

**MINUTES OF THE ENGINEERING AND OPERATIONS COMMITTEE MEETING  
OF THE RAINBOW MUNICIPAL WATER DISTRICT  
OCTOBER 3, 2018**

1. **CALL TO ORDER** – The Engineering and Operations Committee Meeting of the Rainbow Municipal Water District on October 3, 2018 was called to order by Chairperson Prince at 3:00 p.m. in the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. Chairperson Prince, presiding.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL:**

**Present:** Member Prince, Member Taufer, Member Brazier, Member Marnett.

**Also Present:** General Manager Kennedy, District Engineer Strapac, Associate Engineer Powers, Operations Manager Gutierrez, Project Manager Gerdes, Right-Of-Way and Facilities Coordinator Brown, Engineering Tech Rubio.

**Absent:** Member Stitle, Member Ratican, Member Robertson, Alternate Nelson, Alternate Kirby.

No members of the public were present.

4. **SEATING OF ALTERNATES**

There was no seating of alternates.

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

There were no changes.

6. **PUBLIC COMMENT RELATING TO ITEMS ON THE AGENDA**

There were no comments.

**COMMITTEE ACTION ITEMS**

7. **APPROVAL OF MINUTES**

A. September 5, 2018

**Motion:** Approve the minutes as written.

**Action:** Approve, Moved by Member Brazier, Seconded by Member Marnett.

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

**Ayes:** Member Prince, Member Brazier, Member Taufer, Member Marnett.

**Absent:** Member Stitle, Member Ratican, Alternate Nelson, Alternate Kirby.

## 8. RIGHTS-OF-WAY POLICY REVIEW

Ms. Brown provided copies of Mr. Nelson's comments regarding the draft Right-of-Way Policy. She proceeded to go through the policy inviting the committee members to provide comments.

Mr. Taufer asked for the definition of a Right-of-Way. Ms. Brown responded a Right-of-Way encompasses more rights and an easement was more defined.

Mr. Kennedy said regarding existing easements, any existing non-conforming use would be dealt with similar to future non-conforming uses. Ms. Brazier stated just because there was no mechanism in place before does not mean it should not be enforced. Mr. Prince asked if the District was changing existing easements. Mr. Kennedy responded no. He pointed out that he was not aware of any easement allowing anyone to build on top of the District's easements.

Mr. Stapac said the policy would provide staff direction and procedures. He explained the policy would not take away land or place greater encumbrances on a person's property. Mr. Kennedy said the policy also establishes the process for staff to issue encroachment permits.

Mr. Prince placed his focus on existing easement situations, which had no clear policy in place. Mr. Kennedy responded the District has clear legal rights under existing easement documents, which describe the District's rights and what is prohibited. Discussion ensued.

Mr. Prince expressed concerns regarding changes to the Right-of-Way Policy being reviewed by legal before the committee's approval, if approved. He stated, in his opinion the policy related more to legal than engineering. He asked for a legal opinion on what the District has compared to what would be changed. Ms. Brazier pointed out the District was not changing anything. She explained the District was only building on the current legal easements. Mr. Kennedy explained the District would be able to enforce everything in the old policy that was in the new policy. Mr. Prince replied he would feel better to have an attorney review the new policy. Mr. Kennedy stated all documents are reviewed by the District's legal counsel prior to going to the Board. Ms. Brazier pointed out a couple of technical rules to the committee, she said the committee does not officially "approve", it merely provides recommendations. The Board hires and directs legal counsel, the committee does not. Discussion ensued.

Mr. Prince repeated concerns with the new changes and how it would affect existing easements. Mr. Kennedy reiterated the new policy would not alter any existing easements. Mr. Prince focused on having the policy reviewed by the attorney. Mr. Kennedy stated the attorney is given final drafts to review and not in process drafts, in order to keep costs down. He said he prefers the committee review the engineering aspects of the draft and set aside the legal concerns for now.

Ms. Brazier stated the Engineering and Operations committee was to operate on those two subjects, legal not being within this committee's purview. She said this policy does not matter unless the Board votes on it and makes it part of the Administrative Code with the force of law. She continued, prior to the votes legal counsel will review the policy and recommend to the Board whether there were any concerns.

Mr. Kennedy wanted to discuss Mr. Nelson's comments. Mr. Prince mentioned the committee would review the engineering aspects of the policy and take a break from the legality aspects. Discussion ensued regarding Mr. Nelson's comments, administrative corrections and other committee member comments.

Mr. Marnett suggested engineering and operations staff review and correct the inconsistencies prior to approving the policy.

**Mr. Prince stated he was not ready to do anything but would rather see it all over again. He said he does not want to delay anything and was totally in support of this by the way, but he could see a great deal of conflict. He specified as far as legal he does not want to give any approval without any sort of legal position on how this might affect existing landowners. He noted as far as new contracts, business, and developments he does not have a problem with that because people can read them, and they could be drafted, but where he can see a lot of problems is with existing easements.** Mr. Kennedy reiterated existing easements would not be affected. Ms. Brazier stated that the Board could approve the policy with or without any input from the committee. She explained the Board seeks input from the committee to guide their choices, although they don't have to. Mr. Prince suggested based on the comments provided to revise the policy and bring it back for review. Discussion ensued.

Mr. Kennedy voiced concerns of delaying the policy approval for two months. He recommended going forward to the Board and expressing any concerns within the motion.

**Motion:**

**Mr. Prince made a motion to have the Right-of-Way Policy reviewed by legal counsel, prior to the committee's recommendation. No second. Motion died.**

Ms. Brazier stated legal counsel will review the policy, but not at the committee's instruction. She explained the motion cannot stipulate any action to be taken, because the committee cannot command any action. She said the committee's function is advisory only to the Board. Discussion ensued.

**Motion:**

**Mr. Marnett made a motion to conditionally approve the Right-of-Way Policy with engineering cleanup. No second. Motion died.**

**9. TANK FALL PROTECTION**

Mr. Strapac said based on the committee's recommendation staff would be recommending to the Board to award the tank fall protection to Suez Advanced Solutions (Utility Service Co., Inc.).

**10. CORROSION PROTECTION PROGRAM**

Mr. Strapac said the RFP was out and he has been receiving numerous questions from interested consultants. He anticipates receiving at least four proposals. Mr. Strapac stated the selected firm would develop a corrosion prevention program. Discussion ensued.

**11. CODE OF ETHICS AND CLIMATE CHANGE POLICIES REVIEW**

Mr. Kennedy said the Board adopted the Code of Ethics and Climate Change policies last month. He directed the committee to the Code of Ethics Policy and pointed out how the policy also applies to committee members. He briefly discussed the following items:

- All appointed members of the District's Standing Committees represent the Board of Directors on the committees and are held to the same expectations.

- The ethics on how to follow the decision-making process.
- Non-Partisan Board Policy – staying away from partisan politics. Refrain from partisan discussions.
- Matters of Personal Interest – staying away from or recuse oneself from matters of personal interest. Leaving the room during discussion. Eliminate the perception of the conflict of interest.

Mr. Kennedy said the Climate Change Policy directs the Board of Directors to follow the science that forecasts the climate changes by staying within the explanations in the policy.

## **12. LIST OF SUGGESTED AGENDA ITEMS FOR THE NEXT SCHEDULED ENGINEERING AND OPERATIONS COMMITTEE MEETING**

The following agenda items were suggested:

- Corrosion Protection Program
- Misc. Pipeline Replacement Project
- Service Upgrade Project (Meters)
- Review of Operations data going to the Board
- Operations Department Overview

## **13. ADJOURNMENT**

The meeting adjourned at 5:07 p.m.

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**Timothy Prince, Committee Chairperson**

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**Dawn M. Washburn, Board Secretary**