

**MINUTES OF THE SPECIAL BOARD MEETING
OF THE BOARD OF DIRECTORS/BUDGET AND FINANCE COMMITTEE
OF THE RAINBOW MUNICIPAL WATER DISTRICT
DECEMBER 10, 2013**

1. **CALL TO ORDER** - The Special Meeting of the Board of Directors/Budget and Finance Committee of the Rainbow Municipal Water District on December 10, 2013 was called to order by President McManigle at 1:01 p.m. the Board Room of the District, 3707 Old Highway 395, Fallbrook, CA 92028. President McManigle and Chairperson Stitle presiding.

2. **PLEDGE OF ALLEGIANCE**

3. **BOARD OF DIRECTORS ROLL CALL:**

Present: Director Griffiths
Director McManigle
Director Brazier
Director Sanford

Absent: Director Lucy

BUDGET AND FINANCE COMMITTEE ROLL CALL:

Present: Member Carlstrom
Member Stitle
Member Ross
Member Hensley

Absent: Member Clyde
Member Fagan
Member Lucy

Also Present: General Manager Brady
Assistant General Manager/Finance Manager Buckley
Executive Assistant/Board Secretary Washburn
Water Operations & Customer Service Manager Atilano
District Engineer Plonka
Human Resources Safety Manager Bush
Associate Engineer Rebueno
Legal Counsel Moser

There were no members of the public present.

(*) - Asterisk indicates a report is attached.

4. PUBLIC COMMENT RELATING TO ITEMS NOT ON THE AGENDA (Limit 3 Minutes)

Director Brazier pointed out the district phone message needs to be updated with the new winter hours. She also requested staff look into the recent recall on defibrillators.

Director Sanford suggested with the NCJPA having a Special Board meeting on December 18th to discuss the governance of the new organization and RMWD not scheduled to meet again until late January the Board may want to consider holding a special meeting sooner to discuss some of the items talked at the NCJPA level as it relates to governance.

COMMITTEE ACTION ITEMS

5. COMMITTEE MEMBER COMMENTS

There were no committee comments.

***6. APPROVAL OF MINUTES**

A. November 07, 2013

Ms. Washburn pointed out a revised version of the draft minutes has been provided with a change made to Item #10 in terms of who made the final comments.

President McManigle noted in the fourth paragraph, fifth line on Page 3, the word "do" should be "to".

Action:

Moved by Member Hensley to approve the minutes as revised. Seconded by Member Ross.

After consideration, the motion CARRIED by the following vote:

AYES: Member Carlstrom, Member Stille, Member Ross and Member Hensley.

NOES: None.

ABSTAINED: None.

ABSENT: Member Fagan, Member Lucy, and Member Clyde.

7. REVIEW AND POSSIBLE ACTION REGARDING LONG TERM FINANCING FOR SEWER CAPITAL PROJECTS (RMWD BOARD WILL ALSO BE PRESENT)

Director Lucy joined the meeting at 1:07 p.m.

(*) - Asterisk indicates a report is attached.

Mr. Stittle stated RMWD had a roughly \$14M problem related primarily to the expansion of Highway 76 sewer lines being moved as required by Caltrans. He said there were some options how the district could possibly finance this cost to avoid the sewer rates going to high levels. He explained the first issue is the last time RMWD went out for a vote on financing approximately five years ago it was not well communicated and second there was a lot of acrimony regarding how it was or was not being done. He noted there were three recommendations before the Board and committee for consideration. He said Mr. Buckley's recommendation is the district utilize Option 2 as a means of financing; however, he questions how much would the new EDU price be as opposed to what it is currently and would it create problems in terms of subdivisions coming on line or not.

Dr. Brady provided a background for the material provided. He said although the Board has authorized him to sign the documents to enter into a three-year agreement, he has not done so as of yet but rather requested SDCWA's right-of-way experts to review everything staff has looked at to make sure there is no opportunity for credits that may not have been applied. He noted there was also a question as to whether or not RMWD has any prior rights. He explained it was unlikely this would be overturned, these were steps worth taking.

Dr. Brady mentioned the immediate problem was \$14M, over three years there was a \$30M problem; therefore, the spreadsheets provided would be addressing all three projects.

Mr. Carlstrom suggested RMWD utilize the money available in the sewer fund and then continue to accumulate some funds over the next few years to address the projects scheduled that will not be ready until that time. He recommended communicating to the public that RMWD was in pretty good financial shape until the Caltrans project arose.

Mr. Buckley confirmed the second payment to Caltrans would be March, 2015.

Discussion ensued regarding the three projects.

Mr. Carlstrom recalled the projects could be funded as well thought out by engineering. Dr. Brady recommended reviewing the five-year forecast.

Director Sanford clarified staff was asking for approval of both Options 2 and 3. Mr. Buckley confirmed.

Mr. Buckley noted the five-year forecast contains the same data the committee has looked at in the past with the exception of details that does not need to be covered at this meeting. He proceeded by reviewing the forecast information.

Mrs. Plonka explained the \$2M per year for sewer CIP comes from when she and Mr. Lee looked at RMWD's total assets and determined what would need to be generated to replace everything at present day costs.

(*) - Asterisk indicates a report is attached.

Discussion ensued regarding what year the true cash crunch would take place.

Director Griffiths asked if Caltrans has gone out for bid for the work to be completed for RMWD. Mrs. Plonka confirmed Caltrans went out for public bid on the entire project.

Dr. Brady said he was continuing to negotiate the payment plan over the term of the project. He also confirmed the amount being charged was within the range of the cost estimated by RMWD's calculations as well as the first payment equation was not going to change.

Director Lucy agreed with pursuing all options. He asked if there was anything that could be done with the money allocated for the Beck project. Dr. Brady said the Beck project may be stretched out a little bit; however, it would not resolve the matter of getting Beck in compliance with CDPH.

Director Sanford inquired if there was any chance Caltrans can come back to RMWD for more money if the costs are more than anticipated. Dr. Brady stated they could; however, RMWD could be refunded if the costs are less.

Dr. Brady confirmed there were State Revolving Fund loans (SRF's) available.

Mr. Carlstrom asked if there would be any repercussions for denying payment to Caltrans. Dr. Brady and Mrs. Plonka mentioned some of the problems this may cause. Mr. Buckley noted this question was asked of SDCWA staff and how Caltrans said they would continue to do their work and come after RMWD later for the money. Mr. Ross asked about penalties. Legal Counsel said it could cost RMWD legal costs for both sides as well as Caltrans may leave the project alone and let RMWD deal with it on their own. He added he has never seen anyone get better rights at the end of the deal as opposed to the beginning.

Director Sanford asked where the money went from the special assessment for the widening and straightening of Highway 76 money paid on property taxes linked to homes built in the past ten years. Dr. Brady stated SANDAG is a participant in this and funds may be funneled through the special assessment. Ms. Rebueno added it probably went toward the total project cost of \$100M.

It was noted Caltrans and the State Water Board were two different agencies; however, there was the option of SRF's for which this project would qualify. It was confirmed it was not a legitimate option to say RMWD was not going to do this project.

Director Griffiths suggested putting in extra protections that do not cost money now by putting the pipeline in a place that will not be affected by either further realignment by Caltrans as well as if future realignment is necessary Caltrans will pay for it.

(*) - Asterisk indicates a report is attached.

Discussion ensued regarding Pardee's wastewater treatment plant and the possibility of having developers install recycled water pipelines for some of the common areas.

Director Griffiths read aloud a letter dated February 2013 he sent to LAFCO.

Director Lucy asked if there was any chance RMWD could pump back up to FPU and have them provide sewer service. Mrs. Plonka noted she and Mr. Bebee had looked at this option in the past and agree it would be worth another look. She added; however, FPU could not take all of it so there was still going to be a contract with the City of Oceanside needed. She stated if RMWD takes additional flows, it would not be in lieu of the developments already agreed to. Discussion followed.

Mr. Stittle pointed out the bottom line was RMWD needed to finance a fair amount of money no matter what.

Mr. Carlstrom inquired as to how many crossings existed within the route of the pipeline. Ms. Rebueno answered approximately five which was why the pipeline needs to be realigned. Mrs. Plonka pointed out RMWD was in Caltrans' right-of-way.

President McManigle asked if RMWD's new line could be minimized in the Caltrans right-of-way. Ms. Rebueno said it would still be in the right-of-way and was impossible to get out of it. She noted the new sewer line was being relocated into the shoulder of the new highway.

Director Griffiths said he would like to see both the Lift Station 1 and Lift Station 2 Outfall projects delayed so RMWD will have cash available until money can be borrowed. He stated he would like RMWD's engineering committee to look into this because he does not agree with staff's point of view.

Director Griffiths also recommended RMWD go for a vote in accordance with Ordinance 95-1. Mr. Stittle stated a vote on Ordinance 95-1 could take too much time and asked what would RMWD do if it got voted down. Mr. Carlstrom stressed water users were not going to vote in favor of this and Director Brazier said it would be next to impossible to get approved.

President McManigle agreed with Director Griffiths in that the voters would pay attention to the need for \$30M for three projects. He said previously there was no motivation, but now RMWD was in a financial state that was not going to get any better Option 3 may be the first viable choice.

Legal Counsel clarified the reason there was no public vote for the SRF's was due to the fact there was no outstanding debt; however, this was not an option now that there is outstanding debt associated with the SRF loans. He explained for the next phase RMWD was going to have to sell the idea to underwriters and bond holders who will want to know the district was not in violation of a local

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ordinance that could get it sued. He said the district could do a validation action to test the validity of Ordinance 95-1 and if found to be invalid RMWD could decide to go ahead and borrow money. He added there was a significant chance that should there be sophisticated opposition, RMWD would lose the lawsuit. He reported the laws have changed and Ordinance 95-1 was more than likely Constitutional now.

Legal Counsel explained why it may be a good idea to use a Community Facilities District ("CFD") which is a means of doing a parcel tax in a defined area or group of areas. He noted a CFD would not encompass the entire district but could be used for ongoing services or new facilities. He talked of the numerous uses for a CFD.

Dr. Brady stated staff will need to run some more scenarios to determine the exact amount of money needed. Mr. Carlstrom suggested the time is right in that the ratepayers will understand that the rerouting of Highway 76 is a big problem for the district.

President McManigle solicited Legal Counsel for additional information. Legal Counsel provided an example where the district has two projects with one moves the sewer to the new developments and the other is an upsizing of the line to Oceanside that benefits every sewer user (both existing and new connections). He stated theoretically RMWD could create two CFD's; one of which would be developers only with landowner/voter on six ballots and the other being for all sewer users within the District requiring a two-thirds vote to approve financing the other \$15M. He said if RMWD did not have Ordinance 95-1, the District could do a Revenue Bond with no election. Discussion continued regarding existing sewer customers and developers participating in the voting process.

Mr. Hensley excused himself from the meeting at 2:11 p.m.

Legal Counsel explained the difference is with a mail ballot option, regular election dates would not need to be selected and there would not be a need to involve the Registrar of Voters. He noted the cost for election is much less when accompanied by other elections. He confirmed this could be done for both proposed elections; however, it would be messier to do a mail ballot for all the registered voters. He said the District would count the mail ballots, but the Registrar of Voter could offer some services.

Director Lucy asked if a landowner is not currently utilizing the sewer but may do so in the future, would they be excluded from the election. Legal Counsel stated these individuals would probably not be mailed a ballot due to the fact they are not included in the District. Legal Counsel clarified the District can decide to include connected customers and individuals holding permits. He confirmed all these options would meet the conditions of Ordinance 95-1. He provided some examples of what has taken place in this regard at other agencies.

(*) - Asterisk indicates a report is attached.

Legal Counsel noted it would take close to six months to put together a constructive CFD due to the engineering work and other steps that must be completed. He clarified the County has done plenty of CFD's.

Mr. Ross inquired if the costs associated with establishing two CFD's would be the estimated \$400,000. Legal Counsel clarified this was a ball park figure for setting it all up and the \$15M financing with the use of an underwriter. Mr. Ross wanted to know if there would be two sets of costs for setting up two CFD's. Legal Counsel explained why the cost may be less for two CFD's.

Mr. Stitle asked if they would be doing bonds or borrowing from the SRF. Legal Counsel said the difficulty associated with the SRF had to do with the timing.

Discussion ensued regarding costs involved with the various options.

Director Sanford agreed that putting together one or two community districts makes sense but borrowing from the SRF makes more sense.

Discussion ensued regarding public notification.

Director Griffiths claimed RMWD's negotiators failed completely with Caltrans; therefore, he suggested the District use the \$6M already available and then worry about anything else done that year for sewer. He recommended the next step should be to go forward to borrow money using Ordinance 95-1.

It was noted borrowing was a matter of how much and that it needed to be done fairly quickly.

Director Griffiths suggested the District stop spending money on other things until expenditures can be paced. Mr. Stitle stressed he does not want to find the District in a situation where it needs to borrow money again.

Director Brazier pointed out some of the things that need to be done could cause RMWD risk and enormous fines if they are not done which would be pennywise and pound foolish. It was noted Lift Station 1 was one of these types of projects.

Director Griffiths claimed staff was too interested in not having staff be blamed for anything. Dr. Brady asked Director Griffiths to stop insulting staff and keep the discussion on a professional level. He said it was fine to disagree but without motive. Director Griffiths apologized and agreed.

Director Griffiths recommended RMWD pull back and delay some things.

Director Sanford asked Mr. Buckley if he would be comfortable from the District standpoint with spending the \$6M and perhaps put a cash squeeze on the District. Mr. Buckley explained RMWD would be fine the first year with spending the \$6M and that depending on the timing on water projects RMWD could have money available the Board could authorize to temporarily borrow into wastewater if perhaps a loan was not completed yet. Director Brazier clarified RMWD would

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not be putting itself in a position where an emergency or unforeseen circumstance would put RMWD “over the edge”. Mr. Buckley confirmed this would be true as long as the emergency was not mega millions. It was noted the period of time being discussed was approximately 1½-2 years. Director Griffiths pointed out there was a provision in Ordinance 95-1 for emergencies.

Dr. Brady noted his concern about moving into a place where an emergency does arise with no options available especially when it would be even more difficult to borrow under these circumstances.

Director Lucy asked if there were any assets RMWD could sell including the prime real estate such as where the district office is situated. Dr. Brady agreed the property was valuable; however, an opportunity may not become available for five years which may be a better time to sell property. Director Sanford did not like the idea of selling the property under pressure and would prefer waiting a while to determine whether selling it would be a good idea to pay off any borrowed monies.

Mr. Carlstrom noted since the future cannot be predicted, it would be prudent to determine what could be done now. He referred to the timeline he presented on the white board. Legal Counsel pointed out there would be a lag in timing in receiving the actual revenue in the event bonds are issued. Mr. Carlstrom addressed possibly delaying the projects and how the proposed bond cycle could be pushed out to 2016 which would be problematic. He suggested keeping the message simple to the sewer ratepayers with an honest assessment, there’s a possibility loans could be paid down faster.

It was noted there were approximately 2,300 sewer customers.

Director Lucy asked if the only people voting would be those customers currently using sewer and not those who have the rights to it but not currently using it. Legal Counsel answered this would be a choice made by RMWD depending on how the boundaries are drawn. He noted the amount of the tax would be lowered if the number of voters included those with water service with the potential for sewer as well as those who have property but do not register to vote.

Mrs. Plonka asked if it would be an option to set it up to include existing users and known developments as well as possibly increase RMWD’s sewer capacity fee for new users to make up the difference. She noted these monies would only be levied until the bond has been paid off at which time it would go away. Legal Counsel said this could be done noting all the bonds may not be issued at once and explained how they could be spread out to possibly include more users. He pointed out RMWD needs to do worst case scenarios in terms of disclosures.

Mr. Ross asked if the monies collected from the CFD’s will be used for a particular purpose. Legal Counsel confirmed stating the District must covenant to the bond holders that the money collected will be used for particular purposes.

(*) - Asterisk indicates a report is attached.

Legal Counsel clarified the property tax bills would show an annual amount. He also noted the option of paying down bonds faster must be added in. He announced Procopio has a new team member highly experienced in bond issues.

Mr. Carlstrom asked how much extra RMWD was going to pay to put a larger line in at Highway 76 as opposed to replacing the line at the existing size. Mrs. Plonka said it was minimal in comparison to the project costs. Mr. Carlstrom reiterated if RMWD was going to recover the facilities costs from the developers, that portion would actually be minimal in expanding the size of the line. Legal Counsel stated this was the crux of the long going debate. Discussion followed.

Dr. Brady explained the value would be based on the betterment to the District. Mrs. Plonka added a study was being pursued with a third party to work on the details.

Director Griffiths talked about the sewer outfall lines recommending the problems be fixed and then carry on instead of paying \$13M on this one project. Director Lucy expressed concern with Director Griffiths' suggestion in that he wanted to take a risk at a lift station.

Director Sanford said although discussions have been on bond issues, he was thinking a revolving fund may be more advantageous. Legal Counsel stated this was true but it was a matter of the timing involved. Director Sanford stated in light of RMWD being relatively comfortable with its cash flow for at least a year or possibly eighteen months, the District should be able to synchronize with the SRF situation. Legal Counsel said although he was unsure about being able to mix a CFD with the State Revolving Fund he would look into at the contract to see if it could be done.

Mrs. Plonka proposed creating a CFD for new development and another for existing customers. Legal Counsel said this could be done if the conditions of the State Revolving Fund Loans do not require a pledge of the District to something it could not pledge. Mrs. Plonka noted this may be a way to get enough money to tie the District over another year which may allow for time to pursue a SRF loan and go to another vote if it failed. Legal Counsel pointed out with a CFD only a pledge of the people in the district is required which may not cut it for an SRF loan.

Mr. Ross asked if RMWD did not have the \$14M issue with Caltrans, RMWD would not be talking about borrowing money due to the fact all the other projects have already been placed in the budget and/or forecast. Mrs. Plonka explained if the projects are lumped together totaling \$29M minus the money readily available in funds, revenue being brought in at the current rates, and the known

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EDU's to be sold in the next year or two RMWD will be left with a small amount. She said the advantage may be to lump all those projects together based on there being a portion for all three projects associated with developments. She suggested at this point a CFD could be created and get a bond for just the portion of the money that might tie RMWD over a year allowing for time to pursue a SRF loan.

Discussion ensued regarding the amount of money to be pursued.

Mrs. Plonka explained why it may be prudent to lump the Lift Station 1, Highway 76, and the Outfall projects together due to the fact they are all being upsized to accommodate the developments. Mr. Ross pointed out although it was true the developers should help with the costs, it does not take away from the fact some of these things have already been budgeted. Mr. Carlstrom agreed there was a justification; however, the problem was \$14M to the 2,300 customers. Dr. Brady said he does not want to design the campaign right now; however, this must be the focus. Mr. Ross suggested dealing with the Highway 76 and capital projects separately.

Dr. Brady referenced the memo provided which offers a simple solution of getting an \$8M loan at the right time will take care of the cash flow.

Director Griffiths suggested there was implications that at least \$8M of work would not be done; therefore, the sewer outfall problems should be fixed and keep the money allocated for it at this time. Mr. Carlstrom noted the public would be more understanding as they see the Highway 76 project progress, however, they may have a hard time understanding RMWD waiting two years when the project is finished to announce there is a need to borrow money. Director Griffiths reiterated his suggestion to delay the outfall project a little longer.

Mr. Stitle asked about the condition of the outfall line. Mrs. Plonka stated the line was already surcharging under normal conditions.

Legal Counsel said based on the constructive discussion, it was necessary for legal to check whether the SRF can be blended with a Mello Roos as well as if it would be feasible. He also noted there was a great deal to tell the consultants at their meeting on Thursday. He said he did not see the need for any action to be taken today but rather have direction provided as to which way for Legal Counsel to pursue. Mr. Buckley added part of what needs to be done is a future meeting where additional information can be provided including any new developments in the Caltrans negotiations.

Mr. Ross recommended keeping the resolution as simple as possible by limiting the direction to establishing a CFD as related to the Highway 76 sewer issue in order to keep the funding manageable. He recommended the Board create a CFD specifically related to the Highway 76 sewer issue.

(*) - Asterisk indicates a report is attached.

Action:

Moved by Member Ross to recommend to the Board to further investigate the creation of a CFD specifically related to the Highway 76 project and whatever flexibility is needed to address existing ratepayers and new developers.

Mr. Carlstrom recommended an amendment to the motion to include consider two CFD's; one for developers and one for existing users to allow for the flexibility to collect monies from both.

Mr. Ross amended his original motion.

Action:

Moved by Member Ross to recommend to the Board to further investigate the creation of two CFD's; one for developers and one for existing users. Seconded by Member Carlstrom.

After consideration, the motion CARRIED by the following vote:

AYES: Member Carlstrom, Member Stittle, and Member Ross.
NOES: None.
ABSTAINED: Member Lucy.
ABSENT: Member Fagan, Member Hensley, and Member Clyde.

Action:

Moved by Member Ross to adjourn the Budget and Finance Committee meeting. Seconded by Member Carlstrom.

After consideration, the motion CARRIED by the following vote:

AYES: Member Carlstrom, Member Stittle, and Member Ross.
NOES: None.
ABSTAINED: Member Lucy.
ABSENT: Member Fagan, Member Clyde, and Member Hensley.

Action:

Moved by Director Sanford the Board accepts the recommendation and motion from the Budget and Finance Committee as submitted with direction to staff as to how to pursue. Seconded by Director Lucy.

(*) - Asterisk indicates a report is attached.

After consideration, the motion CARRIED by the following vote:

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

NOES: None.

ABSTAINED: None.

ABSENT: None.

8. DISCUSSION AND POSSIBLE ACTION REGARDING THE TIMING OF ALL SEWER RELATED CAPITAL PROJECTS (REQUESTED BY: DIRECTOR GRIFFITHS)

This item was discussed under Item #7 herein.

9. LIST OF SUGGESTED AGENDA ITEMS FOR THE NEXT SCHEDULED BUDGET AND FINANCE COMMITTEE MEETING

There were no suggested agenda items provided.

10. ADJOURNMENT

Director Sanford mentioned the NCJPA meeting scheduled for December 18, 2013 to discuss the governance of the proposed new agency and will not meet again until January 8, 2014. He noted RMWD's Board will not meet until the end of January. He suggested the RMWD Board hold a Special Board meeting on December 30, 2013 at 1:00 p.m. to review the NCJPA governance discussion.

The meeting was adjourned with a motion made by Director Lucy and seconded by Director McManigle to a Special meeting on Monday, December 30, 2013 at 1:00 p.m.

The meeting adjourned at 3:23 p.m.

Harry Stittle, Committee Chairperson

Dawn M. Washburn, Board Secretary

George McManigle, Board President

Dawn M. Washburn, Board Secretary

(*) - Asterisk indicates a report is attached.