

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
December 23, 2008
6:45 p.m.

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on December 23, 2008.

2. Roll Call:

Board Members Present:

Howard Gustafson – President
Ken Nishi – Vice President
Tom Moore
Dan Burns
Bill Lee

Board Members Absent:

None.

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Jean Premutati, Management Services Administrator
Brian True, Interim District Engineer
Jim Dowless, Operations and Maintenance Superintendent
Ernest Pons, Customer Service Supervisor
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Bob Holden, Monterey Regional Water Pollution Control Agency
George Riley, Monterey Resident
Charles Scholl, Marina Resident
Dan Amadeo, Marina Resident

3. Declare the Election of Directors to the Marina Coast Water District:

Director Moore made a motion to declare the Election of Directors to the Marina Coast Water District. Director Lee seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Nishi	-	Yes
Director Lee	-	Yes	President Gustafson	-	Yes
Director Burns	-	Yes			

4. Administer Oath of Office:

Mr. Jim Heitzman, General Manager, administered the Oath of Office to Director Dan Burns and Director Kenneth K. Nishi.

5. Election of Board President and Vice President:

Director Moore made a motion to elect Director Gustafson as President. Director Nishi seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Nishi	-	Yes
Director Lee	-	Yes	President Gustafson	-	Yes
Director Burns	-	Yes			

Director Moore made a motion to elect Director Lee as Vice President. Director Burns seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Nishi	-	Yes
Director Lee	-	Abstained	President Gustafson	-	No
Director Burns	-	Yes			

The Board entered into closed session at 6:51 p.m.

6. Closed Session:

- A. Pursuant to Government Code Section 54956.95
Liability Claims
Claimant: El Rancho Mobile Home Park and Shopping Center
Agency Claimed Against: Marina Coast Water District

- B. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager)
Property: Easements, Rights-of-Way, Pipelines and Appurtenances, and Water Rights
Negotiating Parties: MCWD and Seaside County Sanitation District
Under Negotiation: Price and Terms

- C. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Legal Counsel)
Property: Water Rights
Negotiating Parties: MCWD and Clark Colony Water Company
Under Negotiation: Price and Terms

- D. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Legal Counsel)
Property: Second and Imjin
Negotiating Parties: MCWD, FORA, AMBAG
Under Negotiation: Price and Terms

- E. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Legal Counsel)
Property: General Jim Moore Blvd. Pipeline
Negotiating Parties: MCWD and California American Water Company
Under Negotiation: Price and Terms

- F. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Legal Counsel)
Property: Lonestar Property
Negotiating Parties: MCWD and CEMEX
Under Negotiation: Price, Terms, and Conditions

The Board ended closed session at 6:57 p.m.

President Gustafson reconvened the meeting to open session at 7:00 p.m.

7. Possible Action on Closed Session Items:

President Gustafson stated that no action was taken in closed session and direction was given to negotiators.

8. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

9. Oral Communications:

Mr. George Riley, Monterey Resident, stated he was with Citizens for Public Water and supports public agencies to be owners/managers of the water management system. He voiced his encouragement to continue work on the Water for Monterey County – REPOG project. Mr. Riley commented that local public agency ownership provides a local complaint line; local management; local policy; accessible; and funds are brought in and channeled into the local community. Those are some reasons Mr. Riley supports public agencies and efforts on the REPOG.

10. Consent Calendar:

Vice President Lee made a motion to approve the Consent Calendar consisting of items; A) Adopt Resolution No. 2008-60 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and the Monterey Bay Military Housing, LLC for the Housing Replacement Project at the Stilwell Kidney; B) Approve the Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2009; C) Approve Expenditures for the Month of November 2008; and D) Approve the Draft Minutes of the Regular Board Meeting of November 18, 2008. Director Moore seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Lee	-	Yes
Director Nishi	-	Yes	President Gustafson	-	Yes
Director Burns	-	Yes			

11. Action Items:

[Discussion on item 11-A is verbatim.]

A. Consider Censure of Director:

Lloyd Lowrey, Legal Counsel – Members of the Board, in, at the last meeting, Director Nishi asked that there be a matter placed on the Board to consider censure...let's see what page are we on...65...

President Gustafson – Yes.

Agenda Item 11-A (continued):

Mr. Lowrey - Consider censure of Director Moore for a breach of, an alleged breach of the Board's Harassment Free Work Environment Policy in Section 5. This stems from a remark that was made, as laid out in the agenda transmittal, made at a meeting in between sessions and the matter was referred for investigation in the normal channels according to the procedures laid out in your Board policy. The investigation produced a report which is a confidential report; it is not a public document, that's to protect the comments of the people who were interviewed. And, the report, however, did determine, as conducted by the Human Resources Director here, did conclude that the remark had not been in compliance with the Board policy. I therefore recommended that there be an apology, either in the form of a written note to each person within the room at that time, or a statement to, during the public session. And, Director Moore at the last meeting did in fact make a statement. Director Nishi stated a belief that that statement that had been made did not comply with the Board policy and requested that the matter be referred to the full Board for censure. So, what's before you tonight, is to determine whether or not the statement that was made at the last meeting by Director Moore, in fact either complies or does not comply with the Board policy on Section 5, Harassment Free Workplace. This is a Board policy. Because it is a Board member, it is entirely up to the Board, it is not to a member of the staff, or me to determine what standard you are going to set for yourselves. But, it is clear that whatever standard you set for yourselves, since it is a no exceptions policy, is a standard that you will accept/expect for everybody within the District as it applies equally. So that is what is before you tonight, whether the statement made last meeting was adequate and complied with Board policy. I will be happy to answer any questions if there are any from the Board.

President Gustafson – Questions?

Director Nishi – Yes. You didn't make no judgment on the statement that was read.

Mr. Lowrey – No. I didn't. And I know that there, in the minutes, it says that I said that it complied to the letter, and I believe that the process did comply to the letter. I probably was not as explicit as I should have been and I wasn't making any judgment on the content of the statement, but I believe that the procedure does comply fully with the Board policy. I think that was true then and I think that was true now. We did everything that we were supposed to do to give everybody due process and protection and it is up to the Board to judge whether we did that adequately in the Board's judgment.

Director Nishi – But people have taken that letter, the draft minutes, and have stated it publicly that you said that there was an apology made and it was over. So, you are telling the Board that the Board has to decide if that was an apology or not.

Mr. Lowrey – Yes.

Agenda Item 11-A (continued):

Director Nishi – Okay. And, what is your definition of an apology?

Mr. Lowrey – “I’m sorry”.

Director Nishi – Huh?

Mr. Lowrey – “I’m sorry”.

Director Nishi – Okay. I mean, it has to say “I’m sorry”?

Mr. Lowrey – Well, that would be my definition of an apology.

Director Nishi – That is my definition of an apology. And in the comment that was read, I don’t see an apology. I see, still the, more fabrications of private conversation taking place and one person misconstrued what was being said. And I don’t think that’s true. I think your, the investigation showed that more than one person heard the comments.

Mr. Lowrey – Well, again, that’s, I think that the statement is there verbatim so that it can now be reviewed thoughtfully rather than trying to hear it as it was being made. I think that every Board member has had the opportunity to do that and since this matter involves a Board member, you are the ones who are interpreting the policy and no one else is in a position to do that.

Director Nishi – Okay.

Director Burns – I have a question Lloyd. If an employee did this, and there was an investigation, and the same facts were found to be true, the employee apologizes, however, that is not the end of it for the employee. Is that correct? Won’t they get a letter in their file?

Mr. Lowrey – It depends on the nature of the action, the nature of the conduct, and probably that is better explained by your General Manager as to just what exactly, how the General Manager would administer this policy as it pertains to employees.

President Gustafson – Our HR Director is here tonight.

Mr. Lowrey – Or, from the HR Director...whomever the General Manager determines to designate to that.

Agenda Item 11-A (continued):

Mr. Jim Heitzman, General Manager – I'm happy to answer that question and the answer to it is...yes.

President Gustafson – Very good.

Vice President Lee – The specific question was, would a negative comment be placed in the employees file and your answer was yes?

Mr. Heitzman – Yes. And the reason why, if there was a repeat of that behavior, then you would want to have it documented so that you could put an end to that behavior and take the appropriate action.

Vice President Lee – I see.

President Gustafson – Alright. Any other discussion from the Board?

Vice President Lee – I have a...

President Gustafson – Oh, please, Bill...

Vice President Lee – I am sorry. This is a little bit lengthy. If it were, got three minutes, I know I can read a page in three minutes.

President Gustafson – You're a Board member.

Vice President Lee – This was dropped off at my house today. It is signed "Marina Resident". And, of course, we have several other documents here that were brought to us by some of the people that were in the audience that night...

President Gustafson – Yes, as a matter of record.

Vice President Lee – So the whole thing is...these gentlemen here, Mr. Zosa and Mr. Reyes, said they don't need anybody's help. That they are fully capable of taking care of themselves and defending themselves, and they don't need anybody to try and defend them, such as going to City Council and all that kind of stuff. I have another letter here that is addressed to me and as I said, signed "Marina Resident" and if it is okay, I'll just read it.

President Gustafson – Please.

Agenda Item 11-A (continued):

Vice President Lee – And this is pretty lengthy here, anyway, it says here...

“Mr. Lee, I have been following the unfortunate incident of when Director Moore mimicked the voice of a person of Indian or Pakistani decent. I also heard Mr. Owen and others at the city meeting following the Marina Mayor’s swearing in, saying that he and Director Moore worked with the Federal Government and had received training concerning these matters. I am not sure if Mr. Owen was trying to say that if you received this training, you may then make racially inflammatory comments without penalty, or what. It was also stated that Mr. Moore apologized. But that person stated everyone in Marina was interested”...oh, oh, “It was also stated that Mr. Moore apologized by that person who stated everyone in Marina was interested in where she slept. Nothing could be further from the truth. Mr. Moore did not apologize. The people of Marina, including me, do not give a damn about where she sleeps.” Oh, *and* that. “The only ‘sorry’ was when he said ‘I am sorry I was misunderstood’. Mr. Moore’s statement was not misunderstood. He made it. He had a chance to apologize. He chose not to, and now must accept the consequences. The former Mayor Wilmot stated from the dais, that censure was inevitable, or words to that effect. Get on with it people. This may not be the worst case of procrastinating by a Government agency, but it has been several months. You people were elected to serve the public. Your buddy stepped on his ‘blank’ and now it is time to do what needs to be done and get on with your work. A little history lesson for those of you too young or with short memories. The Civil Rights Act of 1964 was a landmark piece of legislation in the United States. The Bill was introduced by President John F. Kennedy in which he asked for legislation eliminating segregation and to confer jurisdiction upon the District Courts of the United States to provide conjunctive relief against discrimination in public accommodations; to authorize the Attorney General to institute lawsuits; to protect Constitutional Rights in public facilities; and to extend the Commission on Civil Rights to prevent discrimination in Federally Instituted Programs; to establish a Commission on equal employment opportunity; and for other purposes. The bottom line, it got passed, and I am not going to see almost fifty years of progress thrown away because of an organization that cannot discipline Director Moore when he makes a racially motivated comment from the dais. I would not be surprised if payments stopped coming in using the Civil Rights Act as a reason not to pay, and the petition for recall to be circulated among...circulated concerning Director Moore’s comments, not to mention all the other public appointments Director Moore is chasing. I don’t care if he says Ken Nishi is jerking his chain because of political motivation or not. This time he let the cat out of the bag and needs to own up to it. I have been a recipient of this kind of hatemongering my entire life and there is no room for it. It needs to be stamped out, branch and root. Do the right thing Director Lee.”

Agenda Item 11-A (continued):

Vice President Lee – So anyway, this was dropped off at my house. It is not signed. This could be the fabrication of a deranged mind or it could be somebody that lives here in Marina and actually is interested in pushing forward or something.

President Gustafson – Thank you, Director Lee. Well, I would like to say something at this time if I may. I...I just want to say as President, I...I take blame for the time that has passed and I do apologize if some are offended. I only sought to hear from the public. I only sought to understand more myself. And, I myself come from a family where my mother is from Austria. I heard an accent regularly. I know I never made fun of it myself and I...I just needed to...to see how we could resolve this, this item, and...To the best of my ability I handled it the way I did. And, again, if the time was too long I apologize. But I think, as you can see tonight...and we have extended the meeting actually a couple of times to offer maximum participation to the public, because we had complaints about changing the date...and...and...for the hearing and the meeting tonight. So, we have tried to accommodate all on this and again I apologize. And, at this time, if there are any comments...please. Audience? Please. Three minutes, I'll listen to him.

Mr. Charles Scholl, Marina Resident – President Gustafson, members of the Board, my name is Charles Scholl and I am a prompt rate payer in the City of Marina. I personally experienced a hostile workplace environment and harassing behavior in two different situations. The second was the last five years I served on...with the Water District Board. Therefore, I refused to go along with one individual's agenda, constantly playing gotcha. That is what I believe we have going on in this particular situation. Who among us hasn't at one time or another, said something stupid or something which they regretted later on. Certainly any of those that do know me, I will agree, that I personally have been guilty of that more than once. And, perhaps Director Moore was guilty of not being as careful or thoughtful as he should have been in that one instance. However, more time has already been wasted on this issue that it ever deserved, plus, he has already apologized. Besides, people who live in glass houses should never throw stones. I would propose that regurgitating further of this non-issue is in itself bordering on harassment. Besides, I don't believe that you want to create a precedent which each one of you might regret sometime in the future when it is your turn in the ground. So, my advice would be to treat this specific instance with the appropriate level of attention it deserves. In other words, if you don't have anything more important to do than this, I suggest you adjourn, go home and celebrate the holidays. Remember, people living in glass houses should never throw stones. Thank you.

President Gustafson – Thank you. Any other comments?

Dan Amadeo – Marina Resident – Yes.

President Gustafson – Please.

Agenda Item 11-A (continued):

Mr. Amadeo – My name is Dan. I am a resident of Marina. Been here for 21 years and...I really don't care what Mr. Moore said. If he apologized, I would accept the apology. But what has happened in this whole process is, if you would look at statements made before the City Council in Marina, initial comments were attributed to Mr. Nishi, not Mr. Moore. Then, when they realized such statements were inaccurate, it was "The deal is a done deal". And, as far as I'm concerned, Mr. Moore, it is a done deal. Okay? But, what is not a done deal is the lies and the mistruths and the misstatements that have been spoken in this manner. Okay? Mr. Moore said what Mr. Moore said. That's fine. I accept his apology and so would anyone else and I agree with the theory of the glass house. I have got a real problem with how this thing has been twisted and used as, truly, a political agenda to suggest that other people sitting on this Board are somehow involved in this. So, I believe what the HR Manager has said. I don't know if a censure was appropriate, but a letter is appropriate. And, I have a real hard problem with the person who started all of this isn't even here tonight. Thank you.

President Gustafson – I apologized again. I have not see the Council meeting on TV, nor at the time was I even aware of such things.

Mr. Amadeo – I would suggest all the members of this Board look at the last two City Council meetings and statements off the agenda.

President Gustafson – Okay. Alright. I wasn't aware. Thank you. Okay. Alright, bring it back to the Board. What is the pleasure of this Board? The item is before you. We have heard a number of comments.

Director Burns – You will have to tell me what "consider" means.

President Gustafson – Um. Consider what you would do...is just..."I make a motion for censure" or not. Or you just do not make a motion. Or somebody does or not. Or the item fails for lack of a motion. That is the normal procedure for any item on the agenda.

Director Burns – Well, I make a motion for censure.

President Gustafson – Do we have a second? [pause] I will second it to move it along. Okay. Any other comments?

Director Moore – Of course.

President Gustafson – Please...Director Moore?

Agenda Item 11-A (continued):

Director Moore – I would just like to add a couple of things here. The whole process. Um, yes, my...remark...whatever it was, was probably ill considered at the time. And, it's been claimed, by various persons, that somehow I delayed in making an apology for that remark. But, let me point out that, at the time of the remark, I was not told that Director Nishi or anyone else found it offensive. Um, and...I was not told after the meeting, that anyone had found it offensive that day. There was certainly plenty of opportunities for anyone on the Board who had found it offensive. I can understand how an employee might not challenge me, but certainly another Board member could have challenged what I had to say. Um, it was two weeks before I understood that someone had in fact found that comment to be offensive. So, for a remark, whatever it was, I honestly do not remember what it was, for two weeks to pass, and yet for it to be and about such a heinous remark it is rather inexplicable to me. Um, Director Nishi raised the issue two weeks later, on record, indicating he wanted an apology. Also, indicated he wanted a formal investigation. The problem, of course, is I was advised by my legal counsel with saying anything once a formal investigation was requested. Is it going to appear that I was trying to derail said investigation? So, I followed counsel's advice and did nothing until the investigation was completed and the results were presented to me. And, in the first public meeting, after that happened, I presented my apology. Um, my Board, that...because so much time passed, it is unclear what anyone remembers. To point out that...that Director Nishi at one point, I believe the meeting on September 9th, referred to *a* remark, in singular. When he objected at our previous meeting, on November 18th, to my apology, he made reference to remarks or comments in plural. So memory is rather inaccurate, potentially. That is has morphed from a single remark to multiple remarks. It was a single remark. I believe the investigators, if it were not confidential, would confirm that. Um, I have, in fact, apologized for it. But, I will admit, that apologizing is sometimes very difficult when someone has been subject to so many gotcha's over the years. Um, but, I went ahead and did so. I am sorry for that remark and I am certainly sorry that the Board has expended so much energy on this issue. Um, I do have a concern that setting standard for future censure motions will be counterproductive, uh, for this Board. Thank you.

President Gustafson – All right. One more...I mean, uh, Ken?

Director Nishi – It's a...I agree with what has been said tonight. But, if what Tom just said at 7:25, if he would have said that 116 days ago, we wouldn't be here. We wouldn't be spending so much energy...um, if he would have said I'm sorry. His remarks on November 18th was not an apology. In fact it's, it's just what he said...he continues to say it was somebody else's fault. The night of the meeting, when it was said, he was sitting where he sits and he was making that comment and I says, I turned to him and said, "What are you doing?" and, because of this here [Director Nishi tapped the top of the dais.] I pointed my finger at...we had a staff individual of that nationality he was ridiculing. I pointed to him and I says, "What are you doing?" and, at that point, he stopped. So, this...another fabrication of not told it was offensive.

Agenda Item 11-A (continued):

Director Nishi – It...you know, I mean, Tom, if you had just said, “Hey, I’m sorry.” And, I agree with people, what people says, we all make mistakes. But, the issue is, we make the mistakes, but you have to be man enough to say, “Hey, I screwed up.” That’s all...that’s all it took. And, us continually going and fabricating and etcetera. And, the big issue is, I as a Director, has...have...has the responsibility to ensure that we set the bar at a level. If we say, after 116 days you can go and make all your little excuses, etcetera, etcetera, to the employees...and, all you had to do is copy Director Moore’s comments and that’s an apology, this District is going to have a hard time. And, I did read...uh, look at those, uh...videos of the City Council meeting and what Jan Shriner said was more fabrication. I wish people if they’re going to come here and comment, we...we welcome their comments, but look on the other side of the story. See what happened on this side. And, that just...whatever. So, I...you know, I support this censure cause we have to send a message to our employees what is expected of our employees and Director’s have uh, as someone else says we live in glass houses and we are the ones responsible for what happens in this District. Thank you.

President Gustafson – Alright...Tom, one more comment.

Director Moore – Yeah, um, I’m afraid I have to again disagree with Director Nishi’s memories. One thing I do recall, from the August 27th uh, meeting when we were in recess, is immediately after my remark, Director Nishi did not say what he just reported to us on record here, instead, he turned to me and said, “That’s stupid.” And, that’s all he said. The next I heard from him on this topic was two weeks later, uh, at another meeting, when things had morphed into further structure. Let me, um, I’m going to offer a amendment to the motion here and I would like to tell you why, um...

President Gustafson – Well, we have to take action on this. We have a motion and a second.

Director Moore – You can make an amendment, you can offer an amendment, maybe it will get a second, maybe it won’t. I’m going to move to amend this motion to add Director Nishi’s name to it and here’s why. At the Board meeting, November 18th, Director Nishi made two separate, on record, disparaging remarks that were clearly intended to be offensive. First, he said, “Maybe tonight you want to give us your interpretation to the Filipino’s. Why don’t you give us an example of what you think a Filipino should sound like.” Later, the second remark he said, “I would just like you to give us an interpretation of, since you don’t want to do Filipino, maybe we will do...take your pick. You know, I mean, you thought you were cute that night.” First of all, these remarks are offensive, harassing and disrespectful in and of themselves. Thus, they violate Sections 5 and 15 of the Board Procedures Manual. Second, in his remarks, Director Nishi demands another Director violate Section 5 of the Board Procedures Manual. Advocating violation of the Board Procedures Manual is just as bad as violating it.

Agenda Item 11-A (continued):

Director Moore – It is hypocritical to claim to support the policy and then when it suits a certain political agenda, to turn around and demand that a fellow Director break the policy. So, I move that we add Director Nishi’s name to the censure motion.

[Pause]

President Gustafson – Okay, it dies for lack of a second. Alright.

Director Burns – I have comment.

President Gustafson – One more comment.

Director Burns – Director Moore is talking about what he heard and what he didn’t hear. Um, you said Director Nishi said, “That was stupid.” Director Nishi said he was offended by what you said, ‘cause I heard it. So, that’s not accurate either. That is exactly what he said. Uh...the other thing is, whether we accept his apology or not. It was found that he did what he did. So, why I am suggesting censure, is that’s his letter to file, saying don’t do it anymore. If we don’t do anything, he may inadvertently do it again some other time. He has not taken responsibility for what he said. He keeps blaming other folks for what he said. So, I don’t care whether he apologized or not. That’s the appropriate thing to do. He needs to be reprimanded for his comment that was found to be...to be inappropriate.

President Gustafson – Thank you. I am going to have one, one last comment. I just want to say that, uh, Marina Coast Water District is a professional organization and has a zero tolerance policy for any type of harassment...any type, racial or any other, and uh, I...I just want to reassure the public of that and that they can certainly trust the Marina Coast Water District to always provide them the best service possible. Okay, at this time, I’ll take a roll call vote.

Ms. Paula Riso, Executive Assistant/Clerk to the Board – Director Moore?

Director Moore – No.

Ms. Riso – Director Nishi?

Director Nishi – Yes.

Ms. Riso – Director Burns?

Director Burns – Yes.

Agenda Item 11-A (continued):

Ms. Riso – Vice President Lee? [pause]

Vice President Lee – Oh, I’m sorry...

President Gustafson – You’re Vice President.

Vice President Lee – Yes.

Ms. Riso – President Gustafson?

President Gustafson – Yes. Alright, thank you. Okay, at this I’ll move on to Action Item B.

[End of verbatim discussion on agenda item 11-A.]

The following is the resulting action of 11-A, Consider Censure of a Director:

Director Burns made a motion to censure Director Moore. President Gustafson seconded the motion.

Director Moore made a motion to amend the previous motion and add Director Nishi’s name to the censure. The motion to amend failed for lack of a second.

The original motion was passed.

Director Moore	-	No	Vice President Lee	-	Yes
Director Nishi	-	Yes	President Gustafson	-	Yes
Director Burns	-	Yes			

B. Consider Adoption of Resolution No. 2008-62 to Approve the Planning Agreement with Clark Colony Water Company:

Mr. Lowrey introduced this item explaining that this was the latest in a series of actions taken to preserve the ability of the Board to plan for the supplementing of the District’s water supply by purchasing water rights from the Clark Colony Water Company (CCWC). The Board previously entered into an exclusive negotiating agreement with CCWC in which the terms require payments of \$125,000 annually for the District to maintain the exclusive negotiating rights. Mr. Lowrey stated that was the first aspect of this resolution. The second aspect is to enter into a planning agreement to set timelines and procedures for analyzing the environmental impact of the acquisition.

Agenda Item 11-B (continued):

Vice President Lee inquired if the \$125,000 annual payments are credited towards the purchase of the water rights. Mr. Lowrey answered that if the Board decides to purchase the water right, it would be credited against the purchase price. If the Board decides not to purchase the water right, the payments would have been only to keep others from negotiating for purchase until the environmental work was complete. Mr. Lowrey stated the Board was keeping their options open by this agreement. President Gustafson asked Mr. Heitzman to give a brief explanation of the potential and realization of water with this agreement.

Mr. Heitzman stated that there was between 7,000 and 13,500 acre feet of water on the Arroyo Seco River to be taken by a Pre-1914 Water Right, downstream or by groundwater, and the District is working with the Monterey County Water Resources Agency to find out if that water would be made available to the District.

Vice President Lee made a motion to adopt Resolution No. 2008-62 approving the Planning Agreement with Clark Colony Water Company and the payment of \$125,000 to extend the negotiating rights. Director Burns seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Lee	-	Yes
Director Nishi	-	Yes	President Gustafson	-	Yes
Director Burns	-	Yes			

C. Receive the Recommendation from the Ord Community Ad Hoc Committee and Consider Scheduling Workshops to Discuss Details:

Mr. Heitzman introduced this item and reviewed the recommendations made by the Ord Community Ad Hoc Committee (OCAC) for consideration. He commented that staff recommended the Board hold one or a series of workshops to discuss the recommendation details. Mr. Lowrey commented that one or more workshops should be scheduled within the Ord area.

Vice President Lee voiced his support of the idea to hold workshops.

Director Burns asked if the Board would meet first before inviting all the other jurisdictions.

Mr. Lowrey answered that the Board's first action should be to receive the report. Then the Board can schedule the workshops. President Gustafson suggested holding Board discussion at the February Board meeting.

Vice President Lee made a motion to schedule the first workshop for the February Board meeting. President Gustafson mentioned that the Board still had to receive the report.

Agenda Item 11-C (continued):

Vice President Lee amended his motion to receive the report. Director Moore seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Lee	-	Yes
Director Nishi	-	Yes	President Gustafson	-	Yes
Director Burns	-	Yes			

President Gustafson suggested holding discussion at the February Board meeting. The Board concurred.

12. Staff Report:

A. Receive Report of Proposed Remodel of the Reservation Road Front Office:

Ms. Jean Premutati, Management Services Administrator, gave a brief report of the front office remodel at the Reservation Road location. She explained that the JPIA recommended a more secure office space. The Monterey County Sheriff's Department also inspected the front office and made several recommendations for a more secure and safe work environment. Mr. Heitzman added that there will also be a surveillance camera installed in the front office because there have been several instances where strangers have walked into the office and wandered into offices without anyone knowing they who they were. Staff is looking forward to the remodel.

Director Moore voiced his approval and support of the work and looked forward to seeing the safety improvements for employees.

13. Informational Items:

A. General Manager's Report:

Mr. Heitzman stated a Holiday potluck was held on Thursday, December 18th and almost all employees and several Board members attended and enjoyed a pleasant lunch with lots of warm feelings. The year is at an end and it has been a pretty good year with the District moving ahead in a lot of directions. Mr. Heitzman added that staff has done an outstanding job and rates have stayed the lowest in the area.

B. District Engineer's Report:

Mr. True stated that he had nothing to report.

C. Counsel's Report:

Mr. Lowery stated he had nothing to report.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

No comments.

2. Joint City-District Committee:

No comments.

3. MRWPCA Board Member:

Director Nishi stated that Director Burns attended the meeting. Director Burns commented that the meeting was short with normal business.

4. LAFCO Liaison:

Vice President Nishi stated the December 1st meeting approved the Carmel Valley Incorporation with Tehama removed from the incorporation and sphere. The "Cornnuts Annexation" in Greenfield was approved and the Fire Districts going into Salinas Rural.

5. JPIA Liaison:

No comments.

6. Monterey Bay Regional Water Authority:

No comments.

7. FORA:

Vice President Nishi stated that the capacity charges for MCWD were up for approval and one entity voted no so the capacity charges will be brought back in January. The Imjin Office was approved.

8. Executive Committee:

No comments.

9. Community Outreach:

No comments.

10. Ord Community Ad Hoc Committee:

President Gustafson stated discussion was heard in detail under agenda item 11-C.

11. Special Districts Association Liaison:

President Gustafson stated that Mr. Lou Solton, Monterey County Treasurer, gave a report on the County financial situation.

E. Director's Comments:

Director Nishi commented that hopefully in 2009 they would continue to work together as a Board and as a team. He commented that it is fortunate to have the District moving up in a more professional light than it has historically been.

Vice President Lee thanked staff and thanked Mr. Heitzman for accomplishing a lot in the last year. Employees seem to be happier with their jobs and enjoying their work more than in the recent past. Vice President Lee complimented staff on the remarkable work refurbishing the Ord office and the demonstration garden on the grounds.

President Gustafson thanked staff for their hard work over the last year and the Board for their support. He wished everyone a Merry Christmas and Happy Holidays and profitable and Happy New Year.

14. Adjournment:

The meeting was adjourned at 7:55 p.m.

APPROVED:

Howard Gustafson, President

ATTEST:

Jim Heitzman, General Manager