



# MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: [www.mcwd.org](http://www.mcwd.org)

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

**DIRECTORS**  
WILLIAM Y. LEE  
*President*

DAN BURNS  
*Vice President*

HOWARD GUSTAFSON  
KENNETH K. NISHI  
JAN SHRINER

## REVISED

### Agenda

#### Special Board Meeting, Board of Directors Marina Coast Water District

11 Reservation Road, Marina, California

Tuesday, May 24, 2011, 5:30 p.m.

*This meeting has been noticed according to the Brown Act rules.*

**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. Closed Session

- A. Pursuant to Government Code Section 54956.95  
Liability Claims  
Claimant: Ausonio Incorporated  
Agency Claimed Against: Marina Coast Water District
- B. 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)
- C. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: General Manager

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. Copies will also be available at the Board meeting. 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 June 14, 2011.

- D. Pursuant to Government Code Section 54957.6  
Conference with Labor Negotiators  
Agency designated representatives: William Lee and Dan Burns  
Unrepresented employee: General Manager

**4. Reconvene Open Session**

**5. 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.*

- A. Consider Action on the Ausonio Incorporated Claim

**6. Pledge of Allegiance**

**7. Presentation**

- A. Presentation by Piper Jaffray on the Conceptual Financial Plan for the Regional Desalination Project

**8. Action Item**

- A. Consider Authorizing Engagement by the District of Jeanine DeBacker of Hoge, Fenton, Jones and Appel to Investigate and Report on Complaint of Hostile Work Environment

**9. Workshop**

- A. Board Workshop on the Board Procedures Manual and Conflict Recusal Procedures

**10. Directors Comments**

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

*Special Joint Meeting: Friday, June 10, 2011, 3:00 p.m.,  
910 2<sup>nd</sup> Avenue, Marina*

*Regular Meeting: Tuesday, June 14, 2011, 6:45 p.m.,  
11 Reservation Road, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: May 24, 2011

Submitted By: Paula Riso

Reviewed By: Carl Niizawa

Agenda Title: Presentation by Piper Jaffray on the Conceptual Financial Plan for the Regional Desalination Project

Summary: The Board of Directors is requested to receive a presentation on the Conceptual Financial Plan for the Regional Desalination Project given by Piper Jaffray.

On April 4, 2011, the Board of Directors approved an Agreement with Piper Jaffray to serve as Financial Advisor for the Regional Desalination Project.

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-A

Meeting Date: May 24, 2011

Submitted By: Lloyd Lowrey

Presented By: Lloyd Lowrey

Subject: Consider Authorizing Engagement by the District of Jeanine DeBacker of Hoge, Fenton, Jones and Appel to Investigate and Report on Complaint of Hostile Work Environment

Detailed Description: District Counsel recommends engaging outside counsel to investigate and report on the General Manager's complaint of a hostile work environment and the excessive use of District resources in creating a hostile work environment. Jeanine DeBacker of Hoge, Fenton, Jones and Appel, has performed services for the District in the past as Special Counsel for employment matters and is recommended by the Management Services Administrator.

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: Legal Line Item – All four cost centers.

Material Included for Information/Consideration: None.

Staff Recommendation: Consider Authorizing Engagement by the District of Jeanine DeBacker of Hoge, Fenton, Jones and Appel to Investigate and Report on Complaint of Hostile Work Environment.

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  
Staff Report

Agenda Item: 9-A

Meeting Date: May 24, 2011

Submitted By: Lloyd Lowrey

Presented By: Lloyd Lowrey

Subject: Review Board Procedures Manual and Conflict Recusal Procedures

**Summary:** The purpose of the Board Procedures Manual is to provide a composite of information on procedures approved by the Board of Directors to be used in the conduct of Board business to provide for the fair and efficient consideration of said matters, to ensure that the public is informed of the matters coming before the Board and has an opportunity to witness the deliberations of the members thereof in the conduct of the Board's business, and to encourage proper public involvement in the deliberations of the Board.

**Board Procedures Manual:** Section 7 outlines the duties of the Directors acting as members of the Board. Generally, directors should be informed and diligent and have sufficient information to make informed and timely decisions and judgments, to assist the General Manager by looking at problems from broader points of view, and to protect confidential information of the District, among other duties. Section 16 provides for directors to deal with the District's administrative services only through the General Manager, except for the purpose of inquiry. The Board needs to discuss and give appropriate guidance on how to balance the need of the directors to be diligent and informed with the District's overall need to maintain a productive working environment. The Board should also discuss how directors relate to and interact with consultants.

**Conflict Recusal Procedures:** Under the Government Code, Regulations of the Fair Political Practices Commission and common law, directors with conflicts of interest may need to disqualify (recuse) themselves from participating in certain decisions. District Counsel will discuss some of the circumstances requiring disqualification and the procedures to be followed when disqualification is required from making, participating in or influencing a district decision.

- Agency contracts. Disqualify if have remote interest.
- FPPA-FPPC Regulations. Disqualify if have material financial interest different from a significant portion of district constituents.
- Common law. Disqualify if have bias

**Procedure:** Step down and leave the room, not count for quorum, announce conflict for record

**Legally required participation:** A quorum may be selected by a random method of selection