The minutes presented herewith are not a verbatim transcription of the Regular Board meeting held in person and electronically November 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
November 23, 2021

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

Directors Present: Drake, Quist, Murtland, Naves, and Welch (electronically).

Directors Absent: None.

District Staff Present: Clint Baze, General Manager; Jeffrey Umbraras, Director of Administration and Finance; Steve Plyler, Operations Manager; John Christopher, Interim Engineering Manager; Josh Lomeli, Water Service Technician II; Jason Whitmore, Water Service Technician II; and Wanda Cassidy, Clerk of the Board.

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

Guests: Rick Vogt, Chief, Escondido Fire Department.

President Drake called the meeting to order at 5:02 p.m., which was followed by Director Naves, who led the Board of Directors and attendees in the Pledge of Allegiance to the Flag of the United States of America. General Manager Baze then introduced Water Service Technician IIs Josh Lomeli and Jason Whitmore to the Directors.

ADDITIONS/CHANGES TO AGENDA

This item was added to added to Section 5: Engineering and Long-Range Planning of the agenda as information was provided during the CIP Update on the R-1 Drain Line. This addition was approved by the following roll call vote:

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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 Murtland, the Board of Directors unanimously approved the following consent items:

1-A. Minutes of the Special Board of Directors’ Meeting of October 26, 2021.
1-B. Minutes of the Regular Board of Directors Meeting of November 10, 2021.
1-C. General Fund Disbursements, October 2021.
1-D. Investment Report, October 2021.
1-F. Board of Directors’ Per Diem Fees and/or Expense Reports, October 2021.
1-G. AB 361 – Allow for the Continued Use of Hybrid Meetings for Brown Act Meetings.

by the following roll call vote:

Drake       Aye
Murtland    Aye
Naves       Aye
Quist       Aye
Welch       Aye

SECTION 2 – EMERGENCY PREPAREDNESS & FIRE SERVICES


Chief Rick Vogt of the Escondido Fire Department reported the following:

- Red Flag Warning – A red flag warning is scheduled for Thursday and Friday, November 25th and 26th. In preparation for the Santa Ana winds, CAL FIRE will be prepositioned. SDGE put out an alert about the potential for power outages.
- County Mitigation Fee – The County held a briefing for the fire districts and announced the County has hired a consultant to do a study on the fire
Regular Meeting of the Board of Directors
November 23, 2021
Page 3 of 14

mitigation fee. The report is expected to be finalized in 2022. Any adjustments will be required to go through the normal process and most likely will not be effective until 2023.

- Purchases – After the December 1st Escondido City Council meeting, the Fire Department will be placing orders for three Type 1 structure engines, three ambulances, and one brush engine. Additionally, 15 cardiac monitors partially funded through a grant and 15 gurneys will be purchased.
- Staffing – The Academy will be starting on November 29th. The class will include five new firefighter paramedics. One is a promotion, one is an external recruitment, and three are lateral moves from various other departments. Also, ambulances will now be staffed with an EMT and a paramedic firefighter partner. The certification for an EMT is a one semester class.

After the report, Chief Vogt answered the Directors’ questions.

SECTION 3 – PUBLIC INFORMATION & INTERGOVERNMENTAL RELATIONS


There was nothing to report.

3-B. Legislative Update.

District Legal Counsel Alfred Smith provided the Legislative Update. Mr. Smith began his report with key deadlines on tentative 2022 Senate and Assembly calendars.

Mr. Smith then reported the following:

State

- Drought Update
On October 10, Governor Newsome officially expanded the drought emergency declaration already in place in 58 California counties to the entire state, including San Francisco and urban Southern California.

The Governor also reaffirmed the call for 15% voluntary reductions, citing only 4-5% reductions have been achieved statewide since the initial request for conservation was made. An Executive Order was also issued giving the State Water Board authority to prohibit certain wasteful practices such as hosing sidewalks and irrigating ornamental turf during and immediately after rain. The specific practices that could be prohibited would be determined
at the discretion of the Water Board in a process that could take several months. The proclamation also directs local water suppliers to implement their Urban Water Shortage Contingency Plans at a level appropriate to local conditions.

The Administrations will continue to monitor the situation and take further actions when appropriate.

- **Water Infrastructure Funding Updates**
  DWR released program guidelines and a proposal solicitation package to distribute $200 million in funding available through the Urban and Multi-benefit Drought Relief Grant program. The program is designed to help communities facing the loss or contamination of their water supplies due to drought,

  In the revised solicitation, the eligible project categories were extended to include demand reduction conservation program. DWR is not accepting applications.

**Federal**

- **Bipartisan Infrastructure Package**
  On November 5th, the House of Representatives passed H.R. 3684, the bipartisan "Infrastructure Investment and Jobs Act." The legislation provides $550 billion in new funding over five years for critical infrastructure investments in water infrastructure, roads, bridges, public transit, and broadband. The following are of interest to the water community:

  - $550 million for Title XVI water recycling projects
  - $250 million for desalination project
  - $400 million in WaterSMART grants
  - $300 million in Lower Colorado River Drought Contingency plan activities
  - $450 million for a large new scale water recycling program (for initiatives with a total project tour cost of over $500 million).

- **EPA Releases PFAS Strategic Roadmap**
  On October 18th, 2021, the White House released the EPA’s polyfluoroalkyl substances (PFAS) Roadmap, a three-year strategy describing specific regulations with deadlines and research the agency plans to undertake to understand where additional controls may be needed and the steps it will be taking.
Build Back Better
An update was provided on the $1.75 trillion tax and spending package, Build Back Better. The vote on the bill has been postponed until sometime after mid-November, after the lawmakers return to the Capitol after their one-week break for the Veteran’s Day holiday. The postponement was due to a last-minute concession to a small group of moderates who would not vote for the spending package until the congressional Budget Office delivers a cost analysis or “score” for the legislation.

After the presentation, Legal Counsel Smith answered questions from Directors.

3-C. Funded Grants and Grant Opportunities.

General Manager Baze reported the District should be receiving the grant check in the near future and staff is working on how to distribute the funds.

After the report, General Manager Baze answered questions from the Directors.

SECTION 4 – FINANCE, INSURANCE & PERSONNEL

Nothing to report.

SECTION 5 – OPERATIONS; ENGINEERING & LONG-RANGE PLANNING

5-A. Received and File Engineering and Long-Range Planning Committee Meeting Minutes of November 16, 2021.

Received and filed Engineering and Long-Range Planning Committee Meeting Minutes of November 16, 2021.

5-B. Approval of ID-A Pipeline Fire Flow Improvements Project (Project #52148 of Potable Water Fund (05)).

General Manager Baze reported this is a new project that will be included in an updated Master Plan, however, because of recent fires and the possibility of future fires, there is a sense of urgency in moving forward with this project. Although funds have not been appropriated for this project, funds have been identified and will be transferred from existing projects to address this current need.

Staff is requesting that the Board
• Authorize the General Manager to proceed with the design of the ID-A Pipeline Fire Flow Improvements Project and enter into an agreement with
IEC for a total amount not to exceed $214,738, with includes a $20,000 contingency,

- Authorize the transfer of $210,000 from the WW PEIR and Master Plan project (05-5200-52198-0000) and close said project in the financial system due to completions, and
- Authorize the transfer of $30,000 from the Pipeline Replacement Program project (05-5200-52130-0000).

Fire service to the easternmost portion of ID-A is currently below standards. Fires that have occurred in this area in the last few years have heightened the importance of this project. With recent fires and the possibility of future fires, the District would like to accelerate the project.

After General Manager Baze and John Christopher, Interim Engineering Manager answered questions from the Directors, President Drake asked for a motion:

In a motion made by Director Quist, and seconded by Director Naves, the Board of Directors unanimously voted to authorize the General Manager to enter into an agreement with IEC for a total amount not to exceed $234,738, which includes a $20,000 contingency, to transfer $210,000 from the WW PEIR and Master Plan project (05-5200-52198-0000) and close said project in the financial system due to completion, and to transfer $30,000 from the Pipeline Replacement Program project (05-5200-52130-0000) by the following roll call vote:

Drake Aye
Quist Aye
Murtland Aye
Naves Aye
Welch Aye


General Manager Baze introduced Authorization to Sign a Professional Services Agreement (PSA) Extension for Engineering Support Services. Staff is requesting approval from the Board of Directors to sign a contract extension, in an amount not to exceed $60,000, for as-needed engineering support services.

The District’s Engineering Manager position remains vacant and with the assistance of engineering consultants, staff is working to maintain adequate service levels while supporting numerous developers, regulatory, and Capital Improvement Program projects.
Prior to hiring a full-time engineer, the District frequently used outside professional engineering firms to conduct its engineering functions. For the past few months, the District has had the opportunity to use the services of recently retired consultant John Christopher. Mr. Christopher’s experience in working with the District in the past has proven to be beneficial and during the last three months he has assisted in getting key projects back on schedule. Additionally, he has been training the District’s Engineering Technician.

After General Manager Baze answered questions from Directors, President Drake asked for a motion:

> In a motion made by Director Naves, and seconded by Director Quist, the Board of Directors unanimously authorized the General Manager sign a Professional Services Agreement Extension for Engineering Support Services by the following roll call vote:

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5-D. CIP Project Updates.

Interim Engineering Manager John Christopher presented the CIP Project Updates.

- America’s Water Infrastructure Act (AWIA) Emergency Response Plan (ERP) – The District is working with West Yost on the ERP. Staff is currently reviewing the contents and formatting of the draft copy. Once the document has been finalized, it will be brought back to the Board of Directors for final review and will be submitted to the State by the required date.

Developer Projects

The majority of developer projects are on pause as there is a San Diego County Water Authority scheduled shutdown.

- Canopy Grove – This project requires a shutdown and two or three tie-ins.
- Oak Creek Project – Contractors installed service laterals and did not use correct materials; therefore, the services laterals must be replaced. At this time, 75% of the laterals have been replaced.
- Harmony Grove Village – Last week, the last recycled meter last week was installed.
• I-15 Crossing – Comments were received back from Caltrans. An internal meeting is scheduled for Tuesday, November 30th to discuss the comments and return them to Caltrans.

• Citracado Bridge Pipeline Extension – The District and the City of Escondido have partnered to build the new Citracado Bridge and road alignment. The bridge will include a new 24” potable and 12” recycled water pipeline for the District. Staff is awaiting the final draft to ensure comments were incorporated. Bidding is expected to go out in May at the earliest.

• Andreasen Pipeline Fire Flow Upgrades – The design submittal for this project is under review. The bid package is being prepared and will go out with the Air Vac project.

• Air Vac Project - The Air Vac design is currently under review. This project will go out to bid with the Andreasen Pipeline Fire Flow Upgrades Project.

• Water Master Plan – Should be receiving the draft by December 3rd. The next update will be in 2025.

• Urban Water Management Plan – This project has been completed.

• R1 Drain Replacement – The project has been surveyed. The design is being done in house and plans are currently being drafted. This project is scheduled to be put out to bid in December.

• Wastewater Capacity Study – The initial phase of the Wastewater Capacity Study was completed by Kennedy Jenks. At this time, there is no additional treatment capacity available for future developments. A future project to define expansion capacity options will take place next fiscal year.

5-E. R-1 Drain Line Replacement Project

This item was added to the agenda. After discussion during the CIP Update, it was determined this item should be added as an agenda item for further discussion and possible action.

General Manager Baze and John Christopher presented an update on the R-1 Drain Line Replacement project and explained the urgency to replace the line. After Mr. Christopher answered Directors questions, it was determined this project would be categorized as an emergency project by the Board of Directors to expedite completion. President Drake then asked for a motion:

In a motion made by Director Quist, and seconded by Director Naves, the Board of Directors unanimously voted to authorize the General Manager expedite the Emergency R-1 Drain Line Replacement Project by the following roll call vote:
SECTION 6 – SEWER

6-A. Harmony Grove Sewer Treatment Plant Update.

General Manager Baze began the report by providing information that was previously requested from the Directors regarding the Harmony Grove Sewer Treatment Plant’s flow.

Mr. Baze then reported John Christopher will be studying plant documentation to ensure it is running efficiently and at optimum capacity.

After the report, General Manager Baze and Mr. Christopher answered Directors questions.

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.

Director Murtland reported on the SDCWA meeting that was held on November 18, 2021.

- Water Planning and Environment Committee – At the meeting it was reported that the Northern Sierra 8 Station precipitation index as of November 16th was 276% of normal. Oroville was at 29% of normal. Local storage as of October 31, 2021, was at 314,577AF or at 44% of normal. For the Colorado River water year 2021 west the second driest. The desal plant has produced 84B gallons to date.

  SDCWA is looking into selling Metropolitan Water District (MWD) water from their semitropic reserves to help MWD cover the loss of water from the State Water Project at a cost of $893/AF for the sale of 4,200AF of water in 2022. Other details were covered in closed session.

- Imported Water Committee - There will be zero State Water Project allocation for 2022. In closing, MWD delegates gave their reports.
• Engineering and Operations Committee – A resolution authorizing SDCWA to receive $18M for the San Vicente Pump Station Project. Funds are to be used for environmental review, preliminary design, and a federal license.

• Legislation and Public Outreach Committee – The meeting began with lobbyist reports. Bill Ball gave the Washington Report and Kristin Olsen presented the Sacramento report. Additionally, the proposed 2022 legislative policy guidelines and the State and Federal priorities for 2022 were adopted.

• Administrative and Finance Committee – The consent calendar included the Monthly Treasurer’s Report, the Vote Entitlement Resolution, a health insurance broker services contract, and the Annual Statement of Investment Policy. Additional actions included Director Lois Fong-Sakai’s appointment to the MWD Board of Directors and the adoption of a resolution regarding an extension of time for the completion of the Temple annexation.

After the report, Director Murtland and staff answered questions from Directors.

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 Naves had nothing to report.
• Director Welch had nothing to report.
• Director Murtland had nothing additional to report.
• Director Quist reported on the CSDA Quarterly Dinner. In addition, he reported that he is on the Urban Water Institute’s Planning Committee for the Urban Water Institute Spring Conference in Palm Springs.
• Director Drake reported he is preparing for the upcoming JPIA/ACWA Conference.

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 reviewed upcoming events on the calendar.

7-F. ACWA Election for the 2022-2023 Term.

At the 2021 Fall Conference in Pasadena on Wednesday, December 1, 2021, members of ACWA will be asked to nominate and elect ACWA’s President and Vice President for the 2022-2023 term. ACWA will issue one proxy voting card to each member agency’s designated voting representative or delegate as identified by the member agency.

Staff is requesting that the Board of Directors determine who the delegate will be at the meeting and whether the delegate will vote for the ACWA Nominating Committee’s announced 2022-2023 slate as recommended. The slate included the current Vice President Pamela Tobin for ACWA President and current Region 10 Vice Chair Cathy Green for ACWA Vice President. After discussion, Director Drake asked for a motion:

In a motion made by Director Quist, and seconded by Director Naves, the Board of Directors unanimously voted to split the vote and vote separately for the President and Vice President by the following roll call vote:

Drake  Aye
Quist   Aye
Murtland Aye
Naves  Aye
Welch Aye

In a motion made by Director Quist, and seconded by Director Naves, the Board of Directors unanimously voted for Pam Tobin for ACWA President for the 2022-2023 term by the following roll call vote:

Drake Aye
Quist Aye
Murtland Aye
Naves Aye
Welch Aye

For the Vice President, no action was taken.
SECTION 8 – GENERAL MANAGER’S REPORT

8-A. District Status as a Result of the COVID-19 Pandemic.

General Manager Baze reported District staff continues to adhere to COVID-19 mandates. Mr. Baze then reported the District will be restarting late fees beginning with the January billing cycle.

8-B. General Manager’s Oral Report.

General Manager Baze gave updates on the following:

- Temple Annexation currently with LAFCO.
- Request by Directors on the Badger warranty in the event of a merger or equipment updates.
- District’s redistricting.
- Directors request at a previous meeting to have Legal Counsel review agreements between the District and the City of Escondido.

After the report, General Manager Baze answered Directors’ questions.

SECTION 9 – LEGAL MATTERS


Legal Counsel Alfred Smith provided his Attorney Report. The report began with an update on the legislative calendar.

Mr. Smith reported on an update on a recent Ninth Circuit ruling that distributing drinking water containing hexavalent chromium, in full compliance with state drinking water standards, may give rise to liability under the Resource Conservation and Recovery Act (“RCRA”). (California River Watch v. City of Vacaville, 9th U.S. Circuit Court of Appeals, Case No. 20-16605 (“Vacaville”)). The Vacaville decision broadly expands the scope of liability under RCRA. Even though the City of Vacaville (City) merely distributed drinking water and was not otherwise involved in the generation or storage of a “solid waste,” the Ninth Circuit nonetheless found that RCRA liability may apply for “contributing to the transportation of a solid waste, which may present an imminent and substantial endangerment to health or the environment.”

On a summary judgment ruling, the Ninth Circuit found that because the City transported through its water distribution system drinking water that contained discarded hexavalent chromium from activity unassociated with the City, a triable issue existed regarding whether the City was liable under the “substantial
endangerment” provision of RCRA -- despite the City’s lack of involvement in generating the waste in question or in the waste disposal process.

The decision appears to significantly undercut *Hinds Invesiments, L.P. v. Angioli, 654 F.3d 846 (9th Cir. 2011)* ("Hinds"), which held that some involvement in the waste disposal process is necessary for liability to exist under RCRA’s “imminent and substantial endangerment” liability provision. The *Vacaville* decision could accordingly have wide-ranging implications for California municipalities and public water system operators.

After the report Mr. Smith answered questions from the 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 as long as Rincon Water is involved. No action is required on the District’s 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 discuss.

9-C. Open Session

There was nothing to report.

**ADJOURNMENT**

There being no further business before the Board of Directors, the meeting was adjourned by President Drake at 6:50 p.m.
APPROVED: ________________________________

David A. Drake, President

ATTEST: ________________________________

Wanda Cassidy, Clerk of the Board