



MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: www.mcwd.org

TEL: (831) 384-6131 FAX: (831) 883-5995

DIRECTORS
KENNETH K. NISHI
President

WILLIAM LEE
Vice President

HOWARD GUSTAFSON
DAN BURNS
JAN SHRINER

Agenda

Regular Board Meeting, Board of Directors Marina Coast Water District

11 Reservation Road, Marina, California
Tuesday, December 14, 2010, 6:45 p.m. PST

This meeting has been noticed according to the Brown Act rules. The Board of Directors now meets regularly on the second Tuesday of each month. The meetings normally begin at 6:45 p.m. at the District offices at 11 Reservation Road, Marina, California.

Mission: *Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Vision: *The Marina Coast Water District will be the leading public supplier of integrated water and wastewater services in the Monterey Bay Region.*

1. Call to Order

2. Roll Call

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

- A. Consider Adoption of Resolution No. 2010-80 to Declare the Election of Directors to the Marina Coast Water District Board

Action: The Board will consider adopting Resolution No. 2010-80 declaring the election of Directors to the Marina Coast Water District Board.

4. Administer Oath of Office

Action: The Oath of Office will be administered to Howard Gustafson, William Y. Lee, and Jan Shriner who were elected on November 2, 2010 to serve as Directors to the Marina Coast Water District Board.

This agenda is subject to revision and may be amended prior to the scheduled meeting. A final agenda will be posted at the District office at 11 Reservation Road, Marina, 72 hours prior to the meeting. Copies will also be available at the Board meeting. A complete Board packet containing all enclosures and staff materials will be available for public review on Thursday, December 9, 2010 at the District office, Marina and Seaside City Halls, and at the Marina and Seaside Libraries. Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Board Clerk at: 831-883-5910. The next regular meeting of the Board of Directors is scheduled for January 11, 2011.

5. Election of Board President and Vice-President

Action: The Board will elect two Directors to serve as President and Vice-President of the Board until December 2011.

6. Closed Session

- A. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)
Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and Complaint for Declaratory Relief)
- B. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Marina Coast Water District Employees Association
- C. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Teamsters Local 890
- D. Pursuant to Government Code Section 54957.6
Conference with Labor Negotiators
Agency designated representatives: Kenneth K. Nishi and William Lee
Unrepresented employee: General Manager
- E. Pursuant to Government Code Section 54957.6
Conference with Labor Negotiators
Agency designated representatives: General Manager
Unrepresented employee: Deputy General Manager/District Engineer

7:00 p.m. Reconvene Open Session

7. Possible Action on Closed Session Items *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

8. Pledge of Allegiance

9. Oral Communications *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to three minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

10. Consent Calendar *Board approval can be taken with a single motion and vote. A Board member or member of the public may request that any item be pulled from the Consent Calendar for separate consideration at this meeting or a subsequent meeting. The public may address the Board on any Consent Calendar item. Please limit your comment to three minutes.*

- A. Adopt Resolution No. 2010-81 to Approve a Real Estate Transfer from the Marina Coast Water District to Residents at Sunset Place
- B. Adopt Resolution No. 2010-82 to Approve the Unit Modification Order to Teamsters Union Local 890
- C. Approve the Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2011
- D. Approve the Expenditures for the Month of November 2010
- E. Approve the Draft Minutes of the Regular Board Meeting of November 9, 2010
- F. Approve the Draft Minutes of the Special Board Meeting of November 29, 2010

11. Action Items *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these Items as each item is reviewed by the Board. Please limit your comment to three minutes.*

- A. Consider Adoption of Resolution No. 2010-83 to Approve the Technical Design and Construction of the Proposed Well No. 34

Action: The Board of Directors will consider approving the technical design and construction of the proposed Well No. 34.

- B. Consider Adoption of Resolution No. 2010-84 to Approve the Memorandum of Understanding between the Marina Coast Water District Employees Association and the Marina Coast Water District

Action: The Board of Directors will consider approving the Memorandum of Understanding between the Marina Coast Water District Employees Association and the Marina Coast Water District.

- C. Consider Adoption of Resolution No. 2010-85 to Approve the FY 2010/2011 Marina Coast Water District Employees Association Salary Schedules

Action: The Board of Directors will consider approving the FY 2010/2011 Marina Coast Water District Employees Association salary schedules.

12. Staff Report

- A. Receive Verbal Update on the Regional Water Supply Project

13. Informational Items *Informational items are normally provided in the form of a written report or verbal update and may not require Board action. The public may address the Board on Informational Items as they are considered by the Board. Please limit your comments to three minutes.*

- A. General Manager’s Report
- B. District Engineer’s Report
- C. Counsel’s Report
- D. Committee and Board Liaison Reports
 - 1. Water Conservation Commission
 - 2. Joint City-District Committee
 - 3. Budget and Personnel Committee
 - 4. Operations and Maintenance Committee
 - 5. Projects and Planning Committee
 - 6. Special Districts Association Liaison
 - 7. MRWPCA Board Member
 - 8. LAFCO Liaison
 - 9. JPIA Liaison
 - 10. FORA
 - 11. Executive Committee
 - 12. Community Outreach
- E. Director’s Comments

14. Adjournment *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting: Tuesday, January 11, 2011, 6:45 p.m.,
11 Reservation Road, Marina*

Marina Coast Water District
Agenda Transmittal

Agenda Item: 3

Meeting Date: December 14, 2010

Submitted By: Paula Riso

Presented By: Jim Heitzman

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2010-80 to Declare the Election of Directors to the Marina Coast Water District

Detailed Description: The Board of Directors is asked to declare the election of Directors to the Marina Coast Water District. The Monterey County Elections Official certified that at the consolidated general election on November 2, 2010, Mr. Howard Gustafson, Mr. William Lee, and Ms. Jan Shriner were elected to begin serving four-year terms as members of the District Board of Directors.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: _____Yes X No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Resolution No. 2010-80; and, copy of the official Statement of Votes Cast.

Staff Recommendation: The Board of Directors consider adoption of Resolution No. 2010-80 to declare the election of Directors to the Marina Coast Water District.

Action Required: X Resolution _____Motion _____Review
(Roll call vote is required.)

Board Action

_____Resolution No_____ Motion By_____ Seconded By_____

Ayes_____ Abstained_____

Noes_____ Absent_____

Reagendized_____ Date_____ No Action Taken_____

Resolution No. 2010-80
Resolution of the Board of Directors
Marina Coast Water District
Declaring the Election of Directors to the Marina Coast Water District

December 14, 2010

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“MCWD”), at a regular meeting duly called and held on December 14, 2010 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the elections official of Monterey County has certified that Howard Gustafson, William Lee, and Jan Shriner were elected as Directors of the MCWD at the consolidated general election on November 2, 2010; and,

WHEREAS, Elections Code section 15400 provides that the governing body shall declare elected the person(s) having the highest number of votes as certified by the county elections official.

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of MCWD declares that Howard Gustafson, William Lee, and Jan Shriner have been elected as Directors of the MCWD.

PASSED AND ADOPTED on December 14, 2010, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors _____

Noes: Directors _____

Absent: Directors _____

Abstained: Directors _____

Kenneth K. Nishi, President

ATTEST:

Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-80 adopted December 14, 2010.

Jim Heitzman, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 4

Meeting Date: December 14, 2010

Submitted By: Jim Heitzman

Presented By: Jim Heitzman

Agenda Title: Administer Oath of Office

Detailed Description: In accordance with the November 2, 2010 election results, three individuals are to be sworn in to begin serving new four-year terms as members of the District Board of Directors. Mr. Howard Gustafson, Mr. William Lee, and Ms. Jan Shriner will be sworn in at this meeting. Mr. Heitzman will administer the oath of office to Mr. Gustafson and Mr. Lee, and Supervisor Jane Parker will administer the oath of office to Ms. Shriner.

“I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.”

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: Yes No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Copies of the Certificate of Election for the three individuals elected in November.

Staff Recommendation: Administer the oath of office to Mr. Howard Gustafson, Mr. William Lee, and Ms. Jan Shriner who were elected at the November 2, 2010 election.

Action Required: Resolution Motion Review Oath

Board Action

____ Resolution No ____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 5

Meeting Date: December 14, 2008

Submitted By: Paula Riso
Reviewed By: Carl Niizawa

Presented By: Jim Heitzman

Agenda Title: Election of Board President and Vice-President

Detailed Description: Resolution No. 98-1, as amended, states that the Board will annually elect a President and Vice-President. The Board Procedures Manual revised on March 9, 2009 states:

“This District shall have a President who shall be elected by the Board from among the five (5) elected directors. The President shall be elected annually in the month of December. It is the Board's policy to rotate the office of President among the Board members and no Director shall serve more than three (3) consecutive years as president.”

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: Yes No

Funding Source/Recap: N/A

Material Included for Information/Consideration: None.

Staff Recommendation: The Board of Directors elect a President and Vice-President to serve the next 1-year term.

Action Required: Resolution Motion Review

Board Action

Resolution No Motion By Seconded By

Ayes Abstained

Noes Absent

Reagendized Date No Action Taken

Marina Coast Water District
Agenda Transmittal

Agenda Item: 10

Meeting Date: December 14, 2010

Submitted By: Paula Riso

Presented By: Paula Riso

Reviewed By: Carl Niizawa

Agenda Title: Consent Calendar

Detailed Description: Consent calendar consisting of:

- A) Adopt Resolution No. 2010-81 to Approve a Real Estate Transfer from the Marina Coast Water District to Homeowners at Sunset Place
- B) Adopt Resolution No. 2010-82 to Approve the Unit Modification Order to Teamsters Union Local 890
- C) Approve the Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2011
- D) Approve the Expenditures for the Month of November 2010
- E) Approve the Draft Minutes of the Regular Board Meeting of November 9, 2010
- F) Approve the Draft Minutes of the Special Board Meeting of November 29, 2010

Environmental Review Compliance: None required.

Prior Committee or Board Action: See individual transmittals.

Board Goals/Objectives: *Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: _____Yes _____No

Funding Source/Recap: See individual transmittals.

Material Included for Information/Consideration: See individual transmittals.

Staff Recommendation: The Board of Directors approve the Consent Calendar as presented.

Action Required: _____Resolution X Motion _____Review
(Roll call vote is required.)

Board Action

_____Resolution No_____ Motion By_____ Seconded By_____

Ayes_____ Abstained_____

Noes_____ Absent_____

Reagendized_____ Date_____ No Action Taken_____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 10-A

Meeting Date: December 14, 2010

Submitted By: Rich Youngblood

Presented By: Rich Youngblood

Reviewed By: Carl Niizawa

Agenda Title: Adopt Resolution No. 2010-81 to Approve a Real Estate Transfer from the Marina Coast Water District to Homeowners at Sunset Place

Detailed Description: The Board of Directors is requested to approve the transfer of a 12,000 square foot parcel (200 ft by 60 ft) of District land next to California Street in Marina (the "property") to the four adjacent property owners on Sunset Place (the "homeowners").

The District owns the property and road commonly known as "Sunset Place" located next to California Street in Marina which is used by the homeowners as the sole access to their homes. Ownership of the property and road does not serve any District function because water and wastewater services are usually conveyed through easements under roads owned by others; usually, the local land use jurisdiction. Ownership does place responsibility for road maintenance on the District.

The District has offered the Sunset Place property to the City of Marina, which refused to accept the property. The City maintains that the road is a private driveway for the homeowners.

The requested action would transfer the responsibility for maintenance and the associated liability of the property and road to the homeowners who utilize it on a daily basis. It will also retain for the District the necessary easements for continued water and waste water service.

As required by law to ascertain interest from public agencies, the District declared the property surplus in September 14, 2010 (Resolution No. 2010-64) and notified these local agencies. No agency had expressed interest in the property. The homeowners have acknowledged a willingness to accept the property and maintain the road.

Prior Committee or Board Action: On September 14, 2010, the Board approved Resolution No. 2010-64 declaring the property surplus.

Board Goals/Objectives: *To manage and sustain the District's water, recycled water and wastewater services, conservation activities, infrastructure and human resources at or above industry standards.*

Financial Impact: Yes No

Funding Source/Recap: Legal documents have been prepared at District expenses with respect to this action. Title transfer, insurance and supporting documentation costs will be borne by the District. The property will be transferred to the homeowners for no monetary consideration.

Material Included for Information/Consideration: Resolution No. 2010 – 81; Copy of Land Transfer Agreement; and, Resolution No. 2010-64 declaring the property surplus.

Staff Recommendation: The Board of Directors approve the resolution and transfer the property to the homeowners who utilize Sunset Place as the access to their property.

Action Required: Resolution Motion Review
(Roll call vote is required.)

Board Action

_____ Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

December 14, 2010

Resolution No. 2010-81
Resolution of the Board of Directors
Marina Coast Water District
Approving a Real Estate Transfer Between
the Marina Coast Water District and the Homeowners on Sunset Place

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 14, 2010 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District owns a 12,000 square foot parcel commonly known as Sunset Place in Marina, CA, described and shown in the Land Transfer Agreement attached as Attachment A to this Resolution (“the property”); and,

WHEREAS, the District declared the property surplus on September 14, 2010 (Resolution No. 2010-64); and,

WHEREAS, the District desires to transfer the property to the adjacent homeowners who use Sunset Place as access to their homes, while reserving and maintaining water and wastewater easements and facilities on the property for the District; and,

WHEREAS, upon the transfer of the property, the homeowners will be responsible for maintenance and repair of the access road serving their respective properties; and,

WHEREAS, disposition of the property as provided above is in the best interests of the District; and

WHEREAS, the District and homeowners have negotiated the Land Transfer Agreement in good faith; and,

WHEREAS, the documents have been reviewed by District counsel and found to be complete and correct.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby direct the General Manager, upon compliance with applicable requirements for disposal of surplus land, to take all actions and execute all documents as may be necessary or appropriate to:

1. Transfer ownership of the property described in Attachment A to this Resolution to the homeowners (in accordance with the Land Transfer Agreement – Attachment A); and,
2. File a Notice of Exemption pursuant to Section 15312 of the CEQA regulations.

PASSED AND ADOPTED on December 14, 2010 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors _____

Noes: Directors _____

Absent: Directors _____

Abstained: Directors _____

Kenneth K. Nishi, President

ATTEST:

Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-81 adopted December 14, 2010.

Jim Heitzman, Secretary

LAND TRANSFER AGREEMENT

THIS LAND TRANSFER AGREEMENT ("Agreement") is made effective as of _____, 2010 ("Effective Date") by and between MARINA COAST WATER DISTRICT, a county water district and political subdivision of the State of California ("MCWD") and JULIE WILDMAN, an unmarried woman; Robert C. Billingsley and Elisabeth M. Billingsley, as co-trustees for the BILLINGSLEY TRUST dated May 16, 1994; TIEP VAN NGUYEN, and unmarried man and MY VAN NGUYEN, a single man, as joint tenants; and GLORIA R. ARGUEZA, an unmarried woman (collectively, the "Transferees") upon the following facts:

A. MCWD is the owner of certain real property situated in the City of Marina, California, commonly known as Sunset Place (APN 032-151-010) and more particularly described in Exhibit A, attached hereto ("Property").

B. Transferees are each the owner of real property adjacent to Sunset Place being APN 032-151-006 (Wildman), APN 032-151-007 (Billingsley), APN 032-151-008 (Nguyen), and APN 032-151-009 (Argueza). Sunset Place provides access from California Avenue to each of the Transferees' respective properties.

C. MCWD desires to transfer the Property to Transferees. Transferees desire to acquire the Property from MCWD.

NOW THEREFORE, for and in consideration of the terms and provisions of this Agreement, MCWD and Transferees agree as follows:

1. TRANSFER OF LAND. Subject to the terms and conditions set forth in this Agreement, MCWD agrees to transfer to Transferees and Transferees agrees to accept from MCWD the Property subject to the provisions of this Agreement.

2. ESCROW. The transaction contemplated herein shall be effected through an escrow established with Chicago Title Insurance Company at 250 Bonifacio Place in Monterey, California 93940 ("Title Company"). Title Company is instructed to open escrow as of the date of delivery of a fully executed Agreement into escrow.

3. CLOSING - TIME AND PLACE. Provided that all of the conditions of this Agreement have been satisfied, the closing of the escrow shall take place at the offices of Title Company on a date that is thirty (30) days from the Effective Date ("Closing Date"). The closing ("Closing") shall occur upon recordation of the Grant Deed conveying title to the Property to Transferees as required by this Agreement and upon issuance of a title policy to Transferees.

4. CONDITION OF TITLE. Title to the Property shall be conveyed to Transferees at the Closing by Grant Deed subject to: (i) the standard printed exceptions contained in the Title Company's title policy, (ii) a lien to secure real property taxes and assessments not then delinquent, (iii) any easements, covenants, conditions, restrictions, rights or other matters of record, and (iv) the covenants, conditions and restrictions set forth in the Grant Deed, defined below (collectively, the "Permitted Exceptions").

5. DELIVERY OF GRANT DEED. On or before the Closing Date, MCWD shall deliver into escrow, a grant deed in Title Company's ("Grant Deed") in the form attached hereto as Exhibit A, duly authorized, executed and acknowledged by MCWD, conveying title to the Property to Transferees as tenants-in-common subject to the Permitted Exceptions.

6. CLOSING COSTS. MCWD agrees to pay the cost of the premium on the Policy of Title Insurance, and all escrow fees, notary fees, documentary transfer taxes and recording fees.

7. PROPERTY AS-IS; RELEASE. Transferees shall acquire the Property in its "AS IS" condition without any covenant, representation or warranty of any kind or nature whatsoever, express or implied. Transferees agree and acknowledge that MCWD shall have no further obligation to improve, maintain or repair the Property after the Closing.

Transferees', on behalf of themselves and their successors and assigns, hereby release MCWD from any claim, liability, loss, damage or expense (collectively, "Claims") relating to the condition, use or operation of the Property whether or not such Claims are known or discovered by Transferees prior to the Closing unless such Claim arises out of the failure of MCWD to perform its obligations under this Agreement. Transferees', on behalf of themselves and their successors and assigns, further agree that all rights under California Civil Code section 1542 and any similar law are hereby expressly waived with respect to the matters specifically released in this Section. Said section reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him, must have materially affected his settlement with the debtor.

MCWD's Initials

Transferees' Initials

8. NO COMMISSIONS DUE. Each party represents and warrants to the other party that they have not retained the services of a real estate broker, finder or agent and that they are not obligated or liable for any such fees or commissions. Each party hereby agrees to indemnify and to defend and hold the other harmless from and against any loss, cause, liability and expense, including reasonable attorneys' fees, which may be incurred in the event its representations herein prove incorrect.

9. MISCELLANEOUS.

(a) Attorneys' Fees. In the event that any party institutes a legal action, including arbitration, to interpret or enforce this Agreement or their respective rights and obligations hereunder, the prevailing party in such action shall be entitled to an award of costs and fees, including, but not limited to, reasonable attorneys' fees, expert fees and court costs, incurred in such action, or proceeding and any appeal in connection therewith.

(b) Notices. All notices, demands, requests and other communications required or permitted hereunder shall be in writing and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same shall be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. Such notices or communications shall be given to Transferees at their respective addresses shown on the Monterey County tax roll and to MCWD at the address set forth below its signature.

(c) Integration. This Agreement constitutes the complete and final expression of the agreement of the parties relating to the purchase of the Property and supersedes all previous contracts, agreements, and understandings of the parties, either oral or written, relating to the Property. This Agreement cannot be modified, or any of the terms hereof waived, except by an instrument in writing (referring specifically to this Agreement) executed by the party against whom enforcement of the modification or waiver is sought.

(d) Counterpart Execution. This Agreement may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument. To facilitate execution of this Agreement, the parties may execute and exchange by facsimile or electronic counterparts of the signature pages.

(e) Time of the Essence. Time is of the essence of this Agreement and of the obligations of the parties to purchase and sell the Property.

(f) Binding Effect. This Agreement shall be binding upon and inure to the benefit of MCWD and Transferees, and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed the foregoing Agreement as of the day and year first-above written.

MARINA COAST WATER DISTRICT, a county water district and political subdivision of the State of California

By: Kenneth K. Nishi
Its: President

By: Jim Heitzman
Its: General Manager and Secretary

Address for Notices:
Marina Coast Water District
Attention: Jim Heitzman, General Manager
11 Reservation Road
Marina, California 93933
Telephone: (831) 384-6131
Facsimile: (831) 883-5995
Email: jheitzman@mcwd.org

JULIE WILDMAN

BILLINGSLEY TRUST dated May 16, 1994

By: Robert C. Billingsley, co-trustee

By: Elisabeth M. Billingsley, co-trustee

TIEP VAN NGUYEN

MY VAN NGUYEN

GLORIA R. ARGUEZA

**EXHIBIT A
GRANT DEED**

(attached)

September 14, 2010

Resolution No. 2010 - 64
Resolution of the Board of Directors
Marina Coast Water District
Declaring Property Surplus and Providing for Disposition

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“MCWD”), at a regular meeting duly called and held on September 14, 2010 at the business office of the MCWD, 11 Reservation Road, Marina, California as follows:

WHEREAS, the MCWD is authorized by Section 31041 of the Water Code to hold, use, enjoy, lease, or dispose of property within or without the MCWD necessary to the full exercise of its powers; and

WHEREAS, the General Manager advises that certain items of real property owned by the MCWD, as enumerated on the Schedule to this Resolution, are no longer necessary for MCWD purposes and are of no further use to the MCWD, and recommends that the MCWD dispose of such property; and,

WHEREAS, the MCWD’s Legal Counsel advises that the MCWD may dispose of the property by private or public sale, as is determined by the General Manager to be in the MCWD’s best interests as to any item of property; and,

WHEREAS, it is in the best interests of the MCWD to dispose of the property enumerated on the Schedule to this Resolution, in accordance with MCWD policy and on the advice and recommendation of the General Manager and Legal Counsel.

NOW, THEREFORE, BE IT RESOLVED:

1. The real property of the MCWD enumerated on the Schedule to this Resolution is surplus to the needs of the MCWD and shall be disposed of for valuable consideration in the MCWD’s best interest.
2. No person who personally participates in or influences the sale or process for selling the property may acquire any of the property, including the members of the Board, the General Manager, selected management employees of the MCWD, and MCWD’s Legal Counsel.
3. The General Manager is authorized and directed to take such actions as are necessary or appropriate to give effect to this Resolution, and to do whatever is necessary and proper to sell or otherwise dispose of said property as provided by this Resolution.

PASSED AND ADOPTED on September 14, 2010 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors Moore, Burns, Gustafson, Lee, Nishi

Noes: Directors None

Absent: Directors None

Abstained: Directors None

Kenneth K. Nishi
Kenneth K. Nishi, President

ATTEST:

Jim Heitzman
Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-64 adopted September 14, 2010.

Jim Heitzman
Jim Heitzman, Secretary

Schedule

DISTRICT SURPLUS PROPERTY LIST

Sunset Place (Dirt Road), Marina, CA

Road size 200' x 60'

AP# 03215110

Assessment #009-009

APN# 032-151-010

Marina Coast Water District
Agenda Transmittal

Agenda Item: 10-B

Meeting Date: December 14, 2010

Submitted By: Jean Premutati
Reviewed By: Carl Niizawa

Presented By: Jean Premutati

Agenda Title: Adopt Resolution No. 2010-82 to Approve the Unit Modification Order to the Teamsters Union Local 890

Detailed Description: In 2002, the District's management and confidential staff voted to organize into a bargaining unit and selected the Teamsters Local 890 for representation. At that time, the Management Services Administrator (MSA) who implements and manages a broad range of human resources functions was included in the unit.

The MSA is responsible to provide assistance to staff in interpretation of MOU's, the processing of grievances, researching proposals and cost implications associated with negotiations and representing the District.

In April 2009, the District submitted a petition to the Teamsters requesting a modification of the unit by removing the MSA, Accounting Technician, and Executive Assistant positions, due to inappropriate classification and possible conflict of interest. In all disciplinary matters, the MSA represents the District. Each time a petition is submitted it is referred to the Public Employment Relations Board (PERB) for a settlement hearing. The petition was denied by PERB.

In September 2010, the District presented another unit modification petition by removing the MSA, Accounting Technician, and Executive Assistant positions, and on November 15, 2010, the PERB conducted a settlement hearing with the Teamsters and District representative, Jeanine DeBacker of Hoge, Fenton, Jones & Appel. At that time, the PERB approved only the deletion of the MSA from the unit.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: ___ Yes ___ **X** No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Resolution No. 2010-82; and, PERB Unit Modification Order.

Staff Recommendation: The Board of Directors accept the PERB decision and adopt Resolution No. 2010-82 to approve the Unit Modification Order to the Teamsters Union Local 890.

Action Required: X Resolution _____ Motion _____ Review
(Roll call vote is required.)

Board Action

_____ Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

December 14, 2010

Resolution No. 2010-82
Resolution of the Board of Directors
Marina Coast Water District
Approving the Unit Modification Order to the Teamsters Union Local 890

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 14, 2010 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, in 2002, the District’s management and confidential staff voted to organize into a bargaining unit and selected the Teamsters Local 890 for representation which included the Management Services Administrator (MSA); and,

WHEREAS, the MSA is responsible to provide assistance to staff in interpretation of MOU’s, the processing of grievances, researching proposals and cost implications associated with negotiations and the processing of grievances; and,

WHEREAS, in April 2009, and September 2010, the District submitted petitions to the Teamsters requesting a unit modification by removing the MSA, Accounting Technician, and Executive Assistant. As the MSA represents the District in all disciplinary matters it could pose a possible conflict of interest; and,

WHEREAS, each time a petition is submitted it is referred to the Public Employment Relations Board (PERB) for a settlement hearing; and,

WHEREAS, on November 15, 2010, the PERB approved only the deletion of the MSA from the unit.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby adopt Resolution No. 2010-82 to approve the Unit Modification Order to the Teamsters Union Local 890.

PASSED AND ADOPTED on December 14, 2010, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors _____

Noes: Directors _____

Absent: Directors _____

Abstained: Directors _____

Kenneth K. Nishi, President

ATTEST:

Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-82 adopted December 14, 2010.

Jim Heitzman, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 10-C

Meeting Date: December 14, 2010

Submitted By: Paula Riso
Reviewed By: Carl Niizawa

Presented By: Paula Riso

Agenda Title: Consider Approval of Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2011

Detailed Description: The Board is requested to approve the attached proposed regular Board meeting and Standing Committee meeting dates and times for 2011.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Goal No. 1 - To manage and sustain the District's groundwater and desalinated water, recycled water and wastewater services, conservation activities, infrastructure and human resources at or above industry standards.*

Financial Impact: _____ Yes No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Copy of 2011 calendar showing the proposed meeting dates.

Staff Recommendation: The Board of Directors consider approving the proposed regular Board meeting and Standing Committee meeting dates and times for 2011.

Action Required: _____ Resolution Motion _____ Review

Board Action

_____ Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 10-D

Meeting Date: December 14, 2010

Submitted By: Suresh Prasad
Reviewed By: Carl Niizawa

Presented By: Suresh Prasad

Agenda Title: Approve Expenditures for the Month of November 2010

Detailed Description: The Board of Directors is requested to approve the attached November 2010 check register for expenditures totaling \$1,352,304.52.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Goal No. 4 – To manage the District’s finances in the most effective and fiscally responsible manner.*

Financial Impact: ___Yes ___X___No

Funding Source/Recap: Expenditures are allocated across the six cost centers; 01-Marina Water, 02-Marina Sewer, 03- Ord Water, 04- Ord Sewer, 05-Recycled Water, 06-Regional Water.

Material Included for Information/Consideration: November 2010 Summary Check Register.

Staff Recommendation: The Board of Directors approve the November 2010 expenditures totaling \$1,352,304.52.

Action Required: ___Resolution ___X___Motion ___Review

Board Action

___Resolution No___ Motion By___ Seconded By___

Ayes___ Abstained___

Noes___ Absent___

Reagendized___ Date___ No Action Taken___

Marina Coast Water District
Agenda Transmittal

Agenda Item: 10-E

Meeting Date: December 14, 2010

Submitted By: Paula Riso
Reviewed By: Carl Niizawa

Presented By: Paula Riso

Agenda Title: Approve the Draft Minutes of the Regular Board Meeting of November 9, 2010

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of November 9, 2010.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District’s expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: _____Yes X No

Funding Source/Recap: None.

Material Included for Information/Consideration: Draft minutes of November 9, 2010.

Staff Recommendation: The Board of Directors approve the draft minutes of the November 9, 2010 regular Board meeting.

Action Required: _____Resolution X Motion _____Review

Board Action

_____Resolution No_____ Motion By_____ Seconded By_____

Ayes_____ Abstained_____

Noes_____ Absent_____

Reagendized_____ Date_____ No Action Taken_____

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
November 9, 2010
6:45 p.m.

Draft Minutes

1. Call to Order:

President Nishi called the meeting to order at 6:45 p.m. on November 9, 2010.

2. Roll Call:

Board Members Present:

Ken Nishi– President
Bill Lee – Vice President
Howard Gustafson
Tom Moore – arrived at 7:00 p.m.
Dan Burns

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Carl Niizawa, Deputy General Manager/District Engineer
Suresh Prasad, Director of Finance
Jean Premutati, Management Services Administrator
Kelly Cadiente, Director of Administrative Services
Rich Youngblood, Conservation Coordinator
Evelina Adlawan, Water Quality Manager
Jim Dowless, Operations and Maintenance Superintendent
Gary Rogers, Associate Engineer
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Ron Chesshire, Union Representative
Richard Newhouse, Marina Resident
Erin Barnes, CSUMB Student
Ally Haug, CSUMB Student
Jeff Toone, CSUMB Student

The Board entered into closed session at 6:45 p.m.

3. Closed Session:

- A. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)
Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and Complaint for Declaratory Relief)

- B. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Marina Coast Water District Employees Association

- C. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Teamsters Local 890

- D. Pursuant to Government Code 54957.6
Conference with Labor Negotiators
Agency designated representatives: Kenneth K. Nishi and William Lee
Unrepresented Employee: General Manager

President Nishi ended closed session at 7:16 p.m. and reconvened the meeting to open session at 7:17 p.m.

4. Possible Action on Closed Session Items:

Mr. Lloyd Lowrey, Legal Counsel, reported that on item 3-A, the Board of Directors met and conferred with Legal Counsel, and no action was taken. On items 3-B and 3-C, the Board of Directors met and conferred with the negotiator, direction was given and no action was taken. On item 3-D, the Board of Directors met with the negotiator, direction was given and no action was taken.

5. Pledge of Allegiance:

President Nishi asked Mr. Jim Dowless, Operations and Maintenance Superintendent, to lead everyone present in the Pledge of Allegiance.

6. Oral Communications:

No comments.

7. Consent Calendar:

Director Gustafson made a motion to approve the Consent Calendar consisting of items:

- A) Consider Accepting the Comprehensive Annual Financial Report and the Independent Auditor's Report for the Fiscal Year Ended June 30, 2010
- B) Consider Adoption of Resolution No. 2010-71 to Authorize the General Manager to Approve the Hire of Short-Term, Non-benefitted, Contract Employees
- C) Consider Approval to Send a Letter of Request to Monterey County Water Resource Agency for the Inclusion of the Former Armstrong Ranch Property into the Castroville Seawater Intrusion Project
- D) Receive the Quarterly Financial Statements for July 1, 2010 to September 30, 2010
- E) Approve the Expenditures for the Month of October 2010
- F) Approve the Draft Minutes of the Regular Board Meeting of October 12, 2010

Director Burns seconded the motion. The motion was passed.

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

8. Action Items:

- A. Consider Adoption of Resolution No. 2010-72 to Authorize the Construction Contract for CIP# OW-0170 with Maggiora Bros. Drilling, Inc. for the Destruction of the Existing Well No. 32 and Construction of New Well No. 34 Within a Not-To-Exceed Project Work Amount of \$655,090:

Mr. Gary Rogers, Associate Engineer, introduced this item.

Director Gustafson made a motion to adopt Resolution No. 2010-72 to authorize the construction contract for CIP# OW-0170 with Maggiora Bros. Drilling, Inc. for the destruction of the existing Well No. 32 and construction of new Well No. 34 within a not-to-exceed project work amount of \$655,090. Vice President Lee seconded the motion. The motion was passed.

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

B. Consider Adoption of Resolution No. 2010-69 to Adopt a Workforce Development Training Policy for Promotion of Local Apprenticeship Hiring in Marina Coast Water District Projects:

Mr. Carl Niizawa, Deputy General Manager/District Engineer, introduced this item.

Director Moore made a motion to adopt Resolution No. 2010-69 adopting a Workforce Development Training Policy for promotion of local apprenticeship hiring in Marina Coast Water District Projects. Director Gustafson seconded the motion. The motion was passed.

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

C. Consider Adoption of Resolution No. 2010-73 to Approve a Loan from Rabobank, N.A. for \$3,276,000 to Fund the Construction of Building C and Site Improvements Within the Imjin Office Park:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item and provided the Board with two loan options to select from. Option 1 – a 12-Month Real Estate Construction Loan; and, Option 2 – a Certificate of Deposit Secured Non-Revolver Line of Credit. Director Moore asked for clarification on Option 2 that the funds would be withdrawn from LAIF and the bank would loan the funds back to the District with the CD, not the Deed of Trust, being the security on the loan. Ms. Cadiente answered that he was correct.

Vice President Lee made a motion to adopt Resolution No. 2010-73 approving a loan from Rabobank, N.A. for \$3,276,000 to fund the construction of Building C and site improvements within the Imjin Office Park and using Option 2, a Certificate of Deposit Secured Non-Revolver Line of Credit. Director Gustafson seconded the motion. The motion was passed.

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

D. Consider Adoption of Resolution No. 2010-74 to Accept the Water Supply Assessment for the Proposed Whispering Oaks Development in Monterey County:

Mr. Niizawa introduced this item. Director Burns inquired if the Development was using potable water and if they were going to use any recycled water. Mr. Niizawa answered that the County's allocation includes 710 acre-feet of potable water and approximately 100 acre-feet of recycled water. They will use potable water until recycled water is available.

Agenda Item 8-D (continued):

Director Burns made a motion to adopt Resolution No. 2010-74 to accept the Water Supply Assessment for the proposed Whispering Oaks Development in Monterey County. Vice President Lee seconded the motion. The motion was passed.

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

- E. Consider Adoption of Resolution No. 2010-75 to Approve Amendment No. 2 to the Professional Services Agreement with RMC Water and Environment for Program Management and Engineering Services for the Regional Water Supply Project for a Not-to-Exceed Amount of \$578,000:

Mr. Niizawa introduced this item. Director Burns asked if this was design work. Mr. Jim Heitzman, General Manager, said it was mostly for permitting for environmental work. Director Moore inquired if the District has been billing CalAm for these services and if they have been paying promptly. Mr. Heitzman answered that as soon as the District receives the invoices, a bill is sent to CalAm and they are very prompt with their payments.

Director Burns made a motion to adopt Resolution No. 2010-75 to approve Amendment No. 2 to the Professional Services Agreement with RMC Water and Environment for Program Management and Engineering Services for the Regional Water Supply Project for a not-to-exceed amount of \$578,000. Director Gustafson seconded the motion. The motion was passed.

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

- F. Consider Adoption of Resolution No. 2010-76 to Direct Staff to Seek Proposals for Supplemental Professional Legal Services for the Board Committees:

Mr. Heitzman introduced this item.

Director Moore made a motion to adopt Resolution No. 2010-76 to Direct Staff to Seek Proposals for Supplemental Professional Legal Services for the Board Committees. Director Gustafson seconded the motion. The motion was passed.

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

- G. Consider Adoption of Resolution No. 2010-77 to Authorize the Issuance and Sale of Refunding Bonds in the Principal Amount of Not-to-Exceed \$9,000,000 to Refund Outstanding Promissory Note Relating to Land Acquisition, and Approving Related Documents and Actions:

Mr. Heitzman stated that staff recommends pulling this item until further notice.

9. Staff Reports:

- A. Receive 3rd Quarter 2010 Ord Community Quarterly Water Consumption and Sewer Flow Report:

Mr. Richard Youngblood, Conservation Coordinator, introduced this item. President Nishi noted that the water consumption has risen for CSUMB. Mr. Youngblood commented that CSUMB has just finished their meter installation project and now the unmetered water use has been adjusted so it is showing under the consumption.

- B. Receive Update on the Regional Water Supply Project:

Mr. Heitzman commented that there will be oral arguments before the California Public Utilities Commission (CPUC) on November 10th and at this time the only opponents are the Division of Rate Payer Advocates and the Monterey Peninsula Water Management District. On November 17th, written comments will be submitted and an All-Hands meeting will take place on November 22nd. December 2nd will be the ruling by the CPUC on the project.

Director Moore asked Mr. Heitzman to share the written comments with the Board when they are prepared for submittal. Mr. Heitzman said they would be working right up to the eleventh hour, but will share the comments with the Board when they are ready.

10. Informational Items:

- A. General Manager's Report:

No report.

- B. District Engineer's Report:

No report.

- C. Counsel's Report:

No report.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Lee commented that staff has advised that the vacancy for the Commission has been advertised.

2. Joint City-District Committee:

President Nishi stated the Committee will meet on November 10th and that Vice President Lee and Director Burns would attend.

3. Budget and Personnel Committee:

Director Gustafson commented that he and Director Burns met with staff and discussed parameters and will hash out things at the next meeting.

4. Operations and Maintenance Committee:

Vice President Lee commented that a Chair was selected and started doing basic set-up for the Committee.

5. Projects and Planning Committee:

President Nishi commented that a Chair was selected and the minutes were in the Board packet.

6. Special Districts Association Liaison:

Vice President Lee commented that there was a discussion on California Forward by Bruce McPherson.

7. MRWPCA Board Member:

President Nishi commented that the meeting is set for the 29th of November.

8. LAFCO Liaison:

Director Moore stated that the meeting was October 25th and they approved the merger between the Monterey County Fire Protection District and the Carmel Fire Protection District. There will be a seven member appointed board for the merged District's.

9. JPIA Liaison:

No comments.

10. FORA:

President Nishi stated that the next meeting was Friday, November 12th.

11. Executive Committee:

No meeting was held.

12. Community Outreach:

Director Gustafson commented that after four and a half months of outreach, the public is tired of it.

E. Director's Comments:

Director Moore commented that this is likely to be his last Board meeting at the District as he was not re-elected in the last election. He commented that it has been an interesting 17 years in working with staff and the interesting challenges where a lot has been accomplished. Director Moore commented that the District took on the Fort Ord service area, first under contract, then winning it over CalAm. The District built a 300 acre-foot per year desalination plant and successfully operated it for several years. Director Moore commented that the District built a 300 acre-foot reclaimed water plant and successfully operated it for several years providing reclaimed water to Tate Park and common area landscaping in an adjoining sub-division. The District positioned itself well with land purchases such as the Armstrong Ranch. The District has positioned itself well for the Regional Desalination Plant. Director Moore commented that staff has been very professional all along and he appreciates their hard work and their help in supporting his work on the Board.

Director Gustafson commented that he would like to thank the public for supporting the Board on the project over the last several months and for re-electing him. He thanked staff for making the Board look good on this project and working hard. Director Gustafson commented that it has been a pleasure working together.

Director Burns asked for an Outfall capacity charge update sometime in the future. He asked the Finance Department for a spreadsheet showing the millions of dollars the Board has been approving and how they are being financed.

Regular Board Meeting
November 9, 2010
Page 9 of 9

Vice President Lee congratulated the General Manager and staff on their hard work. He thanked the public for attending the meeting and seeing what goes on at the District.

President Nishi commented that he is glad the Board is working better together and getting things done. A lot has been accomplished and the big issue with the Regional Desal will be a big feather in the District's cap. President Nishi gives credit to the Board for taking a lot of flack but moving forward.

11. Adjournment:

The meeting was adjourned at 7:50 p.m.

APPROVED:

Kenneth K. Nishi, President

ATTEST:

Jim Heitzman, General Manager

Marina Coast Water District
Agenda Transmittal

Agenda Item: 10-F

Meeting Date: December 14, 2010

Submitted By: Paula Riso
Reviewed By: Carl Niizawa

Presented By: Paula Riso

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of November 29, 2010

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of November 29, 2010.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District’s expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: _____Yes X No

Funding Source/Recap: None.

Material Included for Information/Consideration: Draft minutes of November 29, 2010.

Staff Recommendation: The Board of Directors approve the draft minutes of the November 29, 2010 special Board meeting.

Action Required: _____Resolution X Motion _____Review

Board Action

_____Resolution No_____ Motion By_____ Seconded By_____

Ayes_____ Abstained_____

Noes_____ Absent_____

Reagendized_____ Date_____ No Action Taken_____

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Special Board Meeting
November 29, 2010
7:30 p.m.

Draft Minutes

1. Call to Order:

Vice President Lee called the meeting to order at 7:30 p.m. on November 29, 2010.

2. Roll Call:

Board Members Present:

Bill Lee – Vice President
Howard Gustafson
Tom Moore
Dan Burns

Board Members Absent:

Ken Nishi– President

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Carl Niizawa, Deputy General Manager/District Engineer
Jean Premutati, Management Services Administrator
Kelly Cadiente, Director of Administrative Services
Evelina Adlawan, Water Quality Manager
James Derbin, Operations and Maintenance Superintendent
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Richard Newhouse, Marina Resident
Jan Shriner, Marina Resident

The Board entered into closed session at 7:30 p.m.

3. Closed Session:

- A. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Marina Coast Water District Employees Association

- H. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Teamsters Local 890

- I. Pursuant to Government Code 54957.6
Conference with Labor Negotiators
Agency designated representatives: Kenneth K. Nishi and William Lee
Unrepresented Employee: General Manager

Vice President Lee ended closed session at 8:20 p.m. and reconvened the meeting to open session at 8:26 p.m.

4. Possible Action on Closed Session Items:

Mr. Lloyd Lowrey, Legal Counsel, reported that on item 3-A and 3-B, the Board of Directors met and conferred with the negotiator, direction was given and no action was taken. On item 3-C, the Board of Directors met with the negotiator, there was discussion and no action was taken in closed session. Action on item 3-C will take place in open session with one revision to the resolution. The revised page was distributed to everyone at the meeting.

Vice President Lee asked to do the Pledge of Allegiance before continuing with item 3-C.

5. Pledge of Allegiance:

Vice President Lee led everyone present in the Pledge of Allegiance.

4. Possible Action on Closed Session Items:

- C. Consider Adopting a Resolution to Approve an Amendment to the General Manager's Contract:

Mr. Lowrey briefly explained the changes made to the General Manager's contract.

Agenda Item 4-C (continued):

Mr. Lowrey commented that the following changes to the General Manager's contract are proposed to clarify the intentions that were understood by the parties but were not captured in the language of the contract. The changes are clarifications and have no fiscal impact on the District.

Paragraph 1.1 is clarified to read that the General Manager is authorized to engage "up to 10 consultants each year for the District, with compensation for each self-employed consultant or consulting firm of up to \$10,000 in any month or \$75,000 in any fiscal year without prior Board approval."

Paragraph 2.1.3 is clarified to allow the General Manager to continue to receive his lifetime benefit of health care, vision care, and dental care, after working for 3 consecutive years with the District, even if, after the 3 years, he is employed elsewhere. This paragraph is also amended to allow the General Manager, at his option and sole cost, to enroll his dependents in the District's health care plan for dental, vision and medical care, at the same rate, including any carrier rate increases, as for dependant coverage for other management employees of the District.

Paragraph 2.1.9 is clarified to specify that the PARS Plan will provide a pre-retirement death benefit for the General Manager's surviving spouse. This clause was supposed to be in the contract from the beginning, but PARS provided an incorrect form when the Plan was originally set up.

Paragraph 2.1.13 (Tuition) is being deleted.

Paragraph 2.2 is expanded to allow the Board to review the General Manager's benefits within 30 days after approving a change in benefits for other management employees and unless the Board approves some other change within 30 days, the General Manager's benefits will be adjusted in the same manner as the benefits of other management employees.

Paragraph 5.1 is clarified to allow further 3-year extensions of the General Manager's contract. It also clarifies that the \$12,500 yearly benefit, should the District opt not to renew the General Manager's contract, will accrue on a monthly basis so that each month of service will equal one-twelfth (1/12th) of the \$12,500 in any year.

Paragraph 5.2 is clarified to specify that upon the General Manager's death or mental or physical incapacity to perform the duties, the General Manager's beneficiaries are entitled to any amount owed to the General Manager.

Agenda Item 4-C (continued):

Ms. Jan Shriner asked if there was a specific trigger for Paragraph 2.2 in reviewing the General Manager's benefits within 30 days after approving a change in benefits for other management employees. Mr. Lowrey answered that there was no specific language in the contract itself that requires that the matter be placed on the agenda. It would require staff, the Board, or Legal Counsel to remember to place it on the agenda for consideration.

Director Gustafson made a motion to adopt Resolution No. 2010-79 to approve an Amendment to the General Manager's Contract. Director Burns seconded the motion. The motion was passed.

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

6. Oral Communications:

No comments.

7. Action Items:

- A. Consider Adoption of Resolution No. 2010-77 to Authorize the Issuance and Sale of Refunding Bonds in the Principal Amount of Not-to-Exceed \$9,000,000 to Refund Outstanding Promissory Note Relating to Land Acquisition, and Approving Related Documents and Actions:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item.

Director Moore inquired on the source of the projected water connections, page 17 of the Preliminary Official Statement. Ms. Cadiente answered that the projections for the 2006 Bonds came from the Fort Ord Reuse Authority and that this time, due to the relatively short term Bond issue, staff went through the Ord Community with a conservative 5% projection for each year.

Director Moore inquired on the accuracy of the historic wastewater connections and historic wastewater service charge revenue, pages 20 and 21 of the Preliminary Official Statement. In doing the math, it looks as though the Ord Community wastewater service charge revenue has increased 20% in the last year. Ms. Cadiente answered that this is the Preliminary Statement and the Final statement is to be distributed before the bonds are sold. The numbers in the Preliminary Statement are derived from the Comprehensive Annual Financial Report that was brought before the Board in November. Director Moore asked staff to look into the numbers and call or email him with the answer.

Agenda Item 7-A (continued):

Director Moore made a motion to adopt Resolution No. 2010-77 to authorize the issuance and sale of Refunding Bonds in the principal amount of not-to-exceed \$9,000,000 to refund outstanding Promissory Note relating to land acquisition, and approving related documents and actions. Director Burns seconded the motion. The motion was passed.

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

B. Adopt Resolution No. 2010-78 to Approve an Amendment to the Marina Coast Water District Public Agency Retirement System (PARS) Retirement Enhancement Plan – Defined Benefit:

Mr. Jim Heitzman, General Manager, introduced this item explaining that this amendment is to clarify that in the event of his death, prior to retirement, his surviving spouse would receive a supplemental defined benefit from PARS. The language was mistakenly omitted from the employment contract.

Director Gustafson made a motion to adopt Resolution No. 2010-78 to approve an Amendment to the Marina Coast Water District Public Agency Retirement System (PARS) Retirement Enhancement Plan – Defined Benefit. Director Burns seconded the motion. The motion was passed.

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

8. Director's Comments:

Director Burns asked if staff was still looking at moving the December 14th Board meeting up a week to December 7th. Mr. Heitzman answered that the meeting will not be moved and will stay on the 14th.

Agenda Item 8 (continued):

Vice President Lee thanked everyone for doing a great job and keeping the Board informed. He also thanked everyone for arduously working out all of these money issues so the District can pay for everything. Vice President Lee thanked Director Moore for his 17 long years of service and maintaining the public trust in the District. He also thanked the General Manager for building such a great staff.

9. Adjournment:

The meeting was adjourned at 8:51 p.m.

APPROVED:

William Y. Lee, Vice President

ATTEST:

Jim Heitzman, General Manager

Marina Coast Water District
Agenda Transmittal

Agenda Item: 11-A

Meeting Date: December 14, 2010

Submitted By: Gary Rogers
Reviewed By: Carl Niizawa

Presented By: Gary Rogers

Agenda Title: Consider Adoption of Resolution No. 2010-83 to Approve the Technical Design and Construction of the Proposed Well No. 34

Detailed Description and Discussion: Based on its review of the well design for Well No. 34, District staff recommends approval of the design by the Board of Directors.

Based on hydro-geological data collected and analyzed for the proposed Well No. 34 location, the District's Consulting Hydro-Geologist and Engineers recommended a technical design for Well No. 34. In the well design, the consultants selected a design depth of 1075' to access the 900 foot aquifer as the preferred aquifer to access ample amounts of high quality water for the longest period of time. The estimated well installation cost for this recommended design is \$600,000.

District Staff evaluated the consultant's proposed Well No. 34 design and concurs with the design and recommended design depth.

Environmental Review Compliance: An Initial Study/Mitigated Negative Declaration CEQA Document, dated February 6, 2009 and Mitigation Monitoring and Reporting Program has been completed and was adopted via Board Resolution No. 2009-11 on February 10, 2009.

Prior Committee or Board Action: Resolution No. 2009-11, the Board adopted the Well No. 32 Replacement/Eastern Distribution System Project Initial Study/Mitigated Negative Declaration CEQA Document; Resolution No. 2009-12, the Board approved the Well 32 Replacement/Eastern Distribution System Project. Resolution No. 2010-47, the Board Authorized the Construction Contract for CIP# OW-0170 with Randazzo Enterprises, Inc. for the Demolition of the Existing Municipal Well No. 32 Site Structures Within a Not-To-Exceed Project Work Amount of \$29,600; Resolution No. 2010-72 the Board authorized the Construction Contract for CIP OW-0170 with Maggiora Bros. Drilling, Inc. for the Destruction of Existing Well No. 32 and the Construction of Well No. 34 within a Not-to-Exceed Project Work Amount of \$655,090.

Board Goals/Objectives: *Strategic Plan, Goal No. 2 – To meet 100% of current and future customers' needs and make timely improvements and increase infrastructure and level of services and human resources to meet needs of expanding service areas in an environmentally sensitive way.*

Financial Impact: X Yes No

Funding Source/Recap: The funding for this project will come from District reserves, however, a portion of the funds will be reimbursed by the Proposition 50 Grant Proceeds.

Material Included for Information/Consideration: Resolution No. 2010-83.

Staff Recommendation: Based on its review of the water quality and overall cost, District staff recommends the Board of Directors approve the well design for Well No. 34.

Action Required: Resolution Motion Review
(Roll call vote is required.)

Board Action

Resolution No Motion By Seconded By

Ayes Abstained

Noes Absent

Reagendized Date No Action Taken

December 14, 2010

Resolution No. 2010-83
Resolution of the Board of Directors
Marina Coast Water District
Approving Technical Design and Construction of the Proposed Well No. 34

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 14, 2010 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the proposed Well No. 32 Replacement/Eastern Distribution System Project contains components that are part of the MCWD CIP and identified within the 2006 Master Plan; and,

WHEREAS, in Resolution No. 2009-11, this Board adopted the Initial Study/Mitigated Negative Declaration (IS/MND) for the Well No. 32 Replacement/Eastern Distribution System Project and approved the Mitigated Monitoring and Reporting Program; and,

WHEREAS, in Resolution No. 2009-12, this Board approved the Well 32 Replacement/Eastern Distribution System Project; and,

WHEREAS, in Resolution No. 2010-47, the Board Authorized the Construction Contract for CIP# OW-0170 with Randazzo Enterprises, Inc. for the Demolition of the Existing Municipal Well No. 32 Site Structures Within a Not-To-Exceed Project Work Amount of \$29,600; and,

WHEREAS, in Resolution No. 2010-72, the Board authorized the Construction Contract for CIP OW-0170 with Maggiora Bros. Drilling., Inc. for the Destruction of Existing Well No. 32 and the Construction of Well No. 34 within a Not-to-Exceed Project Work Amount of \$655,090; and,

WHEREAS, District Staff has evaluated the proposed Well No. 34 to be installed to replace the existing Well No. 32 and Staff recommends that Well No. 34 be designed and constructed to design depth of 1075 feet below ground surface into an aquifer known as the “900-foot” aquifer.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve and authorize, based upon District staff recommendation, the well design and construction depth of Well No. 34.

PASSED AND ADOPTED on December 14, 2010, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors _____

Noes: Directors _____

Absent: Directors _____

Abstained: Directors _____

Kenneth K. Nishi, President

ATTEST:

Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-83 adopted December 14, 2010.

Jim Heitzman, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 11-B

Meeting Date: December 14, 2010

Submitted By: Jean Premutati

Presented By: Jean Premutati

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2010-84 to Approve the Memorandum of Understanding between the Marina Coast Water District Employees Association and the Marina Coast Water District

Detailed Description: The Board appointed General Manager Jim Heitzman as the negotiator to represent the District.

The District negotiator and the Marina Coast Water District Employees Association (MCWDEA) met several times and worked toward agreement on a Memorandum of Understanding (MOU). Negotiations have produced a tentative agreement on the MOU and the Board is now asked to consider final approval with a retroactive date of July 1, 2010.

Environmental Review Compliance: None.

Prior Committee or Board Action: On June 9, 2009, the Board adopted Resolution No. 2009-35 approving the formation of the MCWDEA for the supervisory and general service staff.

Board Goals/Objectives: *Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: Yes No

Funding Source/Recap: Expenditures are allocated across the five cost centers; 01-Marina Water, 02-Marina Sewer, 03-Fort Ord Water, 04-Fort Ord Sewer, 05-Recycled Water

Material Included for Information/Consideration: Resolution No. 2010-84; and, the draft MOU between the MCWDEA and the Marina Coast Water District.

Staff Recommendation: The Board of Directors consider adoption of Resolution No. 2010-84 to approve the Memorandum of Understanding between the MCWDEA and the Marina Coast Water District.

Action Required: Resolution Motion Review
(Roll call vote is required.)

Board Action

____ Resolution No ____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

December 14, 2010

Resolution No. 2010-84
Resolution of the Board of Directors
Marina Coast Water District
Approving Memorandum of Understanding
Between the Marina Coast Water District Employees Association
and the Marina Coast Water District

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 14, 2010 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Board appointed General Manager, Jim Heitzman, to represent the District in negotiations with the supervisory and general service staff now recognized as the Marina Coast Water District Employees Association (MCWDEA); and,

WHEREAS, the District General Manager met and negotiated with representatives of the MCWDEA; and,

WHEREAS, a tentative agreement has been reached on the MOU between the MCWDEA and the Marina Coast Water District; and,

WHEREAS, the effective date of the MOU and all changes will be retroactive to July 1, 2010.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve the Memorandum of Understanding between the MCWDEA and the District (attached as Exhibit “A”), and authorizes and directs the General Manager to execute the Agreement in substantially the same form presented at this meeting on behalf of the District, and to take all other actions necessary to fully perform the District’s obligations under the Agreement.

PASSED AND ADOPTED on December 14, 2010, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors _____

Noes: Directors _____

Absent: Directors _____

Abstained: Directors _____

Kenneth K. Nishi, President

ATTEST:

Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-84 adopted December 14, 2010.

Jim Heitzman, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 11-C

Meeting Date: December 14, 2010

Submitted By: Jean Premutati

Presented By: Jean Premutati

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2010-85 to Approve the FY 2010/2011
Marina Coast Water District Employees Association Salary Schedules

Description: The District appointed negotiator has met and negotiated with the MCWDEA. A tentative agreement has been reached and a new two-year Memorandum of Understanding (MOU) drafted. As a result, staff has prepared the attached and newly numbered salary schedules retroactive to July 1, 2010 for FY2010/2011. The new schedules consolidate the special ranges established on October 21, 2009 in Resolution No. 2009-72.

Board Goals/Objectives: *Strategic Plan Mission – Providing high quality water, wastewater and recycled water services to the District’s expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: Yes No

Funding Source/Recap: Distributed across all cost centers for Salary and Benefits.

Material Included for Information/Consideration: Resolution No. 2010-85; and, Proposed 2010/2011 salary schedules.

Staff Recommendation: The Board adopts Resolution No. 2010-85 approving the proposed MCWDEA salary schedules.

Action Required: Resolution Motion Review
(Roll call vote is required.)

Board Action

_____ Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

December 14, 2010

Resolution No. 2010-85
Resolution of the Board of Directors
Marina Coast Water District
Approve Revised Marina Coast Water District
Employees Association Salary Schedules

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on December 14, 2010 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District’s negotiator and the MCWDEA have tentatively agreed to a new two-year Memorandum of Understanding; and,

WHEREAS, negotiations have resulted in newly numbered salary schedules retroactive to July 1, 2010 for FY 2010/2011; and,

WHEREAS, the new schedules consolidate the special ranges established on October 21, 2009 in Resolution No. 2009-72.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve the revised District Salary Schedules (Exhibit A) and authorize the General Manager to take all actions necessary to execute this resolution.

PASSED AND ADOPTED on December 14, 2010 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors _____

Noes: Directors _____

Absent: Directors _____

Abstained: Directors _____

Kenneth K. Nishi, President

ATTEST:

Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-85 adopted December 14, 2010.

Jim Heitzman, Secretary