The minutes presented herewith are not a verbatim transcription of the Regular Board meeting held electronically March 23, 2021. The intent is to provide a synopsis of key points of discussion and to chronicle decisions and actions taken by a quorum of the Board of Directors (ref: Roberts Rules of Order, Section 48). For more information or background, please refer to the applicable board packet.

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE RINCON DEL DIABLO MUNICIPAL WATER DISTRICT
March 23, 2021

A Regular Meeting of the Board of Directors of the Rincon Del Diablo Municipal Water District was held telephonically on Tuesday, March 23, 2021 at 5:00 p.m.

Directors Present: Drake, Quist, and Welch.

Directors Absent: Murtland.

District Staff Present: Clint Baze, General Manager; Julia Escamilla, Public Information Officer; Jeffrey Umbrasas, Director of Administration and Finance; Karen Falk, Engineering Manager; Steve Plyler, Operations Manager; Tawni Alarid, Management Analyst; and Wanda Cassidy, Clerk of the Board.

Legal Counsel: Alfred E. Smith, Legal Counsel, Nossaman, LLC.

Guests: Rick Vogt, Fire Chief, Escondido Fire Department; Bruce Smith, Customer.

President Drake called the meeting to order at 5:00 p.m. Director Quist then led the Board of Directors and attendees in the Pledge of Allegiance to the Flag of the United States of America.

ADDITIONS/CHANGES TO AGENDA

There were no additions or changes to the agenda.

ORAL COMMUNICATIONS TO THE BOARD

There were no communications to the Board.

SECTION 1 - CONSENT ITEMS

In a motion by Director Quist and seconded by Director Drake, the Board of Directors unanimously approved the following consent items:
1-D. Financial Statements, February 2021.
1-E. Board of Directors' Per Diem Fees and/or Expense Reports, February, 2021.

by the following roll call vote:

Drake    Aye
Murtland  Absent
Quist     Aye
Welch     Aye

SECTION 2 – EMERGENCY PREPAREDNESS & FIRE SERVICES


Director Drake opened the Public Hearing at 5:13 p.m. to receive comments regarding Resolution No. 21-851.29, “Establishing a Fire Mitigation Fee Program for Improvement District E (ID E)” for consideration of adoption at the April 27, 2021 Board of Directors meeting.

General Manager Baze provided an overview of the two-step Fire Mitigation Fee Program and Resolution No. 21-851.29. The mitigation fees are designed to offset the cost of new equipment and infrastructure within new developments in the Fire District. The total fees collected vary year-to-year depending on the amount of new development taking place.

Chief Vogt reported the current Fire Mitigation Fee Five-Year plan includes VHF radios and a Type 6 Brush Engine. Previous purchases included Fire Station 7 and an apparatus vehicle. Chief Vogt also reported fees are expected to increase in FY 2022.

After the overview and there being no further discussions from staff or the public, President Drake closed the Public Hearing at 5:19 p.m.

Resolution No. 21-851.29 will be brought back for approval at the April Board of Directors meeting.
2-B. Oral Report by Escondido Fire Department Regarding Current Events and Community Fire Readiness Relating to Improvement District E (ID E).

Chief Vogt reported on the following:

- Fire Mitigation Fees - The Fire Department received the 13 new VHF radios that were purchased using fire mitigation fees. The radios are being programmed and will be put in circulation prior to fire season.
- COVID-19 – The number of COVID-19 cases is decreasing. Chief Vogt announced the Fire Department is able to assist with staff and Director vaccination appointments if necessary and reminded staff and Directors to wait at least one month after having no symptoms before getting vaccinated.
- Vaccination Collaboration - Vaccination Collaboration, the multi-agency initiative to assist in vaccinating in all areas of the County ending in May.
- Palomar Hospital is providing vaccinations five-days a week at the old Palomar Medical Center, however, that location is scheduled to close in June due to the schedule demolition of the facility.
- Electric Fire Engine – Chief Vogt attended a demonstration provided by Rosenbaum Electric. Rosenbaum provided a demonstration of an electric on fire engine. Los Angeles has purchased one of the vehicles, which is scheduled for delivery in December. The vehicles are able to run indefinitely and can pump water for four hours. Although the vehicles are very expensive, the cost of ownership is 30 to 40 percent less due to no fuel and less maintenance.

After the report, Chief Vogt answered questions from Directors.

SECTION 3 – PUBLIC INFORMATION & INTERGOVERNMENTAL RELATIONS

3-A. Legal Counsel Legislative Report.

Legal Counsel Smith provided a written report and updated the Directors on the current legislative session. Highlights of the update included:

- AB 361 (R. Rivas D- Hollister) is sponsored by the California Special Districts Association (CSDA). ACWA has a "Support" position on this bill. AB 361 is intended to provide teleconferencing flexibility to local agencies under the Brown Act for any future unforeseen state of emergency. AB 361 would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act certain circumstances include:
The legislative body holds a meeting for the purpose of proclaiming or ratifying a local emergency.
- The legislative body holds a meeting during a proclaimed state of emergency or declared local emergency, and state or local officials have imposed or recommended measures to promote social distancing; or
- The legislative body holds a meeting during a declared local emergency and the legislative body determines by majority vote that, as a result of the emergency, the attendance of one or more members of the legislative body in person is hindered, or meeting in person would present risks to the health or safety of the attendees.

This bill would require legislative bodies that hold teleconferenced meetings under these conditions to do all of the following:

- Provide notice of the meeting and post agendas as otherwise required;
- Allow members of the public to access the meeting;
- Provide an opportunity on the agenda for the public to address the legislative body directly; and
- Conduct the teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

- AB 339 has been jointly introduced by Cristina Garcia (D – Los Angeles) and Alex Lee (D – Fremont). AB 339 would amend the Brown Act to require meetings using teleconference technology to include an opportunity for all persons to attend via both a call-in option and an internet-based service option that provides closed captioning services.

- SB 273 would authorize local agencies providing wastewater service to enter into voluntary agreement with entities responsible for stormwater management – including municipal, industrial, and commercial stormwater discharges – to more effectively management stormwater and dry weather runoff. SB 273 would supplement the existing authority of all local wastewater agencies to enter into agreements that would allow them to divert and treat stormwater and dry weather runoff. ACWA and CASA have a “Favor” position on SB 273.

- AB 377 (R. Rivas D - Hollister) sets the following goal: "All California surface waters shall be fishable, swimmable, and drinkable by January 1, 2050. To bring all water segments into attainment with this requirement, the state board and regional boards shall comply with the requirements of this chapter." "Drinkable" applies to waters subject to a regional water quality
control plan and means that the waters are drinkable to the extent required by the regional water quality control plan.

- SB 323 (Caballero D- Salinas) would authorize a local agency or interested person to bring a validation action in a superior court to determine the validity of a fee or charge for water and sewer service. Last year, 81 cities and water agencies throughout the State were sued to challenge the longstanding method of funding water service used in firefighting through property-related water service charges. The lawsuits allege that including these costs in water rates is prohibited by Proposition 218.

- SB 323 would require an interested party to bring an action within 120 days after the local agency adopts the fee or charge. The stated purpose of SB 323 is to improve financial stability for public agencies by creating a statute of limitations for legal challenges to water and sewer service rates. ACWA has a "Support" position and is the sponsor of SB 323.

- AB 1434 (Friedman D-Glendale) would establish, beginning January 1, 2023, until January 1, 2025, the standard for indoor residential water use is 48 gallons per capita daily. The bill would establish, beginning January 1, 2025, the standard as 44 gallons per capita daily and, beginning January 1, 2030, 40 gallons per capita daily. The bill would also eliminate the requirement that the Department of Water Resources (DWR), in coordination with the State Water Resources Control Board, conduct necessary studies and investigations and jointly recommend to the Legislature a standard for indoor residential water use. AB 1434 was introduced on February 19, 2021, and numerous water agencies have already developed an "oppose" position, as the bill goes back on a negotiated standard, established in 2018, and eliminates a necessary study to determine if flows to sewer systems are sufficient.

- Federal Senate Bill 91 -- Senator Kyrsten Sinema (D-AZ) Special Districts Provide Essential Services Act - Introduced by Senator Kyrsten Sinema (D-AZ), the bill is co-sponsored by Senators Dianne Feinstein (D-CA) and John Cornyn (R-TX). The "Special Districts Provide Essential Services Act" would make "special-purpose public entities" (special districts) eligible to receive future federal coronavirus relief assistance to ensure delivery of essential public health and safety services.

The bill sponsors intend to seek the adoption of the provisions into the pending congressional debate on the Biden $1.9 trillion American Rescue Plan. California and national stakeholders supportive of the measure include the Association of Metropolitan Water Agencies, Association of California
After the report, Mr. Smith answered questions from Directors.

SECTION 4 – FINANCE, INSURANCE & PERSONNEL

4-A. **PUBLIC HEARING** – Ordinance 21-99-AB, “Determining Director’s Compensation.”

President Drake opened the Public Hearing at 6:32 p.m. to receive comments regarding Ordinance No. 19-99-Z, “Determining Director’s Compensation” and provided a brief description.

President Drake closed the Public Hearing at 6:35 p.m. There were no comments during the hearing. After a brief discussion, President Drake asked for a motion:

In a motion by Director Quist and seconded by Director Welch, in a 2 (Quist and Welch)- 1 (Drake) vote, the motion did not have a quorum.

Drake – Nay
Murtland - Absent
Quist – Aye
Welch - Aye

After additional discussion, it was determined this item would be placed on the April 27, 2021 meeting for consideration.

4-B. Discussion Regarding Potential Use of San Diego County Water Authority Refund Related to Metropolitan Water District of Southern California Litigation.

Director of Administration and Finance Umbrasa brought forward Discussion Regarding Potential Use of San Diego County Water Authority Refund Related to Metropolitan Water District of Southern California Litigation.

The SDCWA refund of $630,780.62 is a one-time payment received on March 3, 2021. The refund is related to overpayments by SDCWA as a result of the lawsuits SDCWA filed against MWD challenging water rates and charges. The $630,780.62 is the District’s portion of the overcharges SDCWA was charged by MWD.

On March 3, 2021, the District received a payment of $630,780.62 for SDCWA representing 1.4 percent of the total amount refunded to the member agencies of SDCWA. The refund amount is based upon a pro rata share of member agency
municipal and industrial water purchases from 2011 to 2014. As that is owed, the Water Stewardship rate was incorporated into SDCWA’s rates and charges to member agencies. The check represents the amount that the District customers also overpaid related to the invalidated MWD rate. Therefore, staff is recommending that this refund be utilized in some way that directly benefits the District’s customers.

Mr. Umbrasas provided a number of options for use of the refund money, including, but not limited to:

- Utilizing the funds to reduce or delay future rate adjustments
- Providing a refund or credit to customers
- Funding for capital projects which would benefit customers or reduce District costs
- Offsetting current expenses or liabilities on a one-time basis
- A combination of the above options

Mr. Umbrasas stated the District is currently in the early stages of performing a new water rate study, and therefore, the refund money can be held by the District and incorporated into the rate study process so as to determine the best long-term financial use for the District and its customers, while allowing for input and feedback by staff, the Finance, Insurance and Personnel Committee, and Board of Directors and customers thought that process.

After extensive discussion, President Drake asked for a motion:

In a motion by Director Quist and seconded by Director Drake, the motion to include the discussion on potential uses for the SDCWA Refund was passed by the following roll call vote:

Drake – Aye
Murtland - Absent
Quist – Aye
Welch - Aye

SECTION 5 – OPERATIONS; ENGINEERING & LONG-RANGE PLANNING

5-A. Receive and File Engineering & Long-Range Planning Committee Meeting Minutes of March 17, 2021.
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Received and filed Operations; Engineering & Long-Range Planning Committee meeting minutes of March 17, 2021.

SECTION 6 – SEWER

6-A. Receive and File Sewer Committee Minutes of March 9, 2021.

Received and filed Sewer Committee meeting minutes of March 9, 2021.

Drake Aye
Murtland Aye
Quist Aye
Welch Aye

SECTION 7 – SDCWA DIRECTOR’S REPORT & DIRECTORS/STAFF ACTIVITIES REPORT

7-A. This portion of the agenda may be used by the SDCWA representative to make informal reports on activities.

General Manager Baze provided the SDCWA report in Director Murtland’s absence. Items of interest in the upcoming meeting agenda included and Agenda item regarding Governance. Additional topic of interest included a request to dismiss a late payment penalty for Rainbow Municipal Water District and employee contract negotiations. The remaining agenda items are routine.

7-B. This portion of the agenda may be used by the Board of Directors or management to make informal oral reports on their activities.

- Director Drake reported on significant Human Resources incidents relating to a long-time employee that took place at Metropolitan Water District and the lack of oversight.
- Director Quist reported on Urban Water Institute meetings regarding the August conference. The conference typically is held in San Diego, however, due to COVID-19 will be virtual.
- Director Welch had nothing to report.
- Director Murtland was absent.

7-C. This portion of the agenda may be used by the Board of Directors to request items for future agendas.
There were no requests.

7-D. Request Approval for a Board Member(s) to Attend Upcoming Meetings; Conferences; or Seminars for Those Not Authorized in the District's Administrative Code, Section 502 "Authorized District Memberships."

There were no requests.


General Manager Baze focused on the Personnel portion of the DAR, reporting Jesus Duenas was hired to take the place of Sean Glazer, Facilities Maintenance Worker, who took the position of Administrative Assistant and will be working with Public Information Officer Julia Escamilla.

General Manager Baze provided additional information on the Maintenance portion of the DAR as it relates to a pilot program involving a cellular based badger system and the Valve Exercising Machine or travel vac.

7-F. Call for Nominations – Alternate Special District Member Election on San Diego County Local Agency Formation Commission (LAFCO).

Director Drake brought Call for Nominations – Alternate Special District Member Election on San Diego County Local Agency Formation Commission (LAFCO) forward.

Due to Erin Lump’s resignation from LAFCO, a Call for Nominations pursuant to Government Code Section 56332(1) involving the vacant and unexpired term as Alternate Special District Member was notices.

President Drake expressed an interest in the position and requested the Board of Director’s support his nomination. After a brief discussion, President Drake asked for a motion:

In a motion by Director Quist, and seconded by Director Welch, the Board of Directors approved supporting President Drake’s nomination for the LAFCO Alternate Special District Member seat by the following roll call vote:

Drake Aye
Murtland Absent
Quist Aye
Welch Aye
7-G. Consider Adoption of Resolution No. 21-05: Concurring in the Nomination of Jo MacKenzie to the California Special District Association Board of Directors.

California Special Districts Association (CSDA) will hold its election for Board Members for Seat A in the Southern Network between May 28, 2021 and July 16, 2021. Nominations for candidates are due no later than March 29, 2021. It is encouraged that additional resolutions concurring in the nominations of candidates from other Special Districts be submitted with the candidate’s nominations.

The District received an email from Jo MacKenzie, the incumbent of Seat A in the Southern Network requesting the District show their support by adopting a resolution concurring in her nomination.

After a discussion, President Drake asked for a motion:

In a motion by Director Quist, and seconded by Director Welch, the Board of Directors approved Resolution No. 21-05: Concurring in the Nomination of Jo MacKenzie to the California Special District Association Board of Directors Seat A by the following roll call vote:

Drake  Aye
Murtland  Absent
Quist  Aye
Welch  Aye

7-H. Discussion and Action to Fill Rincon del Diablo Municipal Water District Board of Directors Division 4 Seat Vacancy.

Director Drake brought forward Discussion and Action to Fill Rincon del Diablo municipal Water District Board of Directors Division IV Seat Vacancy.

With the resignation of Erin Lump, the Board of Directors’ Division IV seat is vacant. At the February 9, 2021 Regular Board of Director’s meeting, Directors discussed the options available for filling the vacated Division IV seat and agreed to move forward with the Board appointment process and provided General Manager Baze with direction. The Notice of Vacancy was posted at various locations and on the District website, and a legal ad was place in an Escondido paper. Directors discussed the application and the recruiting process.

SECTION 8 – GENERAL MANAGER’S REPORT

8-A. District Status as a Result of the COVID-19 Pandemic.
General Manager Baze provided an update on COVID-19 vaccinations for staff and how agencies are responding to openings.

8-B. General Manager's Oral Report.

General Manager Baze reported the following:

- General Manager Baze will be out of the office from April 12th and will be returning on April 19th. Director of Administration and Finance Jeffrey Umbrasas will be returning to the office after his Leave of Absence on April 12th.
- Customer Service Representative Yolanda Bryson will be retiring effective Thursday, April 29th.

SECTION 9 – LEGAL MATTERS


Legal Counsel Alfred Smith provided a written report on updates to Proposition 218. The update included two recent developments involving water rates under Proposition 218. The two cases show a trend among courts that allow ratepayers additional flexibility to bring Proposition 218 challenges to water rates, even where the parties did not fully exhaust the administrative remedies for initialing a claim.

After the report, Mr. Smith answered questions from Directors.

9-B. Closed Session

a. CONFERENCE WITH LEGAL COUNSEL – LITIGATION, Litigation pursuant to Government Code Section 54956.9(d)(4): San Diego County Office of Education, et al. v. The County of San Diego, et al. (This is a long-term item related to dissolution of redevelopment agencies and successor agencies and will remain on the agenda if Rincon Water is involved. No action is required on our part at this time.)

b. CONFERENCE WITH LEGAL COUNSEL - Pursuant to Government Code Section 54956.9 (d)(4) to discuss potential litigation (one case).

There was nothing to report.

ADJOURNMENT
There being no further business before the Board of Directors, the meeting was adjourned by President Drake at 6:52 p.m.

APPROVED: ____________________________
David A. Drake, President

ATTEST: ________________________________
Wanda Cassidy, Clerk of the Board