTERN MUNICIPAL WATER DISTRICT UPDATE**

Mr. Kennedy noted this was an information item related to the MOU with Eastern Municipal Water District (EMWD) the Board approved at their last meeting. He mentioned RMWD's Legal Counsel, FPUD's Legal Counsel and EMWD's Legal Counsel have reached an agreement on the indemnity clause insisted upon by EMWD due to a high risk of litigation. He stated there are certain

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protections in place for RMWD; however, it was not a standard indemnity. He pointed out FPUD approved the MOU at their meeting on August 26, 2019 and how RMWD will receive a fully executed copy once all parties have signed.

Mr. Kennedy explained this item was to review some of the culmination and research conducted since October 24, 2018 which was the first mention of this topic he made to Legal Counsel as opposed to prior to his hiring at RMWD as had been suggested by some at SDCWA. He noted Sandy Kerl was present to provide SDCWA's perspective on this matter. He mentioned the next steps would be for the Board to approve an applying for a Sphere of Influence change at Riverside LAFCO followed by applying for the same with San Diego LAFCO. Mr. Kennedy mentioned SDCWA's attorney issued a letter to San Diego LAFCO mentioning challenging or questioning these methods of action; therefore, he will need to contact LAFCO to confirm the correct application process. He said once the applications are filed, there are certain procedural steps Riverside LAFCO needs to take followed by their commission taking action after which San Diego LAFCO can consider exclusion of territory and conduct their own reporting. He stated municipal service reviews will be conducted and amended accordingly.

President Brazier pointed out possible detachment from SDCWA was not discussed prior to Mr. Kennedy joining RMWD because she was on the Board prior to him being hired and this was a very recent item.

Sandy Kerl thanked the Board for the opportunity speak to them today as well as for moving this item up on the agenda. She read aloud the public comments provided in her handout (see Exhibit A attached). She stated Mr. Kennedy did mention to her that he has been working on this idea for approximately five years which coincides with the timeframe in which he was hired at RMWD. She concluded with noting it was very challenging to come before this Board and having this conversation; therefore, it was her hopes both organizations can get back to a more collaborative process to consider the many issues involved with this matter that should be discussed.

Director Hamilton said he appreciated Ms. Kerl for attending this meeting. He explained the Board felt it was necessary to understand whether a de-annexation was even possible which required a great deal of preliminary work prior to approaching SDCWA; thus, it was not until May 21, 2019 that the Board understood the issues well enough to opening discussion with SDCWA. He stated he was somewhat puzzled with Ms. Kerl's interpretation of RMWD's response to SDCWA last week being a summary as opposed to a proposal when it clearly states RMWD would follow the letter of the law and were open to hold discussions with SDCWA in terms of exploring other perspectives or interpretations. He noted should Ms. Kerl clarify in detail what SDCWA wants RMWD to provide, the District will be happy to comply. He pointed out this was not an easy task for anyone involved, but at the bottom line this was purely being viewed from an economic standpoint of saving the ratepayers who pay some of the highest rates for water in the county. He stated RMWD was willing to work with SDCWA to see if there was a means of reaching an equitable solution for all parties involved; however, it requires participation on the part of both parties and today there was perception SDCWA was stalling when it took two months to get a meeting scheduled. He clarified SDCWA was going to hear from the RMWD Board they are interested in moving forward in exploring the situation, they want to understand the full ramifications for everybody involved; therefore, open discussions need to be held with SDCWA relative to these activities. He pointed out RMWD would not sit on this idea for a long time waiting for SDCWA to agree on when they want to discuss the matter because every day it is costing RMWD ratepayers potentially a substantial amount of money and it does not behoove the officials representing those ratepayers to blindly wait. He reiterated RMWD wants to work with SDCWA to reach a conclusion, the District is open to any suggestions and input SDCWA may have relative to the process or activity and move forward from there.

Ms. Kerl appreciated Director Hamilton's comments. She stated the manner in which SDCWA was informed of this idea in that this was a done deal with all the legal papers stating it can be done, financial analysis completed, votes lined up at LAFCO, and how SDCWA can make this easy or tough. She said Mr. Kennedy also spoke with two SDCWA officers the same day and delivered the same message; therefore, from SDCWA's standpoint it appears RMWD has been looking at this for a while without their knowledge which has resulted in SDCWA having to do their due diligence which included remitting a Public Records Request which took approximately a month and a half to receive. She explained once those records were received and reviewed over the next three weeks, SDCWA requested a meeting that was scheduled for July 30<sup>th</sup>. She pointed out the SDCWA Board meets once per month; hence, this matter was discussed one week ago. She said she wanted to be completely transparent with the RMWD Board and how SDCWA has no agenda other than to figure out what is fair and reasonable in this process in hopes of moving forward in that type of conversation.

President Brazier added every responsible organization looks into a great deal of things they never pursue. She said RMWD was curious, interested, and looked into whether it was viable to even consider; therefore, the timeline may be different than what SDCWA wished it was. She stated it took time to decide if it were even worth pursuing. She stressed this was not a done deal, RMWD was not planning to do this since Day 1 or whatever day, but rather something RMWD decided to consider for the benefit of the ratepayers to see if the District can save them money or not. She pointed out there have been frictions between North County and SDCWA for many, many years and how RMWD has made it known it was unhappy with SDCWA in that the two agencies have not always talked well and RMWD has not always felt it has been heard well either.

Ms. Kerl said she truly respects and understands these concerns and part of what her role as Acting General Manager changes are being made to improve those communications, actively engage and have those tough conversations. She stated she absolutely understands RMWD's desire to look into this detachment and how in the SDCWA's Act it does provide a member can be de-annexed which was not a question but rather in the analysis RMWD needs to make sure they have been informed all of the various issues.

Mr. Kennedy addressed some of Ms. Kerl's characterizations of RMWD's communications. He disagreed with the characterizations that he stated he has been working on this for five years and how this was a done deal. He stated he has never said this was a done deal, but rather indicated to Ms. Kerl that RMWD has conducted its research and believe this was something RMWD wanted to pursue. He noted he is familiar enough with LAFCO to know nothing is a done deal until a vote has been taken. Ms. Kerl said all she could do was speak the truth that she knows.

Director Mack referenced Ms. Kerl's comment that RMWD's proposal did not meet the SDCWA guidelines as he asked if she could provide RMWD staff with clarification as to what they needed so this could be moved along more swiftly. Ms. Kerl said when SDCWA met with Mr. Kennedy and Mr. Bebee, discussions took place regarding the specific terms in how this would work and the details of it to which SDCWA received general platitudes in terms of legalities without any terms of mechanics or specifics. She stated she was now speaking with the SDCWA Board of Directors as to how their agency moves forward based on where things are at so they, too, are not in a position to sit by and let this unfold without performing their due diligence. She clarified absent of getting anything else from RMWD, SDCWA was putting together their own materials.

President Brazier asked Ms. Kerl to keep in mind RMWD was still exploring as well.



Director Rindfleisch noted his thoughts are similar to those already shared by the RMWD Board. He explained he represents a part of the District made up of 80% “young” families. He said those individuals moving into this area do so largely out of financial necessity and how for years RMWD has been the “punching bag” when in reality is these individuals do not understand from where those expenses are being driven. He pointed out those expenses being passed through from SDCWA to RMWD’s ratepayers are overwhelmingly substantial causing incredible financial stress as well as a great deal of community discord. He stressed there was a significant need for relief. Ms. Kerl understood the comments made and said she would be happy to personally come to a RMWD meeting on rates and talk about the SDCWA charges in terms of where the costs come from and what is being passed along to RMWD. Director Hamilton asked if the benefits RMWD ratepayers receive. Director Rindfleisch suggested Ms. Kerl ask SDCWA Directors to take into consideration whether a project under consideration is needful and helpful with individuals located within RMWD boundaries in mind as opposed to political grandstanding. Ms. Kerl said she would be happy to do that.

Discussion went to Item #17.

**\*33. 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
- D. Human Resource & Safety Comments**
  - 1. Human Resources Report
  - 2. Organizational Chart
- E. Finance Comments**
  - 1. Monthly Financial Statements
  - 2. Credit Card Breakdown
  - 3. Directors’ Expense
  - 4. Check Register
  - 5. Water Sales Summary
  - 6. RMWD Sewer Equivalent Dwelling Units (EDU’s) Status

Mr. Gutierrez gave a presentation on RMWD’s response to the SDCWA emergency shutdown. Discussion ensued regarding what would transpire in the event of a fire.

***Motion:***

***To receive and file the information and financial items.***

***Action: Approve, Moved by Director Hamilton, Seconded by Director Mack.***

***Vote: Motion passed (summary: Ayes = 3, Noes = 0, Abstain = 1, Absent = 1).***

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

**Ayes: Director Brazier, Director Hamilton, Director Mack.**

**Abstain: Director Rindfleisch.**

**Absent: Director Gasca.**

Discussion went to Item #34.

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

It was noted the Bonsall Reservoir matter, CloudSuite Financial and Utility Billing Software updates, ACWA committee appointment considerations, Administrative Code Chapter 2.09, and the Resolution Application for LAFCO should be on the next Board meeting agenda.

Discussion went to Item #35.

**35. ADJOURNMENT - To Tuesday, September 24, 2019 at 1:00 p.m.**

***The meeting was adjourned by President Brazier to a regular meeting on September 24, 2019 at 1:00 p.m.***

The meeting was adjourned at 4:16 p.m.

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**Helene Brazier, Board President**

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**Dawn M. Washburn, Board Secretary**

## EXHIBIT A

**Rainbow Municipal Water District  
Board of Directors Regular Board Meeting  
August 27, 2019**

**Public Comment on Potential De-annexation of Rainbow Municipal Water District  
Statement by Sandy Kerl on behalf of San Diego County Water Authority**

Good afternoon. I am Sandy Kerl, Acting General Manager of the San Diego County Water Authority.

None of our Board Officers was available to be here this afternoon, so they requested that I speak on their behalf and on behalf of our Board of Directors.

The Water Authority's Board of Directors met for the first time on the potential de-annexation of Rainbow last week. We deferred a project in your service area until we know what is going on with the potential de-annexation.

Although your agency and Fallbrook have apparently been working on this idea and having conversations with Riverside County since at least last October, no one told the Water Authority about it until just this past May. In fact, it was first mentioned to me by your General Manager Tom Kennedy on May 21, 2019 in a meeting that I had requested on another subject.

Water Authority staff and counsel held off meeting then at the request of our board officers, because they wanted to have a chance to talk with your General Manager and with Fallbrook directly to obtain more information—including your proposal or term sheet.

Our staff and board officers did meet with your team on July 30, and were promised that the Water Authority would receive your proposal—it's now almost one month later, and we still don't have it.

I would note that the Water Authority did receive a document from your General Manager titled a "summary," however, that document does not contain a proposal such as was promised and that our Board needs for review of impacts.

Our Board of Directors believes that there are a number of important issues to be considered which cannot be deliberated without having your proposal.

***These issues include water reliability, water rights, voting rights, allocation of financial obligations, rates, and potentially a host of other legal and financial issues.***

There are also important countywide considerations relating to our economy and quality of life in San Diego County.

Rainbow has been an important part of the San Diego County Water Authority for a very long time.

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We have been through a lot together. I'm certain there are members of this Board and community who have been around long enough to remember when agricultural water was cut back 90% by MWD—and the Water Authority board stepped up to help.

Our Board would strongly prefer to try to work with you on this rather than fight or litigate about it.

We ask again that you provide your proposal or term sheet addressing ***all of the relevant issues*** so that our Board can begin a process of review based upon a clear understanding of what you are proposing rather than being asked to speculate on what you are proposing.

I appreciate the opportunity to speak to you this morning on behalf of the Water Authority.