



# 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

## Agenda

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

11 Reservation Road, Marina, California

Tuesday, July 12, 2011, 5:45 p.m. PST

*This meeting has been noticed according to the Brown Act rules. The Board of Directors 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. 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)

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, July 7, 2011 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 August 9, 2011.

- C. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: District Counsel
- D. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: General Manager
- E. Pursuant to Government Code Section 54957.6  
Conference with Labor Negotiator  
Agency Designated Representatives: William Lee and Dan Burns  
Unrepresented Employee: General Manager
- F. Pursuant to Government Code Section 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b)  
One Case

A letter dated June 21, 2011, from the Monterey County Board of Supervisors transmitted a “Summary of Preliminary Findings Regarding Director Stephen Collins’ Business Relationship With RMC Water and Environment and Marina Coast Water District.” The Summary, prepared by Remcho, Johansen & Purcell, LLP, states that certain conduct raises questions about the validity of contracts to which Marina Coast Water District is a party. Based on the statements in the Remcho Summary, and based on reports in the Monterey Herald this morning, a point has been reached where, in the opinion of the MCWD Board based on the advice of its legal counsel, there is a significant exposure to litigation against MCWD.

- G. Pursuant to Government Code Section 54959.9  
Conference with Legal Counsel – Anticipated Litigation  
Potential Initiation of Litigation (c)  
One Case

**7:00 p.m. Reconvene Open Session**

**4. 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.*

**5. Pledge of Allegiance**

**6. 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.*

## 7. Presentation

- A. Consider Adoption of Resolution No. 2011-49 in Recognition of Community Member, Mr. Steven Reeves, for his Dedicated Service to the Marina Coast Water District as a Member on the Water Conservation Commission

**8. 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. 2011-50 to Approve the District Records Retention Policy and Retention Schedules
- B. Adopt Resolution No. 2011-51 to Approve a Memorandum of Understanding between Marina Coast Water District and the Monterey Peninsula Unified School District Regarding the In-School Water Conservation Education Program with a Not-to-Exceed Amount of \$18,500
- C. Approve the Expenditures for the Month of June 2011
- D. Approve the Draft Minutes of the Special Board Meeting of May 24, 2011
- E. Approve the Draft Minutes of the Special Board Meeting of June 9, 2011
- F. Approve the Draft Minutes of the Special Joint Board Meeting of June 10, 2011
- G. Approve the Draft Minutes of the Regular Board Meeting of June 14, 2011
- H. Approve the Draft Minutes of the Special Board Meeting of June 16, 2011
- I. Approve the Draft Minutes of the Special Board Meeting of July 1, 2011

**9. 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 Receiving the Conceptual Financial Plan from Financial Consultant Piper Jaffray

*Action: The Board of Directors will consider receiving the Conceptual Financial Plan from financial consultant Piper Jaffray.*

- B. Consider Adoption of Resolution No. 2011-52 to Approve the Reorganization of the Finance Department and the Related Classifications and Job Descriptions

*Action: The Board of Directors will consider approving the reorganization of the Finance Department and the related classifications and job descriptions.*

- C. Consider Adoption of Resolution No. 2011-53 to Approve the Selection of a Law Firm to Provide Legal Services and Represent the District in Personnel and Employment Law Matters

*Action: The Board of Directors will consider approve the selection of a Law Firm to provide legal services and represent the District in Personnel and Employment Law matters.*

- D. Consider Adoption of Resolution No. 2011-54 to Approve the Design and Construction of the Proposed Watkins Gate Well

*Action: The Board of Directors will consider approving the Preliminary Technical Design and Construction of the Proposed Watkins Gate Well.*

- E. Consider Adoption of Resolution No. 2011-55 to Review a Request by the General Manager under Government Code Sections 995-996.6 and 825-825.6 and Authorize the District to Engage Legal Counsel for the General Manager

*Action: The Board of Directors will consider adopting Resolution No. 2011-55 to review a request by the General Manager under Government Code Sections 995-996.6 and 825-825.6 and authorize the District to engage legal counsel for the General Manager.*

- F. Consider Providing Direction to the Board President on Nomination to the California Special Districts Association Region 3C Seat

*Action: The Board of Directors will consider providing direction to the Board President on nomination to the California Special Districts Association Region 3C seat.*

- G. Consider Revising the Director Appointment to the Budget and Personnel Committee

*Action: The Board President will make a recommendation to revise the appointment to the Budget and Personnel Committee.*

## **10. Staff Report**

- A. Annexation of the Ord Community into the Marina Coast Water District

**11. 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         | 7. JPIA Liaison                   |
| 2. Joint City-District Committee         | 8. CalDesal                       |
| 3. MRWPCA Board Member                   | 9. Executive Committee            |
| 4. LAFCO Liaison                         | 10. Community Outreach            |
| 5. FORA                                  | 11. Regional Desalination Reports |
| 6. Special Districts Association Liaison |                                   |

E. Director's Comments

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

*Regular Meeting: Tuesday, August 9, 2011, 6:45 p.m.,  
11 Reservation Road, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: July 12, 2011

Submitted By: Paul Lord

Presented By: Paul Lord

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2011-49 in Recognition of Community Member, Mr. Steven Reeves, for his Dedicated Service to the Marina Coast Water District as a Member on the Water Conservation Commission

Detailed Description: The Board of Directors is asked to consider adopting a resolution that recognizes Mr. Steven Reeves for his service on the Water Conservation Commission.

Mr. Steven Reeves was appointed as a public member to the Water Conservation Commission in April 2010. As a member of the Commission he provided input on water conservation activities, practices and programs. During his tenure on the Water Conservation Commission, Mr. Reeves provided invaluable insights and guidance.

Mr. Reeves's dedication and commitment to public service has been recognized by his fellow Commission members and all those who have come into contact with him. For his unselfish dedication and commitment, the District wishes to recognize Mr. Steven Reeves for his service, and wishes him well in the future.

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 ground water 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: None

Material Included for Information/Consideration: Resolution No. 2011-49.

Staff Recommendation: The Board of Directors consider adopting a resolution recognizing Mr. Steven Reeves for his service on the Water Conservation Commission.

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 \_\_\_\_\_

July 12, 2011

Resolution No. 2011 - 49  
Resolution of the Board of Directors  
Marina Coast Water District  
Recognition of Public Member, Steven Reeves,  
for Dedicated Service to the Marina Coast Water District as a Member on the  
Water Conservation Commission

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on July 12, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, Steven Reeves was appointed in April 2010 to serve as a member on the Water Conservation Commission of the Marina Coast Water District; and,

WHEREAS, during his tenure, Steven Reeves rendered superior service to the District by providing invaluable participation and insights, and by contributing significant personal time.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby express its gratitude and commends Steven Reeves for outstanding and dedicated service to the District and the Committee's of the Board.

PASSED AND ADOPTED on July 12, 2011, 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 \_\_\_\_\_

\_\_\_\_\_  
William Y. Lee, 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. 2011-49 adopted July 12, 2011.

---

Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8

Meeting Date: July 12, 2011

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. 2011-50 to Approve the District Retention Policy and Retention Schedules
- B) Adopt Resolution No. 2011-51 to Approve a Memorandum of Understanding between Marina Coast Water District and the Monterey Peninsula Unified School District Regarding the In-School Water Conservation Education Program with a Not-to-Exceed Amount of \$18,500
- C) Approve the Expenditures for the Month of June 2011
- D) Approve the Draft Minutes of the Special Board Meeting of May 24, 2011
- E) Approve the Draft Minutes of the Special Board Meeting of June 9, 2011
- F) Approve the Draft Minutes of the Special Joint Board Meeting of June 10, 2011
- G) Approve the Draft Minutes of the Regular Board Meeting of June 14, 2011
- H) Approve the Draft Minutes of the Special Board Meeting of June 16, 2011
- I) Approve the Draft Minutes of the Special Board Meeting of July 1, 2011

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  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: 8-A

Meeting Date: July 12, 2011

Submitted By: Kelly Cadiente  
Reviewed By: Carl Niizawa

Presented By: Kelly Cadiente

Agenda Title: Adopt Resolution No. 2011-50 to Approve the District Records Retention Policy and Retention Schedules

Detailed Description: Staff is requesting the Board consider approval of the District Records Retention Policy. In order to reduce administrative expenses, free filing cabinet and office space, find records faster, and eliminate duplication of effort within the District, staff has produced a Records Retention Policy. In FY 2009/10, Diane R. Gladwell, CMC, an expert in Municipal Government records worked with staff to establish a policy and create records retention schedules for District-wide documents and departmental records. The retention schedules have been compiled, reviewed and revised by staff in order to comply with legal requirements and departmental needs.

Schedule Structure: The District-wide retention schedule includes those records all departments have in common (letters, memorandums, purchase orders, etc.). The records are not repeated in the Department retention schedules unless the department is the Office of Record (OFR), and therefore responsible for maintaining the original record for the prescribed length of time.

Each department has a separate retention schedule that describes the records that are unique to their department, or for which they are the OFR. Where appropriate, the department retention schedules are organized by Division within that Department.

Destroying Records: The specified retention period applies to the particular record regardless of the media of record. If a record is stored on paper and a computer file on a hard drive, both records should be destroyed (or erased) after the specified period of time has elapsed. Copies or duplicates of records will not be retained longer than the prescribed period of the original records. Records will only be destroyed in the ordinary course of business, in accordance with the District's policies and procedures, and in full compliance with applicable Federal, State and Municipal laws.

Environmental Review Compliance: None.

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: Resolution No. 2011-50; Draft District Records Retention Policy; District-wide Records Retention Schedule; Departmental Records Retention Schedules; Schedule Legend.

Staff Recommendation: The Board of Directors adopt Resolution No. 2011-50 to approve District records retention policy and retention 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 \_\_\_\_\_

July 12, 2011

Resolution No. 2011-50  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving the District Records Retention Policy and Retention Schedules

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on July 12, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, staff is requesting the Board consider approval of a District records retention policy and retention schedules; and,

WHEREAS, in FY 2009/10, Diane R. Gladwell, CMC, an expert in Municipal Government records worked with staff to establish a records retention policy and create retention schedules for District-wide documents and departmental records; and,

WHEREAS, the specified retention period within the retention schedules applies to the particular record regardless of the media of record; and,

WHEREAS, records will only be destroyed in the ordinary course of business, in accordance with the District’s policies and procedures, and in full compliance with applicable Federal, State and Municipal laws.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby adopt Resolution No. 2011-xx, approving a records retention policy and retention schedules (attached).

PASSED AND ADOPTED on July 12, 2011, 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 \_\_\_\_\_

---

William Y. Lee, 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. 2011-50 adopted July 12, 2011.

---

Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-B

Meeting Date: July 12, 2011

Submitted By: Paul Lord

Presented By: Paul Lord

Reviewed By: Carl Niizawa

Agenda Title: Adopt Resolution No. 2011-51 to Approve a Memorandum of Understanding between Marina Coast Water District and the Monterey Peninsula Unified School District Regarding the In-School Water Conservation Education Program With a Not-to-Exceed Amount of \$18,500

Detailed Description: The Board of Directors shall consider adopting a resolution approving a Memorandum of Understanding (MOU) between Marina Coast Water District and the Monterey Peninsula Unified School District regarding the In-School Water Conservation Education Program.

The Monterey Peninsula Unified School District and MCWD have worked together for more than 10 years to bring water education to our students. This agreement strengthens this relationship and provides the means to integrate water conservation instruction into the curriculum at each elementary school in the MCWD service area for the 2011-2012 School Year.

This MOU formalizes the planning and execution of the water conservation education program for the coming year. The instructor will develop and schedule instruction for over 65 classes to more than 1,500 students. The water conservation instruction provided meets the state academic curriculum standards.

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: This item is funded under the Conservation Education line item for both Marina Water and Ord Water.

Material Included for Information/Consideration: Resolution No. 2011-51; and, Draft MOU between MCWD and Monterey Peninsula Unified School District.

Staff Recommendation: The Board of Directors consider approving the execution of the MOU between the Marina Coast Water District and the Monterey Peninsula Unified School District.





July 12, 2011

Resolution No. 2011 - 51  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving a Memorandum of Understanding  
with the Monterey Peninsula Unified School District

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“MCWD”), at a regular meeting duly called and held on July 12, 2011, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, MCWD has developed a Memorandum of Understanding (MOU) with the Monterey Peninsula Unified School District regarding the In-School Water Conservation Education Program that will facilitate the teaching of water conservation education; and,

WHEREAS, the MOU is an agreement to formalize planning and execution of the In-School Water Conservation Education Program; and,

WHEREAS, water conservation is within the District’s Mission and the funding for this MOU is included in the District’s budget for FY 2011/2012 under Conservation Education.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve the proposed Memorandum of Understanding regarding the In-School Water Conservation Education Program.

BE IT FURTHER RESOLVED, that the Board of Directors does hereby authorize the General Manager or the Deputy General Manager/District Engineer to sign the MOU.

PASSED AND ADOPTED on July 12, 2011 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 \_\_\_\_\_

\_\_\_\_\_  
William Y. Lee, 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. 2011-51 adopted July 12, 2011.

---

Jim Heitzman, Secretary

**MEMORANDUM OF UNDERSTANDING**  
Between  
MONTEREY PENINSULA UNIFIED SCHOOL DISTRICT  
And  
MARINA COAST WATER DISTRICT

This agreement is between the Monterey Peninsula Unified School District (MPUSD) and the Marina Coast Water District (MCWD) for the 2011-2012 school year.

The terms and conditions set forth in this document shall constitute the entire agreement between MPUSD and MCWD and may not be amended except by a written document signed by both parties.

The parties agree to the following:

1. MCWD agrees to fully fund a part time science teacher position (not to exceed a total of \$18,500 and not to exceed approximately 524 hours at \$30.08 per hour (plus statutory benefits) for the 2011-2012 school year in the Elementary Schools in the Marina Coast Water District area.
2. This teacher will teach the water science awareness and conservation program in all the schools within Marina Coast Water District Service Area during the 2011-2012 school year.
3. MPUSD will send a monthly invoice of the science teacher's monthly salary and benefit costs for reimbursement to the MCWD, Attn. Paul Lord, 11 Reservation Rd., Marina, 93933. (Email: [plord@mcwd.org](mailto:plord@mcwd.org), Tel: 883-5905, FAX: 384-0197) The final invoice is to be processed prior to July 1, 2012.
4. The MCWD shall submit a check within 30 days of invoice receipt made payable to the Monterey Peninsula Unified School District and sent to: Attn. Christine Reyes, address listed below.
5. The payment will be deposited in an account dedicated for this purpose only.
6. The position shall be filled through MPUSD's established hiring process and shall be an employee of MPUSD and shall be entitled to the same rights, privileges and applicable benefits as other MPUSD employees.

The term of this MOU is for 2011-2012 fiscal, school year only.

MARINA COAST WATER DISTRICT

MONTEREY PENINSULA  
UNIFIED SCHOOL DISTRICT

---

Carl Niizawa  
Deputy General Manager/District Engineer  
11 Reservation Road  
Marina, CA 93933

---

Susan H. Ziebell  
Director of Business Services  
P.O. Box 1031  
Monterey, CA 93942-1031

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-C

Meeting Date: July 12, 2011

Submitted By: Kelly Cadiente

Presented By: Kelly Cadiente

Reviewed By: Carl Niizawa

Agenda Title: Approve the Expenditures for the Month of June 2011

Detailed Description: The Board of Directors is requested to approve the attached June 2011 check register for expenditures totaling \$2,282,953.83.

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: June 2011 Summary Check Register.

Staff Recommendation: The Board of Directors approve the June 2011 expenditures totaling \$2,282,953.83.

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: 8-D

Meeting Date: July 12, 2011

Submitted By: Paula Riso  
Reviewed By: Carl Niizawa

Presented By: Paula Riso

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of May 24, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of May 24, 2011.

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 May 24, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the May 24, 2011 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  
May 24, 2011  
5:30 p.m.

**Draft Minutes**

1. Call to Order:

President Lee called the meeting to order at 5:30 p.m. on May 24, 2011.

2. Roll Call:

Board Members Present:

Bill Lee – President  
Dan Burns – Vice President  
Howard Gustafson  
Jan Shriner  
Kenneth K. Nishi

Board Members Absent:

None.

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  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Bob Holden, MRWPCA  
Betty Nebb, MRWPCA  
Carmelita Garcia, Mayor of Pacific Grove  
Don Evans, Evans Group  
Matthew Challis, Piper Jaffray

The Board entered into closed session at 5:30 p.m.

3. Closed Session:

- A. Pursuant to Government Code 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 54957  
Public Employee Performance Evaluation  
Title: General Manager
- 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

The Board ended closed session at 6:42 p.m.

President Lee reconvened the meeting to open session at 6:45 p.m.

5. Possible Action on Closed Session Items:

Mr. Lloyd Lowrey, Legal Counsel, reported the following:

- 3-A – there was a conference with Legal Counsel and no action was taken.
- 3-B – there was a conference with Legal Counsel and no action was taken.
- 3-C – no action was taken.
- 3-D – no action was taken.

6. Pledge of Allegiance:

President Lee asked Mr. Don Evans, Evans Group, to lead everyone present in the pledge of allegiance.



7. Presentation:

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

Mr. Jim Heitzman, General Manager, introduced Mr. Matt Challis, Piper Jaffray, and Mr. Don Evans, explaining that they would be giving a presentation on the conceptual financial plan. Mr. Evans commented that he and Mr. Challis have been working together for nearly two years on this project and this conceptual level plan is essentially a framework. Mr. Evans commented that a written report will be completed within the next thirty to sixty days.

Mr. Challis' presentation included background information on Piper Jaffray; a market commentary; financing strategy alternatives; advantages and disadvantages; comparative summary; timing of financing alternatives; and recommendations.

Mr. Heitzman commented that the Project was approved with the State Revolving Fund though that does not guarantee funds will be granted. There is a meeting in Sacramento with the United States Bureau of Reclamation Department in June to further define the plan.

Mr. Heitzman referred to the Coastal Permit Application on the table in front of him, noting that it was available for review by anyone interested.

The Board members asked several clarifying questions.

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:

Mr. Heitzman introduced this item. Director Shriner commented that she had retained an attorney regarding this matter and asked if she should recuse herself. Mr. Lloyd Lowrey, Legal Counsel, answered affirmatively.

Director Shriner recused herself from the dais at 7:45 p.m.

Vice President Burns made a motion to authorize engagement by the District of Jeanine DeBacker of Hoge, Fenton, Jones and Appel to investigate and report on a complaint of hostile work environment. Director Gustafson seconded the motion. Director Nishi commented that the District's Legal Counsel, at a previous meeting, reported that Directors have a responsibility of diligence, prudence, loyalty and fairness. Director Nishi commented that the rules the Board is governed by is the Board Procedures Manual. The Board has to insure that the District is free from all forms of harassment.

Action Item 8-A (continued):

Director Nishi commented that the Board was notified in December that a hostile environment was occurring. He stated that there was no action by the Board to mitigate the situation to see if it was true or not. Director Nishi stated that after nearly six months the situation is now being addressed. He said that the Board has to take responsibility for the leadership in solving the issues and cannot continue to expend ratepayers' funds because a Director does not follow the rules that were agreed to when they took the Oath of Office.

Director Nishi read the following excerpt from Section 7 of the Board Procedures Manual:

**7. Duties of the Directors Acting as Members of the District Board of Directors.**

The duties of the directors include:

E. assuring the District is responsive to the interests of the voters and the needs of the persons served by the District;

F. assuring that the actions of the Board and of each director and the actions of all employees of the District conform to all federal, state, and local statutes and ordinances, and to the ordinances, rules, regulations and policies of the District;

G. assuring that each employee of the District and each constituent of the District is treated courteously and fairly by the District, and that privacy rights of District employees and constituents are safeguarded in accordance with law;

H. making reasonable and diligent inquiry of competent, qualified and reliable advisors and other sources to obtain sufficient information for informed and timely decisions and judgments;

P. assuring that the conduct of the District's business is open and public and that actions and records of the District are taken and held in confidence only as permitted by law and as necessary to safeguard the assets of the District and to protect the rights of the District's employees;

Q. protecting confidential information of the District, its officers and employees from unauthorized disclosure and dissemination;

Director Nishi also read an excerpt from Section 14 of the Board Procedures Manual.

Action Item 8-A (continued):

**14. Code of Ethics.**

- G. Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and opinions, but without being disagreeable. Once the Board takes action, directors shall commit to supporting said action and not to creating barriers to the implementation of said action.
- H. Any complaints from constituents or others dealing with the District should be referred to the General Manager and may be followed up by the Board.
- J. In seeking clarification for policy-related concerns, especially those involving personnel, legal action, property, finance, projects and programs, said concerns should be referred directly to the General Manager.
- L. The work of the District is a team effort. All individuals should work together in a collaborative process, assisting each other in the conduct of the District's affairs.
- M. Directors should develop a working relationship with the General Manager wherein current issues, concerns and District projects can be discussed comfortably and openly.
- N. Directors should function as part of the whole. Issues should be brought to the attention of the Board as a whole, rather than to individual members selectively.
- P. Harassment, in any form, will not be tolerated.
- Q. Directors shall protect confidential information of the District, its officers and employees from unauthorized disclosure and dissemination.

Director Nishi commented that Directors should understand what the intent of the job is, not their personal agenda. He stated that their job is to benefit their constituents by working together with their fellow team members. Director Nishi said the Board needs to insure that MCWD provides high quality water, wastewater and recycled water services through management, conservation and development of future resources at a reasonable cost. Director Nishi commented that the Board should be put on notice that all Directors should receive the President's approval and permission before soliciting the General Manager's time. He added that there should be a report showing the amount of money spent by each Director from last December's inquires. Director Nishi commented that the behavior of Director Shriner is not in the best interest of the ratepayers. He said that she should conform to the Board Procedures Manual and Code of Ethics training that she agreed to. Director Nishi stated that if Director Shriner continues to behave as she has in the past, the District Board has no choice but to recognize that her inappropriate behavior is her own and not the Marina Coast Water District's Board. He added that the Board should take action to correct this wrong. Director Nishi said he did not support spending additional funds to hire this attorney. He said that it is the District's responsibility to let a Director know that the actions they are taking are a violation of the Code of Ethics and the Board Procedures Manual and separate the actions of that one member from the rest of the Board. Director Nishi said that he cannot support this action spending additional funds on top of the funds Director Shriner has already expended. He said it is the Board's job to solve the problem.

Action Item 8-A (continued):

Vice President Burns asked for clarification on the fact that once a claim has been made, the Board has to do something regarding the claim. Mr. Lowrey answered that his advice is that the Board should engage the services of an outside investigator to investigate the claim. He stated that, since December, there have been informal attempts to resolve this issue. Mr. Lowrey said that he has worked with the Board President in an attempt to resolve this informally and it has not resolved. He opined that it is appropriate and necessary for the Board to have this investigated. Mr. Lowrey stated that he cannot do the investigation because he is engaged by all the Board members to act with and through the General Manager to advise and represent the District. He added that he and others within the District would be conflicted similarly in representing this, thus his advice to hire an outside investigator.

Director Nishi asked if that was true, why didn't the Board take formal action after the first complaint since the Board and District policy says harassment in any form will not be tolerated. Director Nishi asked why the Board took informal action and not a positive action or investigation. He added that in his mind, he was off the Board in December although he was still getting copied on emails and aware that there was a complaint of a hostile work environment. Director Nishi commented that for over six months, informal action was taken and now the Board is being informed that they need to take action tonight. He asked why this can't be addressed another way, by having the Director conform to the rules all Board members agreed to. Director Nishi asked why the Board let the rules slide and continue to provide a hostile work environment or harassment for one employee who is uncomfortable in his work environment. Mr. Lowrey answered that the Board didn't let the rules slide, they were addressing it in a different way. He added that now a public statement was made at the last Board meeting that requires it to be addressed in this way. Director Nishi stated that he still has his concerns.

Director Gustafson called for the question.

The motion by Vice President Burns to authorize engagement by the District of Jeanine DeBacker of Hoge, Fenton, Jones and Appel to investigate and report on complaint of hostile work environment, and seconded by Director Gustafson, was passed with Director Shriner recused from the dais.

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

9. Workshop:

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

Mr. Lowrey introduced this item commenting that he is focusing on Sections 7 and 16 of the Board Procedures Manual (BPM).

Action Item 9-A (continued):

Mr. Lowrey commented that Section 7 has certain provisions that relate to the duties of Directors acting as members of the District Board of Directors. Mr. Lowrey stated that those provisions require Board of Directors to act diligently, to set policy, to review fiscal matters, to be informed and to make prudent decisions. Mr. Lowrey added that there is an understanding that the Board makes reasonable and diligent inquiry, and provides an outside perspective to the General Manager. He commented that there is a requirement that the Board retain and understand the information and diligently attend to the duties of the Director to make decisions in the best interests of the District. Mr. Lowrey added that in most cases, the Directors will need to get that information through the District because the decisions they are making pertain to the District. Mr. Lowrey noted that the BPM requires that the Directors work through the General Manager and Section 16 reads, "The Board and its members shall deal with the administrative services of the District only through the General Manager, except for the purpose of inquiry, and neither the Board nor any individual director shall give orders or instructions to any subordinate of the General Manager. The General Manager shall take orders and instructions from the Board only when sitting in a duly convened meeting of the Board and no individual director member shall give orders or instructions to the General Manager." Mr. Lowrey stated that the purpose for this agenda item is for the Board to discuss balancing the duties of each Board member and the Board collectively to gather information to make a prudent decision. He questioned how each Board member interprets and deals with the phrase "except for purpose of inquiry" when they are interacting with the District so as to not disrupt the District's Mission or the work of the administrative staff. In his opinion, Mr. Lowrey said that if a staff member is approached by a Board member, he would assume the staff member would inform the General Manager of the request before making any response.

Director Shriner stated that in her interpretation, Board members are able to speak to staff members without having to go through the General Manager especially since he is traveling a lot right now and because of his very busy schedule. She commented that there are some Directors that are able to do that and some that are not able to do that. Director Nishi inquired who she was talking about. Director Shriner asked if Director Nishi ever approached staff directly to ask questions. Director Nishi answered that he gets permission from the General Manager before he approaches staff.

Director Nishi commented that in Section 7, there are many items that require Directors to go directly to the General Manager which is the intent of the Director's duties. He voiced his concern that Mr. Lowrey did not know that the intent of what the Board wanted was to have Directors go through the General Manager.

Vice President Burns suggested revising the language to read that Directors must go through the General Manager, or in his absence, the Deputy General Manager/District Engineer.

Action Item 9-A (continued):

Director Shriner asked if the Directors really wanted this small town's elected officials to only be able to ask questions about the Water District of two people. Vice President Burns commented that by having the Directors only approach the General Manager, it takes all the other issues out of the inquiries.

President Lee asked if it would be appropriate to place this on a future agenda to change this language. Mr. Lowrey answered affirmatively.

Director Shriner commented that in her understanding, it is appropriate for Directors to approach staff with inquiries until the language is cleared in the BPM. President Lee answered that since staff would be required to go back to the General Manager before answering anything, the Directors should only approach the General Manager with inquiries, as was suggested by Legal Counsel.

Director Nishi asked Mr. Lowrey to clarify the comment that President Lee made.

Mr. Lowrey answered that according to the language in the BPM, Directors may approach staff with questions, but in his opinion, staff should not give an answer without communicating with the General Manager. Director Nishi stated that the Directors shouldn't be going to the staff members, only through the General Manager.

Mr. Heitzman commented that when he first joined the District, staff was not allowed to talk to any Directors. Since he has been here, he said that four of the Directors routinely call him with questions, some more often than others, and if he can't answer their questions, he refers them to staff. Mr. Heitzman said he then alerts the staff member that a Director will be contacting them about a certain question thus allowing the staff member to have an answer ready for the Director. He said that is the process that has been followed since he started at the District until recently. Mr. Heitzman stated that the same process is used with emails.

Director Shriner commented that the idea of trying to funnel through an individual is a way to make it the most expensive government as possible. She believes that allowing Board members approach staff with simple questions will reduce the cost of government. Mr. Heitzman commented that the reason the BPM is written the way it is, is because Directors have no idea of what duties staff has during the course of a day. He added that if a staff member received a call from a Board member, they would leave their assignments or meeting to attend to the needs of the Director. Mr. Heitzman reaffirmed that is the reason for the language in the BPM.

Director Nishi voiced his concern that Mr. Lowrey is interpreting the language differently than he did 12 years ago. Director Nishi asked if it was okay for a Director to direct consultants to attend meetings.

Action Item 9-A (continued):

Mr. Lowrey answered that he would consider consultants to be treated the same as staff and the fact that a Director approaching a consultant could cost the District additional money for that consultant.

Mr. Lowrey commented that the other item to be discussed is Conflicts of Interest. Director Nishi asked to move on to the next agenda item and to discuss Conflicts of Interest at the next meeting.

10. Director's Comments:

Director Gustafson commented that he will not be attending any more Board Procedure Manual workshops.

Director Nishi asked that an RFP for District Counsel be placed on the next agenda.

Director Shriner commented that she placed three documents on the dais for the Board members. The first is a schedule that was provided to the Board of Supervisors. Director Shriner stated that the green background makes the schedule illegible. She added that the second document is meeting notes from March 31<sup>st</sup> that are not clear in who produced the notes, no letterhead is used, and the information only lists the items that were talked about. Director Shriner commented that these documents, as they are presented, are of concern to public members. The third document, Director Shriner commented, are meeting notes that she took while attending the ACWA Conference. She added that she was surprised to hear Mr. Curtis Weeks, General Manager for Monterey County Water Resources Agency, claim that the cost for desalinated water would be approximately \$5,000 to \$10,000 per acre feet. Director Shriner stated that she was also surprised to hear that there are other costs the District might bear if the others don't come through in the partnership. She stated that the District was portrayed as an advocate, such as Surfrider.

11. Adjournment:

The meeting was adjourned at 8:27 p.m.

APPROVED:

---

William Y. Lee, President

ATTEST:

---

Jim Heitzman, General Manager

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-E

Meeting Date: July 12, 2011

Submitted By: Paula Riso

Presented By: Paula Riso

Reviewed By: Carl Niizawa

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of June 9, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of June 9, 2011.

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 June 9, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the June 9, 2011 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

Holiday Inn Express  
189 Seaside Circle  
Marina, California

Special Board Meeting  
June 9, 2011  
5:30 p.m.

**Draft Minutes**

1. Call to Order:

President Lee called the meeting to order at 5:30 p.m. on June 9, 2011.

2. Roll Call:

Board Members Present:

Bill Lee – President  
Dan Burns – Vice President  
Howard Gustafson  
Jan Shriner  
Kenneth K. Nishi

Staff Members Present:

Jim Heitzman, General Manager  
Jean Premutati, Management Services Administrator  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Brent Ives, BHI Management Consulting  
Luana Conley, Citizens for Sustainable Marina  
Ken Durst, Central Coast Coalition for Wastewater Equity

3. Public Participation:

Ms. Luana Conley, Citizens for Sustainable Marina, questioned how the facilitator was selected and what criteria were used.

President Lee asked if anyone could answer Ms. Conley's question. Director Nishi stated that the Board was there for a Board Workshop and did not have time to waste addressing the question. Director Shriner stated that it was a ratepayer asking the question and the Board should direct the answer to the ratepayer as the Board serves the public. Director Nishi stated that Board policy is to receive comments and not engage in dialogue with the public. Director Shriner commented that she remembered the meeting of the selection process, and said the point was brought up that it was not the least expensive bid, nor was it local, and the selection was made by a 4-1 vote of the Board with no reason given.

Director Nishi made a motion to continue the workshop. Director Gustafson seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Nishi     | - | Yes | President Lee        | - | Yes |
| Director Shriner   | - | Yes |                      |   |     |

4. Workshop:

B. Board Workshop:

Mr. Brent Ives, BHI Management Consulting, introduced himself and gave a brief background of his experience and qualifications. Mr. Ives gave a presentation with slides that discussed the following items:

- What are we doing this evening?
- What is Strategy?
- Benefits of Strategic Planning?
- The Attributes of a Strategic Plan
- Strategic Elements
- Linkage
- What's needed from the Board to develop a good Strategic Plan?
- The Board – Higher Thinking
- The Board – Mission
- The Board – Collective Vision
- The Board – Respect
- The Board – Conduct
- So, what's needed here?

Vice President Burns asked how the Board can move on after a vote. He gave an example of Ms. Conley asking how Mr. Ives was selected as the facilitator and Director Shriner questioning the process as well. Vice President Burns stated that the Board made the decision several months ago and at the time, Director Shriner asked the same question and Ms. Premutati answered it. Vice President Burns said that now Director Shriner is bringing it up again and asked if there is a process or tool to help the Board move on. Mr. Ives answered that presumably at the meeting when the Board voted on his contract, it was a public meeting and those that wanted to understand it, could have understood everything they needed to know, then. Vice President Burns said it was a public meeting and Director Shriner asked for clarification on how BHI Management Consulting was selected, and that he explained it that evening. Mr. Ives commented that there was probably discussion and discourse about that. Vice President Burns affirmed that there were. Director Shriner commented that to let go, she needs to be able to have discussion before the vote was taken, and she said that no discussion was taken before the vote and no one gave their reasons for voting the way they did. Vice President Burns said that he did give his reason for voting the way he did, which was the fact that he assisted Ms. Premutati in reviewing the proposals and rated them before they went to the Board for consideration.

Agenda Item 4-A (continued):

Vice President Burns commented that votes don't always go his way either, and when he receives an explanation, he accepts it and moves on without laying traps for anyone. Director Shriner commented that she wasn't the one to bring it up earlier this evening. She stated that she was only answering a member of the public. She then commented that she understands that one District Board member follows people home and harangues them for at least an hour about decisions that they have made. Director Shriner commented that in her place, if someone were to follow her home, she would consider it stalking and would have to use the police to control that kind of illegal activity. Mr. Ives commented that at face value there is nothing illegal about that, he said that maybe it may not be appropriate to her, but others may feel differently. He added that the problem would come if a third Board member was present, then the Brown Act gets involved and it could be a serial meeting. Mr. Ives stated that as long as the discussion is after the vote, and not before, there isn't a problem. He returned to his presentation.

Understanding Roles

Board Membership/Good Governance Questions

The Board Member – on being elected

On being elected – our role, their expectations

The Board Member – who do you represent?

The New Board Member – connecting with the owners

Board Membership – your role, helpful knowledge

The New Board Member – your role

Board Membership – NOT your role

Director Shriner commented that this slide, "Board Membership – NOT your role" has an item, "delving into staff-level working relationships, including manager to staff" stating what Board members shouldn't do. She said the District's 2007 Strategic Plan has an Objective, "Develop a plan that improves employee work environment in the most cost effective manner" that deals directly with that and asked if it was an improper objective. Mr. Ives answered that improving an employee work environment is okay as long as the Board is clear with the manager what they expect from him as he works for the Board and all the other employees work for the manager.

Director Nishi asked how Director Shriner interpreted the 2007 Strategic Plan. Director Shriner stated that she had another question for Mr. Ives. She stated that the District lost four senior managers in the last four months, and asked how a Director would know if there was an improved employee work environment. Mr. Ives answered that it could be an indicator, but not necessarily. He stated that there are a number of reasons the people may have left, i.e. another agency hired them out from under the District, they retired, or the culture of the agency is something they don't want to be associated with. Mr. Ives stated that there could be many reasons for the turnover.

Director Nishi again asked how Director Shriner interpreted the 2007 Strategic Plan. Director Shriner asked if he meant the Objective, "Develop a plan that improves employee work environment in the most cost effective manner".

Agenda Item 4-A (continued):

Director Shriner said that she was just asking a question about how turnover related to that and, as a Director, if that Objective was being achieved over the last three years. She said that she was trying to evaluate whether there was an improved employee work environment or if this was an inappropriate Objective. Director Nishi asked if she had concerns about it. Director Shriner answered that she had concerns over her role and whether or not this Objective was inappropriate in relation to what they were learning at the workshop. She asked if she should be evaluating the Objective based on turnover or should she interview employees and ask how they like their job. Mr. Ives stated that interviewing employees and asking how they like their job is something that Board members shouldn't do. Vice President Burns commented that if a Board member were to directly approach an employee, they probably wouldn't get an accurate answer because of the intimidation factor. He said that if the Board hired someone like Mr. Ives to talk to employees, they may give a more accurate answer thinking there is confidentiality in the process.

Director Nishi commented that he didn't think anyone was listening to what Mr. Ives was saying on how the Board needs to work together as a group. Director Nishi said that the Board is giving direction on something that was passed in 2007 and that Director Shriner doesn't understand that in 2007, "Develop a plan that improves employee work environment in the most cost effective manner" was one of those Goals. Director Nishi added that the Board would implement policy to attain those Goals by working through the General Manager and having the items placed on Board agendas so they could be discussed at Board meetings. Mr. Ives returned to his presentation.

The Exemplary Board Member – your role, "policy making"

The Exemplary Board Member – your role "manage ends, not means"

The Exemplary Board Member – your role "representative"

The Exemplary Board Member – your role "establishing direction"

The Exemplary Board Member – your role "the mission"

The Exemplary Board Member – your role "vision"

The Exemplary Board Member – your role "membership-teamwork"

Director Shriner stated that one of the most common questions she asks of the Board is, "How did you come to that decision?" and asked if maybe she should phrase it as, "What values are you basing that decision on?". She asked Mr. Ives which question would be better. Mr. Ives answered that any Board member could ask all the Board members that particular question every time. He added that if it were seen as a sincere request from a new Board member who was asking the question merely for help in making a decision, and they expressed that they value the collective opinions of the Board, they might get an answer. Mr. Ives said that is the time when the Board discusses Mission, Vision, and Values, collectively, then the answer of "How" a decision was made, is intuitive. He said that Board members can say what their decision filters are and that each Board member needs to trust that they each have the same overarching Goal or Mission. Mr. Ives said that the Mission is the common ground for Board members and they should be able to discuss items, vote and move on.

Agenda Item 4-A (continued):

Mr. Ives said the next question to ask is:

Is the Board ready to move to the next stage of strategic planning as a Team?

**If not**, what gaps are there to understand and discuss?

**If so**, the next workshop will begin the specific discussion of strategy and forward actions.

Director Gustafson asked if they should concentrate on the Mission. Mr. Ives said that he is not proposing change to anything the Board has already created. He is proposing examination of them and making sure everyone is clear about them so in the future everyone can agree on what the Mission is. Director Nishi said that Mr. Ives earlier mentioned that all the Board members agreed that the Mission was good. Mr. Ives answered that everyone did agree with the Mission but when they get into the actual Strategic Planning they will look at it and make sure everyone still agrees that it is appropriate.

Director Nishi inquired what was planned for the rest of the evening. Mr. Ives answered that at this workshop he was asked to work with the Board, where the Board was at, and what the roles and responsibilities were. He said at the next workshop, they will look at the Mission, Vision, Values and the strategic elements that are out there and need to be worked. Director Nishi commented that he didn't want to worry about the next workshop, he wanted to get the bang-for-the-buck on this workshop. Mr. Ives asked what bang Director Nishi was looking for. Director Nishi said if Mr. Ives has to ask that, they were in trouble. Mr. Ives asked what Director Nishi's intentions for the workshop were. Director Nishi said that when he met with him, Mr. Ives must not have been listening to what he was talking about. Director Nishi said it surprises him that Mr. Ives would say that to him. He stated that he understood Mr. Ives met with everyone and got a consensus of what the weakness and strong points were and he would come with a plan to pull this group together so when they left they would be at least understanding, or trying to work together to get something done for the ratepayers. Director Nishi said that for Mr. Ives to ask him that, he feels like going and taking a nap. Mr. Ives apologized and said that he thought that what he had been discussing pulled everyone together. Director Nishi said he doesn't see where it is pulling everyone together. He said he sees questions that are pulling everyone apart. Vice President Burns commented that he thinks Director Nishi is looking for a written document that they all agree to and that will help them achieve the things Mr. Ives has talked about in his presentation. Mr. Ives said that is why he is asking if everyone is ready to move on to the Strategic Planning, or not.

Director Shriner commented that she had a question to Mr. Ives' question. She said that this is something that happens to her a lot. Director Shriner mentioned that when she was a wee kid growing up in Montana, her grandmother looked enough like a Native American person that she got a lot of discrimination. She said that when she was 5 years old, they moved to Mobile, Alabama, back when everything was still segregated. Director Shriner said when she walked up to a blue-handled water fountain and drank from it, a woman yelled at her, and her mother yelled back at the woman while she just stood there staring at the blue handle.

Agenda Item 4-A (continued):

Director Shriner said all sorts of questions were running through her mind and she asked herself how did they get to this point and how did everyone know that the blue handle meant something. She said she just thought it was a blue handle but everyone else had an understanding and they were fighting about it. Director Shriner stated that she didn't know if her mother was right or the other lady and why the other lady was mad at her. She said that someone told her that from the beginning, she had an inquisitive mind. Director Nishi said that it was a good thing she knew which fountain to drink at. He said if he was an African-American, he would know which one to drink at, but if you are an Oriental, how do you know which one to drink at then.

Vice President Burns asked where Director Shriner was going with the point she just made. Mr. Ives asked if the team was ready to move forward. Director Shriner asked if the team can accept the questions because sometimes minutia, like a blue handle, is a big sticking point and makes people start hollering. Mr. Ives asked Director Shriner why she thinks that is. Director Shriner answered that she didn't know and asked if they can accept the questions, does she have to stop, or can they come to an agreement of how many questions can be asked at a meeting. Mr. Ives stated that he didn't think that was the issue, it is what is behind the question that is the issue. He said there is a certain amount of innate distrust among this group, and if they can't get past the distrust, it makes it difficult to develop a Strategic Plan. Mr. Ives said that is why he went through the presentation saying here is what they are supposed to do and it leads to the question of if they are ready to work on a Strategic Plan.

Vice President Burns said that it is okay for Director Shriner to ask a question, but she has to be willing to accept the answer, and that is where he finds things get bogged down. He clarified that at times when an answer is given, there is continued hammering as if there is some ulterior motive, when there really isn't one. Vice President Burns stated that his distrust in Director Shriner is that she doesn't accept the answer she is given. He gave an example of the beginning of the meeting when they discussed how Mr. Ives' firm was selected, and Director Shriner at that time stated that the vote was 4-1. Vice President Burns stated that Director Shriner asked the question, was given the answer, and yet she still has the question in her mind of how they arrived at that because her candidate was cheaper. Director Shriner added that her candidate was local, too. Vice President Burns continued by saying that each firm was rated and Mr. Ives' firm was rated the highest and that the Board voted from there. He said that right away, Director Shriner had suspicion. Vice President Burns followed up by saying that Director Shriner is always accusing the Water Conservation Committee of voting alike, and that he has no preference of who is nominated and always votes for the first nomination. He contends that it doesn't matter if they have experience or not, if they want to volunteer and they think they can do a good job, that's good, put them on the Committee. Vice President Burns said that he feels Director Shriner distrusts the rest of the Board, and that she thinks they are meeting behind closed doors someplace and making decisions before coming to vote on them. He said that he rarely talks to the other Directors individually, and if he does talk to Director Nishi it is about flowers.

Agenda Item 4-A (continued):

Director Nishi stated that Director Shriner doesn't just distrust the group, there is no respect either. He said that she doesn't respect that the Board made a decision to hire Mr. Ives' firm, and it is disrespectful for her to have Ms. Conley attend the meeting and ask the question. Director Nishi said that it irks him to waste precious time rehashing this item, and that Director Shriner needs to respect that the Board made the decision and now they have to live by the decision.

Director Shriner commented that she didn't ask Ms. Conley to attend the meeting. She said that is an assumption on Director Nishi's part and is disrespectful. Director Shriner said that she nominated Tom Moore for the vacant seat and Vice President Burns didn't vote for him, so that discounts what he said earlier about voting for the first nomination. Vice President Burns countered that he was referring to the Water Conservation Commission regarding first nominations. He said that he had talked with Mr. Moore before the meeting and after hearing some things that Mr. Moore said, he wouldn't vote for him at that time.

Director Shriner commented that sometimes she just wants to know the basis for the decision and she is sorry if it sounds like distrust. She said that to her it feels like inquisitiveness and accountability, i.e. what are the values and what criteria they evaluate things on. Director Shriner said that she doesn't know why it feels so awful to people to be questioned, like "How did you evaluate that situation?" or "How did you come to that?". Vice President Burns answered that Director Shriner needs to accept that he did his evaluation and he voted on who or what he wanted to vote for. He said that he didn't need to explain fully how he rationalized his vote. Vice President Burns explained that in his selection of Mr. Ives, he reviewed all the applicants and rated them and Mr. Ives was the most qualified person to do this job. He added that most of the other applicants wanted to conduct the interviews by phone or email and he felt that it was an impersonal way to do it. Vice President Burns commented that although he just explained his reasoning for selecting Mr. Ives, he shouldn't have to explain why he is voting on anything and they shouldn't take up the Board's time to do that.

Director Nishi commented that as Mr. Ives had explained during his presentation, once the vote is taken, it is over and no one should have to explain to anybody else, with the exception of their constituents, why they voted the way they did. He said that if a Board member is at the store and a constituent asks why they voted the way they did, that is when they need to explain it to them. Director Nishi stated that for Director Shriner to sit there and keep hammering on Vice President Burns about the way he voted...the vote was taken and let's move on. He said that Director Shriner needs to quit holding it against Vice President Burns for making a so-called "wrong vote" by not voting for Mr. Moore. He concluded that it is over and Director Shriner needs to give it up.

Director Shriner said that she didn't say that. She added that there is a broad spectrum between explaining fully and offering a sentence or two about "This is my priority, and this is what I am going to do."

Agenda Item 4-A (continued):

Director Shriner commented that if a Board member says, “This is my vote and no one can ask me anything” that is taking away her First Amendment right. Director Nishi said that he didn’t say that. He stated that he said on the night of the vote anyone can say whatever they want for as long as they want, but once the Board takes action, they have to abide by what the majority voted. Director Nishi added that no one wants to take anyone’s First Amendment rights away. Director Gustafson commented that the key to the presentation was to bring some realizations to the forefront and work on those. Mr. Ives commented that someone in the majority of a 4-1 vote, after making a decision, wouldn’t want the person who was the 1 to bring it back up. He added that if the person who was the 1, was now part of a prevailing vote, they wouldn’t want anyone to bring anything back up either. Mr. Ives stated that there needs to be respect of the process.

Mr. Ives said that the communication issues are because there is distrust. He added that there is a suspicion of other drivers here, which is why the Board members often conflict. Mr. Ives commented that this open discussion is valuable for the Board.

Director Gustafson commented that he remembered that when Director Shriner ran for office, she stated that she was up-to-speed and was ready-to-go, but now there are over \$20,000 in attorney’s fees which tells him that she is getting special education that the rest of the Board never asked for. He stated that he has never gone to the point of asking staff so many things because he distrusts the process. Director Gustafson stated that he felt Director Shriner distrusts the votes, too, and that she is trying to find something out by going to staff and the attorney.

Director Nishi said that when the Board walks out the door, they need to remember they are a team and need to work together. He stated that what drives the Board should be the Mission statement and not their personal agendas. Director Nishi added that if they were doing their duties as Directors, and doing what the Mission statement says, they wouldn’t have this conflict and would be working together, but they’re not.

Director Shriner referred to Director Gustafson’s comment about the attorney’s fees and said she has asked for the invoices but was told she was not allowed to see them. She said the newspaper stated that the total was from the time she first moved to Marina in 2003. Director Shriner clarified that she never received the training recommended by the Board Procedures Manual, Section 7-S, “providing training for Directors in exercising oversight and supervision of management, the roles and responsibilities of Directors, how to understand budgets, how to monitor budget compliance, and how to work together as a team in problem solving.” She said that “how to work together as a team” she is finally getting at this workshop, but never received the other training. Director Shriner added that it has only been six months since she was elected to the Board.



Agenda Item 4-A (continued):

Director Shriner pointed out that Director Nishi always talks about working together as a team, and yet he was the one who quit coming to meetings, quit the Board in January for no reason given, and then returned in February with no reason given either. She stated that to her, that is not working as a team. Director Shriner asked why can't they just move forward, and why can't they forget that Director Nishi has an unusual hesitancy about his office, and accept that now there is a new Board member and they need to move Marina Coast Water District into a new era. Director Nishi stated that he agreed with Director Shriner and that in November, he lost the team, but after a few months he said he realized he missed everyone and wanted to come back. He added that Director Shriner is the only Director who brings up the fact that he left and then returned.

Director Nishi commented that the other Directors pull their weight to get to the Mission statement. He said that instead of keeping positive, Director Shriner is very critical of her perception of his and Vice President Burns' weak spots. Director Nishi stated that Director Shriner was telling Vice President Burns he made the wrong vote on Mr. Moore because her vote was right. He added that he got lost in the fog, lost the Board and he resigned, but Director Shriner is the only one who made a big deal of it. Director Shriner stated that she disagreed. Director Nishi said that is why they are having this discussion and why it is very difficult to pull the wagon when Director Shriner's not thinking about pulling the wagon. Director Shriner commented that from her perspective, the wagon seems to be pulling the horse back down the hill while the horse is trying to go up. She cautioned about where Director Nishi is trying to take the team, and that they want to go forward and elevate to the 30,000 foot level and not get dragged down into the mud and fighting it out. Director Shriner commented that she didn't say that Vice President Burns was wrong, she said she was only asking about the values and the fact that sometimes he has chosen someone who was not nominated first because he has other values. She said that maybe that looks like distrust, because Vice President Burns knows his values, but once when she was purchasing her home, the loan officer was going crazy trying to explain all the complicated mortgage stuff to her. Director Shriner said that she had to tell him that her process is to ask questions, even if they seem off target, and that it was his job to find out where she was at and get her over to his understanding.

Mr. Ives asked if she was asking the other Board members to bear with her as this was her own style. Director Shriner answered that she is trying to get up to speed. Mr. Ives stated that it comes across that something other than the Mission is driving her questions. He said that there might be a way to communicate that she is just trying to get clarity and that is the way she is. Mr. Ives added that it must be proven out, because trust builds slowly and the trust bucket is easily tipped over. He stated that if Director Shriner was telling everyone this was her process, then it might not be so bad, but she needs to make her case with everyone, and it will be a hill to climb.

Agenda Item 4-A (continued):

Director Shriner commented that City Manager Altfeld is probably the happiest person in Marina right now, because she used to drive him nuts with all her questions, and now that she has been elected to the Board and he knows she is going to be busy, he is happy and practically wants to hug her.

Mr. Ives stated that often times, right or wrong, people get pigeonholed with a set of questions that seem to be inquisitive for reasons other than the big picture, and that there is another agenda there. He asked Director Shriner if she is telling the other Board members that there is no other agenda there, that she is Mission-oriented, and she is asking them to trust her but let her have her style. He said if so, then that is a different thing. Director Shriner answered that she thinks that is what she is saying, although it's phrased different than she would put it. She said she just has a lot of questions. Director Shriner commented that people are coming out of the woodwork and thanking her for asking questions and for asking the questions they had wanted to ask but didn't know how. She said they appreciate that she is trying. Director Nishi asked how Director Shriner's questions help her. Director Shriner answered that they helped her understand the process as a Board. Director Nishi asked how it helps her as a Director to know the APN numbers of the wells for the Regional Desal Plant. Director Shriner said that is a good question because it speaks to the property ownership. Director Nishi asked why the Board would care where the property ownership is. Director Shriner answered that she understands the District is going to be putting the wells into properties that people own and she would like to know more about the people, what relationship they have to the District, and what negotiations have been going on.

Mr. Ives commented that Director Shriner is diving down into the "how" and said he is wondering why she needs to know that. He asked if there was something that is there, or, is it truly just insatiable inquisitiveness. Mr. Ives said that it will take some convincing to get people to believe that, and asked if there was concern with the property ownership. Director Shriner answered that she could be concerned that maybe her neighbor might own the property. Mr. Ives said that Director Shriner should ask herself, when she gets inquisitive, "how does that relate?" Director Shriner commented that it is an unusual coincidence that there is RMC Lonestar and RMC Water and Environment. She said that RMC was an unusual combination of letters and she was exploring different avenues of who's involved with RMC and which RMC. Mr. Ives asked why that was relevant. Director Shriner answered that it was relevant to her because there has been a lot of money going into RMC...\$20 million of Marina Coast Water District funds. She said that, for the ratepayers, she wants to know if they are being responsible, and does the District know who RMC is, and the relations of RMC to the District. Mr. Ives asked if there was an issue there or if it was just because she wants to know. Director Shriner answered that to her it is about accountability. She said that \$20 million is a huge responsibility. Director Shriner added that one thing she has been asking about is the pipeline in the CIP that was \$26 million and is now \$28 million.

Agenda Item 4-A (continued):

She stated that she has been asking for documentation to support the price estimate and has seen documents showing that the pipeline has been under discussion, but she can't seem to get any information about the pipeline.

Vice President Burns suggested getting back to Director Shriner's original question about RMC, and said that to him it seems that she has a conspiracy theory that she thinks there is delusion going on. Mr. Ives admitted that is the concern the other Board members have. Director Shriner asked if it is her distrust or their distrust. Mr. Ives asked what her intention was. Director Gustafson said that he didn't care and that is why Director Shriner is alone in her vote. He added that the people she perceives are congratulating her, think like her, and are suspicious like her. Director Gustafson said that the cost for an 18,000 foot pipeline of that size and characteristic is very conceivable. Director Shriner said that she didn't know.

Director Nishi asked how many "RMC's" Director Shriner thought were in California. She answered that she didn't know. Director Nishi commented that what Director Shriner is saying is that if someone's initials are "RMC" and there is another "RMC", that there is a conflict there. Director Shriner said that she could see Director Nishi's point. Director Nishi again asked how many "RMC's" Director Shriner thought there were in California. Director Shriner again said that she didn't know, but she had never heard of "RMC" before. She added that her initials, JCS, were the same as Jesus Christ.

Mr. Ives stated that the problem is that the questions come across as suspicion; that there is something down there at the core that is underhanded, wrong, illegal, and he doesn't know who is complicit in this. He said he needs data to: a) convince him otherwise; or, b) convince him of this problem...rather than trust. Director Shriner said that some might think of it as trust or others might think of it as irresponsibility for not asking questions. Mr. Ives said that there is nothing wrong with asking questions, the problem is if it tends to always lead to an area of suspicion. Director Shriner pointed out what happened with the City of Bell. Mr. Ives answered that they weren't talking about the City of Bell, they were talking about the MCWD Directors. He asked if this was a distrustful group. Director Shriner answered that they distrusted her and they think she assumes the worst. Mr. Ives stated that it is probably because she seems to distrust them. He added that it is the perspective. Director Shriner said that she allows that perspective, but it doesn't mean that she is that person. Director Gustafson said that it is the way Director Shriner eluded to things in the paper and the Steve Collins issue and the way the Coast Weekly perceived it. He said that Marina Coast doesn't have anything to do with Steve Collins. Director Shriner disagreed, and said that she had invoices. Director Nishi asked what information she had. Director Shriner said that she had invoices to Marina Coast Water District. Director Gustafson clarified that they were from RMC and that the issue is with the FPPC. He added that Mr. Collins hasn't been found guilty of anything. Director Gustafson said that Mr. Collins helped RMC get support from the Ag Industry because he grew up here and knew those people. He added that he didn't know exactly what Mr. Collins did or what he followed.

Agenda Item 4-A (continued):

Director Gustafson commented that the \$150,000, for what the District got out of it which was hopefully the support from the Ag Industry, was probably money well spent.

Director Nishi said that the way he was brought up was that in the United States everyone is innocent until proven guilty. He said that he didn't know how Director Shriner could state that Mr. Collins did something illegal in a public meeting. Director Nishi said that when Mr. Collins comes out of this thing, and the innuendos from the Herald are shown as incorrect, he hopes Director Shriner is willing to make a public statement apologizing for the comments she made about Mr. Collins. Director Shriner said that she was just asking questions about Mr. Collins. Director Nishi said that she made a statement before that.

Vice President Burns asked if Director Shriner was asking District staff to stop doing their job so they can research the information on RMC for her. He stated that if Director Shriner really wanted that information, there is a book that lists property owners and how they are associated, and she could research the information herself. Vice President Burns added that if Director Shriner was constantly asking those kinds of questions, the District would have to hire someone just to provide her with information. Director Shriner said that two members of the public asked her what "RMC" stood for in RMC Water and Environment, because they couldn't find it online. Director Gustafson said that it probably stood for last names of people. Mr. Heitzman answered that it stood for Raines, Melton and Carollo. Director Shriner said that she asked staff if there was a relation between RMC Water and Environment and RMC Lonestar, and the answer that came back was no. She said that it didn't take a long time. Mr. Ives asked if that answer was enough for her. Director Shriner said it was. Mr. Heitzman disagreed, saying that Director Shriner then asked for the APN numbers and the reason she wanted the APN numbers was for the reason she said earlier which was to see who owned the property. Director Shriner stated that the RMC Lonestar well site was only one of many and is interested in knowing the other well site owners. Mr. Heitzman clarified that RMC Lonestar no longer owns the property. Director Shriner affirmed that it was Cemex who now owned the property, but there were multiple properties that she inquired about. Mr. Ives cautioned Director Shriner to be aware that her style leads people to believe something that may or may not be true about her and it is incumbent upon her to say, "don't think I am going anywhere with this, I just need this data". He added that it is up to her to prove that she is not after somebody. Director Shriner said it goes back to the fact that she is innocent until proven guilty, and the other members have this suspicion of her that she is trying to get at something, and that is their reaction to her. She added that she is not responsible to other people's reaction to her.

Vice President Burns stated that they started the relationship on mistrust because Director Shriner came in accusing the other members of all kinds of dastardly deeds. He said that she accused them of voting together, calling them "good old boys", and that they sold their votes. Vice President Burns said in his opinion, it is not a good way to start.

Agenda Item 4-A (continued):

Director Shriner said she didn't say that. Vice President Burns answered that she put it in an email when she first came on the Board.

Mr. Ives asked Director Shriner if she trusted the other Board members. Director Shriner asked herself if she trusted them and if she trusted this process. Director Nishi said that wasn't the question. Mr. Ives asked if Director Shriner trusted the Marina Coast Water District, as a whole, in trying to get the Mission done. Mr. Ives asked if she trusted that they weren't trying to make anyone unreasonably wealthy or doing something illegally wrong, or that there isn't some big conspiracy here. He point blank asked, "do you, or, don't you?" Director Shriner answered that she didn't think there was a big conspiracy, but she did think there was some greed at work here. She added that as a regulatory agency, they needed to state that responsibility as a regulatory agency, and be very careful and reassure the public. Director Nishi countered that the District is not a regulatory agency, it is a special district.

Mr. Ives questioned the fact that Director Shriner said that there was greed involved. Director Shriner agreed that she did say that. Mr. Ives asked who Director Shriner thought was getting rich, because greed always results in someone getting something. Director Shriner disagreed and said the greed can happen without anyone actually attaining the goals. Mr. Ives deduced that there really was something there and that was the crux of the issue. He added that it is hard for the team to get in sync when there is this person who doesn't know where it is, but is going to look for it where they can.

Director Nishi said that one of Director Shriner's issues is how much money the General Manager makes. Director Shriner answered that it is because she is very frugal. Director Nishi acknowledged that she may be frugal and asked what her concern was. Director Shriner stated that she lives in a neighborhood between low-income apartments where gangs are a problem, and a low-income senior development. Director Nishi said that it was her choice to move there and again asked what her point was. Director Shriner asked if Mr. Ives saw how rude Director Nishi was to her. Director Nishi said it was because she is rude to him. Mr. Ives asked everyone to move on. Vice President Burns said that there needs to be respect. Mr. Ives asked why Director Shriner has a problem with the General Manager's salary, and said that it was one of the things that create the division between her and the other Board members. Director Shriner said that she lives in a small town of 17,000 mostly low-income people, and in this town there are twelve people who make over \$150,000, at least two who make over \$220,000, and none of these people live here. She said they travel in, take the money from poor people, and travel out. Director Shriner said that she doesn't find that a savory situation and she doesn't like it. Director Nishi asked what her point was. Director Shriner said that the man being rude to her (Director Nishi) and the man sitting next to him (Director Gustafson) made that happen. Mr. Ives questioned if she didn't agree with the salary level. Director Shriner said that first they sat on City Council and now they are on the Water District. Director Nishi asked if Director Shriner has a problem with the General Manager's salary. Vice President Burns said that she already confirmed that.

Agenda Item 4-A (continued):

Director Shriner asked if Director Nishi was inquisitive or was distrusting. Director Nishi asked how much the Marina ratepayers are paying the General Manager. Director Shriner said it was too much. Director Nishi asked how much. Director Shriner said the last General Manager made \$125,000. Director Gustafson clarified it was \$135,000. Director Nishi again asked how much Director Shriner thought the Marina ratepayers are paying the General Manager. Director Shriner said that with the salary benefits package, it was \$470,000 per year. Mr. Heitzman commented that the amount wasn't even close to being true and asked how she could say that. Mr. Heitzman claimed that Director Shriner made up that number. Director Shriner said it was a matter of public record. Director Nishi again asked if Director Shriner thought the Marina ratepayers were paying the General Manager more than \$400,000, and asked if he could prove that the Marina ratepayers were paying less than the \$135,000 earned by the previous General Manager, would she match the difference to \$400,000 dollar for dollar. Director Shriner asked if she would be perceived as distrustful by asking for those documents. Mr. Ives said not if she was up front with what she says, and she is not claiming any kind of wrongdoing. He added that the General Manager got his salary based on the vote of the Board, which is their prerogative to do, and they used their own determination of what they felt was the appropriate amount. Mr. Ives said that Director Shriner may disagree with the amount, but how much of a case she wants to make about it is the problem. Director Shriner stated that she is not making the case anymore, that it is being brought up by the men who made it happen. Director Nishi said that this is one of the things that are driving her dissatisfaction. He asked that if she thinks that the previous General Manager's salary of \$135,000 is appropriate and he could prove the Marina ratepayers are paying Mr. Heitzman the same or less than \$135,000, would Director Shriner pay the difference between \$135,000 and \$400,000. Director Shriner declined and asked why she should. Director Nishi said Director Shriner misspeaks and gives out misinformation and when she is called on the carpet, she answers "Why should I?" He said that everybody from here, City Council, and everywhere, knows that is the way she is. Director Nishi said that is why they will never work together as a team and that no matter how hard they try, it will always be Director Shriner's crusade. He added that her pledge is not to the Mission Statement, it is to her...whatever.

Mr. Ives commented that Director Shriner will need to make the case that every inquiry she makes is linked to the Mission; she is not starting an inquisition; and she that she just needs to know. He added that there are things that concern her and she does have some suspicion. Mr. Ives stated that the suspicion is taken by a lot of people, it was logical and Director Shriner knows how they would feel. Director Shriner said they were under fire from the newspaper and the people investigating. Mr. Ives stated that some people get defensive when they feel like they are being suspected by someone else.

Mr. Ives said that now that they have gotten to this point, the Board, warts and all, still has its work to do. He stated that the Board has a very good manual that talks about the parameters of conduct by the Board.

Agenda Item 4-A (continued):

Director Nishi said the Board has rules and regulations that they swore to follow when they took office, and he said that he doesn't know if everyone understands the rules they have to abide by. He stated that it would be important to get a buy-in on the Board Procedure Manual. Mr. Ives commented that this process can be used to discuss the manual. Director Shriner stated that there are different interpretations to the manual and the rules. She added that there has been dispute so far that even included the District's own attorney. Mr. Ives commented that there always are different interpretations. Director Nishi suggested looking at the manual and trying to get a meeting of the minds on the interpretation of what it says. Director Shriner stated that there may be need of revision and updating to the manual. Director Nishi stated that if they could get a meeting of the minds to agree that certain words in the manual need to be changed, they would be moving ahead to get everyone to agree.

Mr. Ives noted that there were questions about interference with the administrative services of the District. He then read and commented on the section of the manual that was under questioning, "The Board and its members shall deal with the administrative service of the District only through the General Manager, except for the purpose of inquiry, ...". Mr. Ives said that he interprets it as, "I will deal with you all the time, unless I have an inquiry." which he said is an ambiguous term. He said that it could be read to mean that if someone has an inquiry, they could go to other staff for answers. President Lee said that counsel was asked at a meeting what that phrase meant, and counsel answered that if a Board member approaches a staff member with a request or inquiry, staff should know to go to the General Manager before giving any answer or following any direction. He added that if the Board member approaches the General Manager first, occasionally the General Manager will tell the Board member to go directly to the staff member for what they need. Mr. Ives commented that he always goes to his City Manager first and then if directed, goes to staff. He added that many agencies have that rule, although there are a few that allow Board members to go directly to staff.

Director Nishi suggested talking about the District's Board Procedure Manual and what can be done to change this issue so all the other intentions are addressed. Mr. Ives answered that it is a Board Procedure Manual and the Board can change it although it can't be at this meeting. Director Nishi said that he would like to get a meeting of the minds so that all the Directors understand that if they have a request, the intent is to go through the General Manager. Director Shriner asked if it was a Brown Act violation when you have an intent that is understood, but it is not written. Mr. Ives said that the Board can discuss whether to put it on an agenda to talk about at a regular meeting. He added that this is an example of the kind of thing that can get in the way as a Board. Mr. Ives said that the Board can talk to the General Manager to get this on the agenda and then after they have the discussion, the Board can vote, up or down, whether to put a period after the words "General Manager" and eliminating the words "except for the purpose of inquiry". Director Shriner suggested calling it an update so it doesn't sound like there was anything wrong with it, it is just getting updated.

Agenda Item 4-A (continued):

Director Nishi stated that he disagreed with Mr. Ives. He said that this is a workshop and if the Board wants to look at one item, and they want to talk about where they are having a problem, they can say that they want to do this and this and give staff direction to have it on the agenda at the next meeting. Mr. Ives stated that he is trying to be very careful, and the Board can talk about the fact that updating this language would not be a bad idea.

Director Nishi said that Mr. Ives fell into Director Shriner's trap. He said that instead of just changing one or two words, Director Shriner is going to take this manual out and they are going to go through this whole thing. Mr. Ives started putting his documents away and told Director Nishi that he doesn't get paid enough to, quite frankly, do that. He said he told the Board what he thought was appropriate and he will talk to everyone as a whole Board and leave it at that. Mr. Ives said that he didn't expect that everyone will appreciate everything he says to them, but he really didn't like that tone either and the way it made him feel. Director Nishi said that he didn't mean to make Mr. Ives feel that way and he apologized. Mr. Ives stated that although Director Nishi has considerable experience in this field, he does as well. Director Nishi said that he wasn't saying that because of his experience, was saying it because he's been in that trap and doesn't want to get back in it. Mr. Ives answered that there is a Board process to do things and they should use it. Director Nishi said the trap was to get him and Mr. Ives into this dialogue...divide and conquer. Mr. Ives said that he doesn't feel conquered and he hopes Director Nishi doesn't either.

President Lee asked if the Board could get a copy of the slides. Mr. Ives answered affirmatively.

Mr. Ives concluded that action items that have come from this workshop may be to update the manual and there could be several other pieces to look at in there, and make sure there is clarity among the Board members. Mr. Ives stated that if the term is ambiguous, they might want to get rid of it. Vice President Burns commented that this isn't the only document that has ambiguous wording. He stated that there were other documents, such as the Personnel Manual and even the General Manager's contract that didn't make sense and the intent needed to be clarified. Mr. Ives asked if the Board members were in agreement to take this up in the terms of the manual. Vice President Burns answered that the decision was made at the last meeting when the Board decided to look at this document to make sure it makes sense. Director Gustafson stated that this workshop is the place to get that solved, and not have the attorney lecture to them. Mr. Ives answered that it is the Board's manual and the attorney can only give advice. Vice President Burns stated that to him it is as simple as saying that all inquiries go through the General Manager. Mr. Ives stated that the Board cannot vote on the changes at this meeting, but they can discuss them so that they are clearly understood by everyone.

Director Shriner said that one of the things that come up for her, is that when she first joined the Board, President Lee told her that at times Directors would stop by the General Manager's office during the day to talk about what is on the agenda and clarify any questions they might have.



Agenda Item 4-A (continued):

Director Shriner stated that since she works full time, she doesn't have time during the day to visit the General Manager, so she sends her block of questions in an email. She said that later in the day when she has time, she will check her email to see what answers she received. Director Shriner added that as a member of the public, she often did this to the City Manager and he would take her email and forward specifics on to pertinent staff members for the answers. She said that when he received all the answers, he would provide them back to her. Director Shriner said that this process kept the City Manager aware of what was being said and it expedited the process since he didn't have to answer every question himself. She said she didn't think it was a big deal, but apparently this culture is slightly different or people haven't gotten used to the questions. Director Nishi asked if Director Shriner liked the process. She said it worked for her. Director Nishi suggested that Director Shriner run for City Council and she will be very happy. He added that different General Manager's have different styles. Director Shriner said she was aware of that. President Lee stated that the Marina Coast Water District is a solvent agency while the City of Marina is not, and one of the reasons the District has been solvent for a long time is because Directors try to balance the checkbook carefully. He continued by saying that the District is a company that makes a product and is compensated for it, unlike a City agency that works on tax revenue.

Mr. Ives said that there is a lot of water under the bridge, and it is common for people to have questions especially before an agenda item, but the problem is the perception of why the questions are being asked. President Lee stated that to ask a question is fine, but the Board members cannot inundate him with questions while he is trying to work at his full time job with the District. Mr. Ives said that sometimes a time limit is set in the Board manual, on how much time a General Manager can spend with each Board member. He added that for instance, if it is something that would take longer than an hour, it would have to go before the whole Board and they would direct that inquiry. Vice President Burns commented that the District hired an Assistant General Manager/Engineer to help take on those tasks on a daily basis to free up the General Manager so he could concentrate on the Regional Desal Project and spend time traveling.

Director Gustafson commented that, because of the District's financial stability, the District has gone beyond the Mission Statement by supporting AMBAG and FORA. He added that the District has supported the Veteran's community by offering to support the Veteran's Cemetery.

Director Shriner commented that the manual does state that for information from District legal counsel that requires more than one hour of the counsel's time, and requests for written opinion from legal counsel, shall first be presented to the General Manager. She said that was a great start although it was still ambiguous because she didn't know if it was one hour during her 48 month term or one hour a month. Mr. Ives said that it may need to be clarified even further. President Lee stated that it concerns him to hear District counsel say that in the forty years he has served as counsel to Boards, he has never had this much contact with a Director.

Agenda Item 4-A (continued):

Director Nishi said that needs to be addressed by the Board. He said that he thought they were going to get into the meat of it and solve those issues. Director Gustafson said that would happen next time after the framework is set. He said that the next meeting should get into more meat and then the next one after that will be to set action on it. Mr. Ives said that at the next meeting they will talk about specifics on how the things they have talked about should get articulated and possibly be updated in regards to the manual. He added that clarity is a worthy goal. Director Gustafson said that he has read the manual and didn't have concerns but they need to look at it to be sure it is clear.

President Lee asked where they were at now. Mr. Ives said that they needed to schedule another workshop probably in July sometime and he will keep in touch with staff to schedule it.

5. Director's Comments:

Vice President Burns said that he thinks they got some of the issues out on the table and hopefully by knowing what the issues are they can resolve them. He would like the one slide made into a poster so they could make reference to it. Vice President Burns added that they should respect each other although there could be some difficult moments, but they should be able to work through that. He told Director Shriner that if he doesn't always explain what he is voting for, it is just because it is his way, but most of the time he does give an explanation even if it is short and sweet. Vice President Burns added that hopefully they could come to an understanding so there aren't these underlying issues of having ulterior motives or questions. He said that Director Shriner needs to accept the answers and move on. Vice President Burns said that when he gets outvoted he may think about it for a minute but he doesn't go back and lay traps to try to make people look foolish. He added that they are in a democratic society and if someone is on the other side of a vote they need to accept it and move on. Vice President Burns commented to Director Shriner that he lives a block and a half from her and Director Gustafson lives two and a half blocks from her and was surprised when she said she lived in a depressed neighborhood.

Director Gustafson commented that he thought the meeting was good and he learned quite a bit. He said that he hoped they can apply this to any clarifications and procedures they are lacking at the next meeting, and after that take some action to define more projects as a team and work together better.

Vice President Burns asked that the next meeting be held in the morning because after the long day he is a little run down. Director Gustafson stated that he is furloughed on Friday's. President Lee said that he prefers mornings as well. Director Shriner said that sometimes she can flip days since she occasionally works on weekends.

Agenda Item 5-A (continued):

Director Shriner said that she really appreciated that time and the dialogue that occurred during this time because she hasn't had the training that is specified in the manual. She commented that she can't go to HR or anyone else to help her set up the training, and she can't really email the Directors because they have a lot of experience. She added that it has never been on an agenda, and since there is only one person she can go to, even though she has been driving him to distraction, it is a tough time knowing who to go to. Mr. Ives suggested to always go to the General Manager.

Director Shriner said that she doesn't think the General Manager is very happy with her going to him. Mr. Ives said that she has to do it. He said that the parameters are the parameters that she knows are in the manual and those may get changed, but for right now her path is the General Manager. President Lee said that from time to time the General Manager might be busy and they would have to go to the meeting and ask those questions that are unanswered. Director Nishi said that the positive thing about asking questions at the meeting is that everyone there benefits from the question and answer. Director Shriner said that it sounds good now, but when she is in a meeting the responses she gets are: there is no dialogue; she's off topic; and, that she has had her turn. President Lee said that basically the only time there is no dialogue is during Director's comments at the end of the meeting. He said that a Director can make their comments and then it moves on to the next Director and that is the end of the meeting. Vice President Burns said that this is his fourth year and he is still waiting for his orientation. Director Shriner said maybe she shouldn't hold her breath. President Lee commented that Director Shriner has had the benefit of more training than the rest of the group because she has attended more classes than the rest of them. Mr. Heitzman commented that President Lee has attended classes in Long Beach on being a Director, and that Special Districts Association has classes and he has sent Director Shriner emails with schedules when they come out. Director Shriner thanked Ms. Riso for putting her on the list for Special Districts.

6. Adjournment:

The meeting was adjourned at 8:20 p.m.

APPROVED:

---

William Y. Lee, President

ATTEST:

---

Jim Heitzman, General Manager

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-F

Meeting Date: July 12, 2011

Submitted By: Paula Riso  
Reviewed By: Carl Niizawa

Presented By: Paula Riso

Agenda Title: Approve the Draft Minutes of the Special Joint Board Meeting of June 10, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of June 10, 2011.

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 June 10, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the June 10, 2011 special joint 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  
Marina Coast Water District and Fort Ord Reuse Authority

Carpenters Union Hall  
910 2<sup>nd</sup> Avenue  
Marina, California

Special Joint Board Meeting  
June 10, 2011  
3:00 p.m.

**Draft Minutes**

1. Call to Order and Roll Call of Both Boards:

FORA Chair, Supervisor Dave Potter called the meeting to order at 3:00 p.m. on June 10, 2011.

Fort Ord Reuse Authority Board of Directors:

Voting members present (*Quorum present at call to order*)

Chair/Supervisor Potter (County of Monterey)  
1<sup>st</sup> Vice Chair/Mayor Edelen (City of Del Rey Oaks)  
Mayor Pendergrass (City of Sand City)  
Mayor Pro-Tem Kampe (City of Pacific Grove)  
Supervisor Parker (County of Monterey)  
2<sup>nd</sup> Vice Chair/Mayor Pro-Tem O'Connell (City of Marina)  
Mayor McCloud (City of Carmel-by-the-Sea)  
Councilmember Selfridge (City of Monterey)  
Councilmember Oglesby (City of Seaside)

Arriving after the roll: Councilmember Brown (City of Marina), Jim Cook (County of Monterey), Mayor Bachofner (City of Seaside)

Absent: Councilmember Barrera (City of Salinas).

Ex-Officio members present:

Dr. Margon (University of California Santa Cruz ("UCSC")),  
Kevin Saunders (California State University Monterey Bay ("CSUMB")),  
Bill Collins (Base Realignment and Closure ("BRAC")),  
Ken Nishi (Marina Coast Water District ("MCWD")).

Arriving after the roll: Pamela Von Ness (United States Army), at 3:30 - Debbie Hale (Transportation Agency for Monterey County ("TAMC")), Hunter Harvath (Monterey Salinas Transit), Dr. Doug Garrison (Monterey Peninsula College ("MPC")), Dan Albert, Jr., (Monterey Peninsula Unified School District), Alec Arago (17<sup>th</sup> Congressional District).

Absent: Representation from the 15<sup>th</sup> State Senate District and 27<sup>th</sup> State Assembly District.

Marina Coast Water District Board Members Present:

Dan Burns – Vice President  
Howard Gustafson  
Ken Nishi  
Jan Shriner

Bill Lee – President was absent.

Marina Coast Water District Staff Members Present:

Jim Heitzman, General Manager – arrived at 3:17 p.m.  
Lloyd Lowrey, Legal Counsel – arrived at 3:17 p.m.  
Carl Niizawa, Deputy General Manager/District Engineer  
Kelly Cadiente, Director of Administrative Services  
Patrick Breen, Capital Projects Manager  
Paula Riso, Executive Assistant/Clerk to the Board

Members from the Public Present:

LeVonne Stone, Fort Ord Environmental Justice Network  
Christina Spang, Department of the Army, DPW O&M  
Paula Pelot, Preston Park  
Bob Schaffer, Community Partners  
Doug Yount, City of Marina  
Ray Corpuz, City Manager, City of Seaside

2. Pledge of Allegiance:

FORA Chair Potter asked MCWD Director Gustafson to lead the Pledge of Allegiance.

3. Acknowledgements:

There were no acknowledgements made.

4. Public Comment Period:

Ms. LeVonne Stone, Fort Ord Environmental Justice Network, reminded the Marina Coast Water District Board members that there was a past agreement with the Monterey County Court concerning the people of Preston Park and other housing areas in Fort Ord. She added that the agreement was to have those areas voted into the District's jurisdiction thus allowing them a voice on the Board in the decision making process. Ms. Stone stated that as of this day, these items have not been rectified and would like to know what is being done about it.

5. Old Business:

None.

6. New Business:

- a. Ord Community and Marina Water/Wastewater Systems Proposed Budget and Rates for FY 2011-2012:

- (1) Presentation by Marina Coast Water District

Ms. Kelly Cadiente, MCWD Director of Administrative Services, gave a PowerPoint presentation on the proposed fiscal year 2011/2012 operating and capital budgets for the water, recycled water and wastewater collection systems and corresponding customer rates for water and wastewater collection systems for the Ord Community.

2<sup>nd</sup> Vice Chair/Mayor Pro-Tem O'Connell questioned why the sewer rates in Ord Community were higher than Central Marina. Ms. Cadiente answered that the rate has to support a large, aged system, compared to the number of connections. 2<sup>nd</sup> Vice Chair/Mayor Pro-Tem O'Connell asked if the District looked into a different rate between residential and commercial so as to reduce the rate of residential. Ms. Cadiente answered that she would have to research that and provide an answer later. 2<sup>nd</sup> Vice Chair/Mayor Pro-Tem O'Connell asked if the Ord Community water rates were slightly higher for the similar reason of not as many connections. Ms. Cadiente answered affirmatively. MCWD Director Gustafson commented that CSUMB receives a 25% discount that needs to be absorbed by the other ratepayers and that no other entity receives discounts. Kevin Saunders, CSUMB, commented that they receive a 25% discount on connection fees only, not water or sewer rates.

Supervisor Parker, County of Monterey, commented that on page 11 of the proposed budget, Exhibit W-4, the breakpoint for tiers is a lot higher for MCWD than other agencies. She asked if the District has looked into updating the tier breakpoints to improve conservation. Chair Potter commented that Mr. Heitzman was caught in traffic and would answer the question when he arrived.

Mayor McCloud, City of Carmel-by-the-Sea, asked if the protests are due today. Ms. Cadiente answered affirmatively. Mayor McCloud commented that about 25% of the ratepayers protested and asked if the District was concerned with that response. She also asked if Attorney Bowden approved of the Resolutions that will be voted on. Mr. Bowden, FORA Counsel, answered affirmatively. Mayor McCloud commented that she would have liked the presentation to show an indication of the expenses involved on what the District is justifying the increase on.

Mr. Jim Heitzman, MCWD General Manager, and Mr. Lowrey, MCWD Legal Counsel, arrived at 3:17 p.m.

Agenda Item 6a1 (continued):

Mayor Pro-Tem Kampe, City of Pacific Grove, asked what the expense drivers were that caused the increase in rates. Mr. Heitzman answered that the cost of power and labor were some factors in the increase. Mayor Pro-Tem Kampe commented that he would have liked to see a narrative summary that shows what is pushing the rates up 4.9%. Ms. Cadiente pointed out that Exhibits W-1 and WW-1 show the proposed expenses. Mayor Pro-Tem Kampe asked how the 4.9% compared to the other cost centers that are also getting rate adjustments. Ms. Cadiente answered that all cost centers are getting a proposed increase of 4.9%, to include the Central Marina cost centers. Mayor Pro-Tem Kampe asked if the cost centers have an allocation of common expenses and asked what the allocation process is for determining a fair allocation. Ms. Cadiente answered that the allocations are based on the previous audited fiscal year's expenditures.

Mayor McCloud clarified that the District is proposing a 4.9% increase next year. Ms. Cadiente answered that it was a proposed 5% increase.

Supervisor Parker reiterated her earlier question of the breakpoint for tiers and asked if the Board had talked about updating the trigger points to be more in line with other areas of the Community to encourage conservation. Mr. Heitzman commented that Cal Am has five tiers and is more aggressive. He added that the District takes what an average household uses and tries not to be punitive to that group. Mr. Heitzman said that as the usage rises, it is more punitive to those higher users. He added that the District has had discussion on adjusting the tiers to increase conservation, but that would increase the rates on the small households and the Board decided not to do that at this time. Mr. Carl Niizawa, Deputy General Manager/District Engineer, commented that adjusting the tiers would cause higher rates to people that are supplied by a master meter and many of those people are lower income living in apartments and mobile homes. Supervisor Parker noted that the lowest tier in Cal Am starts at 40 and the Districts lowest tier is 800 and Seaside is 400. Mr. Heitzman said that there may be a difference in how the units are calculated, but that he would research further.

MCWD Director Nishi commented that the Marina Coast Water District started billing by tiers to promote conservation before any other agency on the peninsula. He stated that the District's and Cal Am's tiers are not apples to apples. Director Nishi believes that Cal Am is conditioning their ratepayers to be prepared if the Cease and Desist Order (CDO) kicks in, and if the CDO doesn't kick in, the new rates for the Regional Desalinated Water would be astronomically high. He stated that he doesn't think it is fair to compare MCWD to Cal Am.

1<sup>st</sup> Vice Chair/Mayor Edelen, City of Del Rey Oaks, commented that page 7 of the packet, Exhibit W-1, shows interest expenses almost doubling from the current budget and asked what the anticipated increase for the interest was attributed to. Ms. Cadiente answered it was debt service interest for the 2006 Bonds. Mr. Heitzman said the 2006 Bonds were for Capital Improvements and asked Mr. Niizawa to elaborate.



Agenda Item 6a1 (continued):

Mr. Niizawa answered that when the District took over the Ord Community, they took over a comprehensive Capital Improvement Program to improve the Ord system infrastructure which creates the debt service.

Mayor McCloud asked if the District has taken on more debt over the course of the last year. Mr. Niizawa answered that the General Jim Moore Blvd. project was recently completed and the District was substantially financially involved in that project.

(2) Public Hearing – Proposition 218 Notice:

FORA Chair Potter opened the Public Hearing at 3:31 p.m.

Ms. Paula Pelot, Preston/Abrams Park Tenant Association, commented that with this proposed two-year increase, the cost for an average family's water and wastewater usage has increased by 156% since 2004 while the CPI has only increased 14.9%. Ms. Pelot stated that she was told there were 2,876 accounts in the Ord Community, but Exhibit W-3 shows there were 2,808. She said she was also concerned over the high interest expense, along with high personnel and labor costs. Ms. Pelot asked what the District was doing to decrease personnel costs, and said other government agencies are experiencing furloughs. She asked to see an independent fiscal analyses showing that the charges are actually covering costs and not just projecting forward and collecting funds. Ms. Pelot said she had more comments for the public hearing portion of the meeting. Chair Potter stated that this was the public hearing and Ms. Pelot could make one more quick comment. Ms. Pelot commented that the public notice was put on the District's website very late and the notice was not bilingual. She suggested the next time a Prop 218 notice is mailed out, it should be printed on the envelope that it is for the rate increase and protest. Ms. Pelot also suggested that more work be done to encourage people to understand what it really means. She noted that in 2002 the courts asked Marina Coast Water District to actively pursue annexation of the Ord Community to allow those residents representation.

Ms. Stone commented that Preston Park residents started out with a \$50 a month water bill and were told that the bill would cover the infrastructure on the Ord Community. She said that in this economic situation, everyone is complaining and there needs to be a way out that is sustainable for everyone. Ms. Stone commented that a plan needs to be developed to alleviate the dollars that are being pushed on the backs of people who are already in a very dire situation. She said that there was a rate increase last year and asked when it is going to stop. Ms. Stone stated that everyone needs to come up with a different plan.

With no other comments being offered, FORA Chair Potter closed the Public Hearing at 3:38 p.m.

- (3) FORA Board Approval of Resolution Nos. 11-03 and 11-04 Adopting a Compensation Plan and Setting Rates, Fees and Charges for Base-Wide Water, Recycled Water and Sewer Services on the Former Fort Ord:

Mayor Pro-Tem Kampe commented that he was unarmed on reaching a conclusion on this item. He congratulated the District on tackling some deferred maintenance and improvements on the Ord Community. Mayor Pro-Tem Kampe said that he found the doubling of debt a red flag. He said that he felt the increases in the cost centers might have differential increments instead of a flat 4.9%. Mayor Pro-Tem Kampe commented that he doesn't have enough information to form a vote either way on this item. Mr. Heitzman stated that the original proposed increase for the Ord Community of 10% was greater than the one for Central Marina at 7.8%, but the District's Board decided on their own to lower them both to 4.9%.

Mayor McCloud commented that according to the last WHEREAS in Resolution No. 11-03, "FORA is the lead agency for the adoption of rates, fees and charges for the area of the Ord Community..." and stated that any complaints will be directed at FORA instead of MCWD. She would like to see more detail on the expenses and didn't think that enough information was given to vote on this item.

Chair Potter commented that under the heading of meeting management, there was two ways to continue this item, 1) a motion for continuance; or, 2) a motion for approval, it fails and is continued automatically for a month. Chair Potter suggested that the more diplomatic way would be to move for a continuance of this item.

Mayor McCloud made a motion of continuance of the item. Councilmember Oglesby, City of Seaside, seconded the motion. Chair Potter urged that any questions or clarity needed by individuals be forwarded through the FORA Board or the Marina Coast Water District. Mayor McCloud commented that at this time with everything that is going on with water, the Board has to be very careful of how this is presented to the public. She added that for everyone's safety, it needs to be done with due diligence for all the information that is needed. Chair Potter asked for clarification if the motion was for a one month continuance and asked if that was adequate time for Marina Coast Water District to prepare. There was concurrence from Mayor McCloud and Mr. Heitzman. 1<sup>st</sup> Vice Chair/Mayor Edelen commented that TAMC has a great way of showing budgets with the numbers side-by-side and a column showing the percentage increase/decrease from year to year, it is easier for staff to identify and explain those changes. He suggested the next version show percentage increases and/or decreases. The motion was approved unanimously. Director Nishi commented that he hoped to get input from the Board on their questions before the next meeting. He suggested that for the future, if there are questions and clarifications on the budget, they are made before the Board meeting.

Supervisor Parker suggested that in the future a sub-committee be designated to work with the District in advance of the Board meeting to make sure the message gets carried.

Agenda Item 6a3 (continued):

Mr. Michael Houlemard, Executive Officer, commented that the FORA Board had appointed the Water/Wastewater Oversight Committee (WWOC), which has representatives from the jurisdictions that actively engage with the District leading up to the rates, fees and charges that are presented to the Board. He said it sounded like Supervisor Parker was suggesting a policy level discussion before the full Boards met. Supervisor Parker asked if the WWOC meetings were staff to staff. Mr. Houlemard answered affirmatively. Supervisor Parker suggested that since many of the questions were coming from policy making parties, the meeting be held with full Board members. Chair Potter said that maybe it could be at the Finance Committee or Executive Committee and that would answer Director Nishi's suggestion of advance communication.

MCWD Director Burns commented that this has happened previously where the FORA Board has had questions about the budget increase. He reminded everyone that this was the fourth year of a five year rate increase and the District is moving along to accomplish the mission for the Ord Community. Director Burns said that there were questions like this at a previous meeting and the questions were sent back to staff and then when the Boards came together again a decision was made. Chair Potter stated that he hopes that happens this time. Director Gustafson commented that there were five years in early 2000's that the Ord Community went without a rate increase and three years for Central Marina. He stated that after that, the increases were incremental.

Councilmember Oglesby commented that some questions can only be asked after the presentation is given. He added that he agreed with Mayor McCloud that the FORA Board needs to be comfortable and fully understand why it needs to be done and ask the public to increase rates.

The motion by Mayor McCloud to continue this item for one month until the next Board meeting, July 8, 2011, was approved unanimously.

- (4) MCWD Board Consider Adoption of Resolution Nos. 2011-36 and 2011-37 (Ord Community Budget and Compensation Plan):

Director Nishi made a motion of continuance for one month. Director Gustafson seconded the motion. The motion was passed.

|                    |   |     |                      |   |        |
|--------------------|---|-----|----------------------|---|--------|
| Director Shriner   | - | Yes | Vice President Burns | - | Yes    |
| Director Gustafson | - | Yes | President Lee        | - | Absent |
| Director Nishi     | - | Yes |                      |   |        |

Special Joint Board Meeting  
June 10, 2011  
Page 8 of 8

7. Announcements and Correspondence:

There were no announcements or correspondence.

8. Adjournment:

The meeting was adjourned at 3:48 p.m.

APPROVED:

---

William Y. Lee, President

ATTEST:

---

Jim Heitzman, General Manager

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-G

Meeting Date: July 12, 2011

Submitted By: Paula Riso  
Reviewed By: Carl Niizawa

Presented By: Paula Riso

Agenda Title: Approve the Draft Minutes of the Regular Board Meeting of June 14, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of June 10, 2011.

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 June 14, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the June 14, 2011 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 Office  
11 Reservation Road  
Marina, California

Regular Board Meeting  
June 14, 2011  
6:45 p.m.

**Draft Minutes**

1. Call to Order:

President Lee called the meeting to order at 6:45 p.m. on June 14, 2011.

2. Roll Call:

Board Members Present:

Bill Lee – President  
Dan Burns – Vice President  
Howard Gustafson  
Jan Shriner  
Kenneth K. Nishi

Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel – arrived at 6:48 p.m.  
Carl Niizawa, Deputy General Manager/District Engineer  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
Thomas Barkhurst, Water Quality Chemist  
Rich Youngblood, Conservation Coordinator  
Brian True, Capital Projects Manager  
James Derbin, Interim Operations and Maintenance Superintendent  
Patrick Breen, Capital Projects Manager  
Joe Correa, Interim Assistant Operations and Maintenance Superintendent  
Paul Lord, Water Conservation Specialist  
Gary Rogers, Associate Engineer  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Brian McCarthy, Marina Resident  
Sherry Payne  
Tom Moore, Marina Resident  
Andy Sterbenz, Schaaf & Wheeler  
Evelina Adlawan  
George Riley, Monterey Resident  
Bob Holden, MRWPCA

Richard Newhouse, Marina Resident  
Suresh Prasad, Marina Resident

The Board entered into closed session at 6:52 p.m.

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 54957.6  
Conference with Labor Negotiators  
Agency designated representatives: William Lee and Dan Burns  
Unrepresented Employee: General Manager

The Board ended closed session at 7:05 p.m.

President Lee reconvened the meeting to open session at 7:06 p.m.

4. Possible Action on Closes Session Items:

Mr. Lloyd Lowrey, Legal Counsel, reported the following:

- 3-A – the Board of Directors conferred with Legal Counsel, direction was given and no action was taken.
- 3-B – there was no action taken.
- 3-C – there was no discussion on this item.

5. Pledge of Allegiance

President Lee asked Mr. Rich Youngblood, Conservation Coordinator, to lead everyone present in the pledge of allegiance.

6. Oral Communications:

Mr. Tom Moore, Marina resident, commented that in the past, several members of the Board complained that the District needed better public outreach and as a result, Director Gustafson was appointed to take charge of public outreach efforts.

Agenda Item 6 (continued):

Mr. Moore continued saying that a group of concerned citizens have taken decided to help with these outreach efforts by raising money to pay for the videotaping and broadcasting of District Board meetings. He said the citizens have formed a non-profit association called More Transparency and donations can be sent to: More Transparency, P.O. Box 693, Marina, CA 93933. Mr. Moore stated that since the District is saving up money for a \$26 million connection to the Regional Desalination Project, it is reasonable that the Board can't afford the \$5,000 per year necessary to videotape the Board meetings. He added that if people want to see future meetings broadcast on the AMP channel they must send in their donations to the address previously given. Mr. Moore said that all donations will be used exclusively to pay for expenses related to videotaping and broadcasting future water board meetings on AMP.

Mr. Moore commented that in the April 18<sup>th</sup> issue of the Marina Gazette, an item appeared entitled, Marina Coast Water District Budget Reduction's Help Minimize Rate Increase". He added that the quarter page item reads like an ad disguised as a news article. Mr. Moore stated that such ads in most newspapers are clearly identified as advertisements. He stated that he would like to know if it was an ad or not, and if any District staff or consultant time was spent on this. Mr. Moore asked if it was an ad, who paid for it and how much did it cost. He added that if any District resources went into this ad, he expects that Director Nishi would be very unhappy to learn of it. Mr. Moore stated that Director Nishi had complained for a number of years that District resources were used to hang small photographs of members of the Board of Directors in the entryway to the District admin building. He said that ultimately, General Manager Heitzman heeded his complaints and removed these photographs. Mr. Moore commented that there was no doubt that Director Nishi would object to District resources going into an ad that names each Director in turn and gives a pithy quote designed to show how valuable each Director was to the District. He again asked if it was an ad or not, and if not, why wasn't the author identified.

7. Presentations:

- A. Consider Adoption of Resolution No. 2011-38 in Recognition and Appreciation of Evelina Adlawan, Water Quality Manager, and Awarding a Plaque and Retirement Recognition Award Upon Her Retirement from the District:

Director Gustafson made a motion to adopt Resolution No. 2011-38 in recognition and appreciation of Evelina Adlawan, Water Quality Manager, and awarding a plaque and retirement recognition award upon her retirement from the District. Director Nishi seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |



Agenda Item 7-A (continued):

President Lee read the narration and presented Ms. Adlawan with her plaque and recognition award. Ms. Adlawan thanked the Board, the General Manager, and her colleagues for having been given the opportunity to work for the District. She wished the District luck with the new project and would be staying informed through the newspapers.

Noting that Mr. West was not present, President Lee took the items out of order.

- C. Consider Adoption of Resolution No. 2011-40 in Recognition of Brian West, Systems Operator II, and Awarding A Plaque and Gift Certificate for 15 Years of Service to the Marina Coast Water District:

Director Gustafson made a motion to adopt Resolution No. 2011-40 in recognition of Brian West, Systems Operator II, and awarding a plaque and gift certificate for 15 years of service to the Marina Coast Water District. Vice President Burns seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

- B. Consider Adoption of Resolution No. 2011-39 in Recognition of James Derbin, Interim Operations and Maintenance Superintendent, and Awarding a Plaque and Gift Certificate for 5 Years of Service to the Marina Coast Water District:

Director Gustafson made a motion to adopt Resolution No. 2011-39 in recognition of James Derbin, Interim Operations and Maintenance Superintendent, and awarding a plaque and gift certificate for 5 years of service to the Marina Coast Water District. Director Nishi seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

President Lee read aloud the narration and presented Mr. Debin with his plaque and gift certificate.

8. Consent Calendar:

Vice President Burns pulled item A from the Consent Calendar.

Agenda Item 8 (continued):

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

- B. Approve the Expenditures for the Month of May 2011
- C. Approve the Draft Minutes of the Regular Board Meeting of May 10, 2011

Director Shriner seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

- A. Adopt Resolution No. 2011-41 to Approve a Professional Services Agreement with Ron Allen to Provide Consultant Services for the Water Education Program for a Not-to-Exceed Amount of \$12,000:

Mr. Rich Youngblood, Conservation Coordinator, introduced this item noting that a revised Professional Services Agreement was handed out prior to the meeting for consideration. Vice President Burns asked if the program would be expanded to include the Monterey Peninsula, and if so, would the District be asked to fund part of that. Mr. Youngblood answered that there is one part of the education program that goes out to the entire peninsula but that the District only pays for the program that is given to schools within the District.

Director Gustafson made a motion to adopt Resolution No. 2011-41 approving a Professional Services Agreement with Ron Allen to provide consultant services for the Water Education Program for a not-to-exceed amount of \$12,000. Vice President Burns seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

#### 9. Public Hearing:

President Lee opened that Public Hearing at 7:21 p.m.

- A. Receiving Public Comment on Increases in District Rates, Fees, and Charges for Central Marina:

Mr. Moore handed in his letter of protest. He stated that he wanted to point out that the 4.9% increase proposed for this year and next year, does have impacts that the Board and public should be aware of.

Agenda Item 9 (continued):

Mr. Moore said that from 2006 to 2010 the Consumer Price Index (CPI) has increased for the San Francisco Bay Area by about 12.2% while during the same period, the rates for the District have increased by 20.6% in Central Marina, 30.4% for Ord water, and 27.8% in Ord sewer. He stated that if the 4.9% rate increase for this year and the 4.9% increase for next year were passed, and assuming that the CPI for each year is 3.5%, it would total the following increases since 2006: CPI total is 20.2%, while the rates for Central Marina would have increased 32.7%, Ord water 43.5%, and Ord sewer 40.7%. Mr. Moore commented that the earlier increases were to compensate for not having rate increases for several years, but he is worried in this economic environment that the 4.9% increases two years in-a-row, which is likely to be well above the CPI, is pushing it.

Director Nishi commented that Mr. Moore has a selective memory. He stated that the original proposed increase was 7.8% that was recommended by Bartle & Wells in their 5 year rate study, but the Board lowered it to 4.9%. Director Nishi stated that the Board could have gone down to zero, but due to the \$40 million in Bonds that were approved in 2006 when Mr. Moore was President of the Board, the Board has to have an increase to cover those bonds. Director Nishi voiced his concern over Mr. Moore and the other members of the Board who encumbered Central Marina with the loan back in 2006. He added that the current Board has to increase rates because of Mr. Moore's leadership.

Director Shriner commented that one thing that was brought to her attention at the Strategic Planning Workshop was that when decisions were made they are left in the past. She said that she was also told, as a member of the public in the City of Marina, the proper behavior of elected officials is not to attack members of the public. Director Shriner also said that 25% of the Ord Community ratepayers protested the increase and asked how many from Central Marina protested. Ms Kelly Cadiente, Director of Administrative Services, said she would address that under item 10-A.

Director Nishi commented that he looks at things a little bit differently and said that Director Shriner will need to understand that he doesn't always do everything like everyone else does. He added that he is a little bit different and asked her to excuse him.

After receiving no other public comments, President Lee closed the Public Hearing at 7:28 p.m.

10. Action Items:

- A. Consider Adoption of Ordinance No. 54 Approving New District Rates, Fees & Charges for Central Marina Water and Wastewater:

Ms. Cadiente introduced this item.

Agenda Item 10-A (continued):

Ms. Cadiente stated that 62 protests were received from Central Marina. She explained that the first and second readings of Ordinance No. 54 were completed at the previous two Board meetings and the Public Hearing on this matter had just been completed moments ago. Ms. Cadiente stated that staff is recommending adoption of Ordinance No. 54. Director Gustafson commented that as a ratepayer himself, he has reviewed the rates closely. He added that as a government employee that have been furloughed for over two years and has taken an 18% pay cut without seeing any raises for the foreseeable future, he is glad that the rates are still pretty reasonable.

Vice President Burns made a motion to adopt Ordinance No. 54 approving new District rates, fees & charges for Central Marina water and wastewater. Director Gustafson seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

B. Consider Adoption of Resolution No. 2011-42 to Approve the Central Marina Budget for FY 2011-2012:

Ms. Cadiente introduced this item stating that this is the same budget that was presented to the budget on April 4<sup>th</sup> as well.

Director Shriner questioned pages 34, 35, and 38 of the budget where they mention the SCADA system and asked why there wasn't any cost listed for the fiscal year 2011/2012. Ms. Cadiente stated that the projects are proposed for the out-years. Director Shriner asked if the agenda item 10-C costs are included in the fiscal year 2012/2013. Mr. Jim Heitzman commented that they would be talking about that item next and right now they were talking about item 10-B.

Director Shriner asked about page 44 of the budget and asked for clarification on the debt service coverage. Ms. Cadiente answered that the District is required to meet the minimum coverage ratio, as shown in the graph on page 44, and is also required to meet another bond covenant for the bonds that were refinanced in 2010. She said that the chart shows that with the rate increase, the District meets the covenant.

Director Gustafson made a motion to adopt Resolution No. 2011-42 to approve the Central Marina Budget for FY 2011-2012. Vice President Burns seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

- C. Consider Adoption of Resolution No. 2011-43 to Approve an Amendment to the Professional Services Agreement with TJC & Associates Inc. for Consulting Services Related to the District's Supervisory Control and Data Acquisition System for a Not-to-Exceed Amount of \$92,550:

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

Director Shirner asked about the SCADA budget and if the project would have to wait since there were no costs allocated in the 2011/2012 budget. Mr. Niizawa answered that it would be funded through the Eastern Distribution Project line item that has a total amount of \$2.6 million.

Director Gustafson made a motion to adopt Resolution No. 2011-43 to approve an amendment to the Professional Services Agreement with TJC & Associates Inc. for consulting services related to the District's Supervisory Control and Data Acquisition System for a not-to-exceed amount of \$92,550. Vice President Burns seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

- D. Consider Adoption of Resolution No. 2011-44 to Approve an Amendment to the Construction Contract with Dilbeck & Sons for Construction and Related Expenses of the Imjin Office Park Building C for a Not-to-Exceed Amount of \$80,000:

Mr. Patrick Breen, Capital Projects Manager, introduced this item explaining that the amendment will cover site pathway and plaza lighting, irrigation insulation and landscaping, all of which are necessary to receive final occupancy for the building.

Vice President Burns clarified that the other partners would be sharing in the cost and the amount to the District would be about \$30,000. Mr. Breen answered affirmatively.

Director Nishi questioned the additional costs for the landscaping and asked if it included the parkway. Mr. Breen answered that the parkway is not called for in the use permit for the project. Director Nishi asked if the District will need to pay for landscaping for the parkway. Mr. Heitzman said not at this time.

Director Nishi stated that he was concerned that the District is getting nickel and dimed and they don't know what the total cost will be at the end. He suggested putting extra money in the budget and landscaping the parkway now to plan ahead. President Lee commented that AT & T is going to tear up the ground there so maybe the District should wait. Director Nishi said that even if they tear up the landscaping, after they are done, they are responsible to put it back the way it was.

Agenda Item 10-D (continued):

Director Gustafson made a motion to adopt Resolution No. 2011-44 to approve an amendment to the construction contract with Dilbeck & Sons for construction and related expenses of the Imjin Office Park Building C for a not-to-exceed amount of \$80,000. Vice President Burns seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | No  |
| Director Nishi     | - | No  |                      |   |     |

E. Consider Adoption of Resolution No. 2011-45 to Adopt an Updated Water Shortage Contingency Plan:

Mr. Gary Rogers, Associate Engineer, introduced this item explaining the Water Shortage Contingency Plan (WSCP) is part of the Urban Water Management Plan and if it is not adopted by the Board, the previous 2005 WSCP will remain in place. Vice President Burns questioned the chloride levels and asked if there was concern over rising chlorides. Mr. Heitzman answered that there are no concerns at this time. He added that rising chlorides indicate seawater intrusion and as the District is moving its wells east, there are avoiding the front of seawater intrusion. Director Nishi commented that the District had that problem when the wells were in the 180 and 400 foot aquifers, and the way to prolong the use was to blend the water.

Director Shriner commented that the Triggering Mechanisms for Conservation States says, “The General Manager and/or Board of Directors may impose any of the following conservation stages...” and suggested splitting the Conservation Level Triggering Mechanisms so that if Stage 3 were reached, it would have to come before the Board. Director Nishi commented that he would like it to remain “...General Manager and/or Board of Directors...” Director Shriner said that the Board could be excluded from a Stage 5 declaration. Director Nishi said that the Board has to trust staff.

Director Shriner suggested on page 80 of the packet, to move the “No building permits or new meters will be installed...” to Stage 2 instead of Stage 3, and adding cistern or catchment systems incentives at Stage 2.

Director Nishi made a motion to adopt Resolution No. 2011-45 to adopt an Updated Water Shortage Contingency Plan. Director Gustafson seconded the motion. Director Shriner commented that the Water Conservation Commission or the Water Conservation Coordinator can determine an exemption from the conservation methods. She also noted on page 88 of the packet under Stage 1 and 2 Water Shortages, it says that monthly reports are forwarded to the General Manager, the Water Conservation Commission, and the Board of Directors, and if reduction goals are not met, the General Manager may notify the Board for corrective action. Director Shriner stated that she would like it to say that a special meeting will be held for action.

Agenda Item 10-E (continued):

Director Shriner asked if the motion included her suggestions. President Lee answered that it did not.

The motion to adopt Resolution No. 2011-45 adopting an Updated Water Shortage Contingency Plan was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | No  | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

F. Consider Adoption of Resolution No. 2011-46 to Approve and Adopt the District's 2010 Urban Water Management Plan:

Mr. Rogers introduced this item, adding that the plan needs to be adopted by July 1, 2011.

Director Shriner asked how the Region was defined and why it didn't include the Salinas Valley Groundwater Basin or the Watershed boundary. Director Shriner was told she was questioning item 10-G and this was item 10-F.

Mr. Niizawa commented that staff would like to request the Board to include in their motion to allow staff to make non-substantive changes in cleaning up the document for distribution.

Director Gustafson made a motion to adopt Resolution No. 2011-46 to approve and adopt the District's 2010 Urban Water Management Plan, allow staff to make non-substantive changes, and request staff to email the Board the corrections. Vice President Burns seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

G. Consider Adoption of Resolution No. 2011-47 to Approve a Memorandum of Understanding for Integrated Regional Water Management in the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region:

Mr. Rogers introduced this item.

Director Shriner asked how the Region was defined and why it didn't include the Salinas Valley Groundwater Basin or the Watershed boundary. Director Nishi stated that Section D, at the bottom of page 98 explains the definition of the region. Director Shriner said that it doesn't mention the Salinas Valley Groundwater Basin.

Agenda Item 10-G (continued):

Mr. Heitzman commented that the Salinas Valley Groundwater Basin is not included in this Integrated Regional Water Management (IRWM). He added that they are in a different IRWM. Mr. Heitzman said that the District and the Monterey County Water Resources Agency are over both the Seaside Basin and the Salinas Basin, so the two entities are requesting to be in both IRWM's as it helps with grants. Director Shriner asked how the lead agency was selected. Mr. Rogers said the group had been formed for years before the District asked to be included. Director Shriner asked several more clarifying questions.

Director Nishi commented that the General Manager mirrored what the Board had always wanted to do, which is to help its neighbors and enable the small entities to get done what needs to be done. He then voiced his concern over the signatories such as the Big Sur Land Trust and didn't know why other peninsula cities aren't a part of this.

Director Nishi made a motion to adopt Resolution No. 2011-47 to approve a Memorandum of Understanding for Integrated Regional Water Management in the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region. Director Gustafson seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | Yes | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

H. Consider Directing Staff to Draft a Request for Proposals for District Legal Services

Mr. Lowrey recused himself from this item and left the room. Ms. Jean Premutati, Management Services Administrator, introduced this item.

Vice President Burns commented that he realizes there are issues, but this is a critical time to try to move on to a new firm to provide legal services, and it could put the District behind in some of the negotiations. He suggested appointing a couple of people to meet with Noland, Hammerly, Etienne and Hoss (NHEH) to discuss the issues and give them the opportunity to resolve them.

Director Shriner questioned the financial impact. Ms. Premutati answered that the Board is being asked to direct staff to draft a Request for Proposals, so at this time there is no financial impact. Director Shriner asked if there would be financial impact when staff goes to meet with NHEH. Mr. Heitzman answered that Vice President Burns was referring to having Board members talk to NHEH and added that staff time is not included in financial impacts on agenda items.



Agenda Item 10-H (continued):

Director Nishi stated that he had asked for this item to be placed on the agenda and that he agrees with what Vice President Burns said, although Director Nishi said he would like to keep NHEH in position to help with items like the Ag Land Trust issue. He added that the District should go out for District counsel just like they did for Human Resource legal counsel. Director Nishi suggested the District should do a comprehensive look at what they need for now and in the future. Director Nishi read a statement given by Mr. Lowrey at the March 8<sup>th</sup> meeting that said, "District Counsel Authority and Duties: Legal Counsel shall serve at the pleasure of the Board at the direction of the General Manager subject to direction by the Board. Legal Counsel shall be responsible to review and comment on matters as requested by the Board." Director Nishi said that he felt that was the fatal flaw. He added that Legal Counsel should be responsible to review and comment on legal matters requested by the Board or General Manager. Director Nishi said that the statement goes on to say, "Review and prepare material as requested by the Board or General Manager." He stated that it should be on legal issues. Director Nishi said that the Board Procedures Manual states, "Direction to District Counsel – Individuals are encouraged to present any questions or issues that may require legal opinions or analysis." Director Nishi said that leads to a conflict between the duties listed in Resolution 98-1 and the Board Procedures Manual and it should be cleaned up. He added that the time is right for a change.

Director Gustafson made a motion for the President appoint two Directors to negotiate with Noland, Hammerly, Etienne and Hoss, concerning the issues described. Following discussion, Director Gustafson withdrew his motion.

President Lee stated that there is no motion on this item and an Ad Hoc Committee will be appointed at a later time.

11. Staff Report:

A. Monthly Water Meter Charge for Upsized Meters Due to Fire Protection Sprinkler Systems:

Mr. Brian True, Capital Projects Manager, introduced this item explaining that following a request from a customer, staff has been looking into the charges for 1" meters that are required by the City of Marina's fire code. He added that the current methodology the District uses to recover the fixed cost portion of their cost is fair and allowable. Mr. True commented that after informally canvassing other agencies, half charge their customers in the same manner as the District.

Mr. Heitzman commented that over the last year or so, this has become a hot topic with other municipalities as well, and there has been a lot of conversation amongst water officials. Mr. Heitzman stated that he asked staff to find out where the whole industry is headed before bringing it back to the Board of Directors for discussion.

Agenda Item 11-A (continued):

Mr. Heitzman said that staff talked to Bartle Wells Associates and they indicated other agencies are creating a special class with the rate set at 20% over the 3/4" meter charge. He added that staff would like to return to the Board in a couple of months with what the current and progressive thought is with larger water districts in the state.

Mr. Brian McCarthy, Marina resident, thanked staff for their time and efforts regarding this issue. He encouraged the Board to pursue a rate structure that is fair and equitable to all ratepayers including those with residential fire sprinklers. Mr. McCarthy commented that the District's rate for a 1" meter is 250% higher than that of a 3/4" meter and this is the highest rate he could find in the area. He added that California Water Company offers customers with a 2" fire sprinkler meter are charged the equivalent of a 5/8" meter with a surcharge that brings them to the price of a 3/4" meter. Mr. McCarthy said that Santa Cruz customers are offered a bypass option for fire sprinkler service. Mr. McCarthy asked the Board to create a special class for residential fire sprinkler service that has the same pricing as if it did not require fire service.

Director Nishi commented that staff needs to look at the whole picture. He said that Mr. McCarthy's house is serving two units, the regular unit and the granny unit, and asked if a 5/8" meter could serve both houses. Mr. True answered that it probably couldn't. Director Nishi asked that staff look into the issue of 1" meters and multiple units and maybe for multiple units it is not the fire sprinkler service that is requiring the need for the 1" meter. Mr. McCarthy answered that he has two 1" meters, one for each unit. Director Nishi noted that the laterals are 5/8" and the meter is 1" and asked staff to make sure that it meets fire flow requirements.

Director Shriner thanked Mr. McCarthy for bringing it to the District's attention and for his research on this item.

12. Workshop:

A. Review Board Procedures Manual:

Vice President Burns commented that following the Strategic Planning Workshop where it was determined that the manual should be updated, he suggested that this be placed on hold until after the update is complete. The Board concurred.

13. Informational Items:

C. General Manager's Report:

Mr. Heitzman commented that the Coastal Permit was here and available for the public to review. He noted that Suresh Prasad recently left the District but was present to support James and Evelina. Mr. Heitzman commented that Rich Youngblood will be retiring from the District.

Agenda Item 13-A (continued):

Mr. Heitzman thanked the Board for their hard work at the Strategic Planning Workshop.

B. District Engineer's Report:

No report.

C. Counsel's Report:

No report.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

President Lee commented that they wished Mr. Youngblood well in his retirement.

2. Joint City-District Committee:

President Lee commented that District staff showed up but the City staff did not so there was no quorum.

3. Budget and Personnel Committee:

No meeting.

4. MRWPCA Board Member:

Vice President Burns commented that they had a special meeting to discuss the budget and proposed rate increase of about 6%. He said that the Recycled Water Committee is looking for funding to help develop a replenishment project.

5. Special Districts Association Liaison:

President Lee commented that the meeting was boiler-plate.

6. LAFCO Liaison:

Mr. Nishi commented that nothing much was discussed it was mostly housekeeping.

7. JPIA Liaison:

Director Shriner commented that there was nothing new since May.

8. FORA:

Director Nishi said that there was a meeting on June 10<sup>th</sup> and the budget was continued until July.

9. CalDesal:

Mr. Heitzman commented that CalDesal will be meeting in Sacramento to talk with the State Water Resources Control Board.

10. Executive Committee:

No meeting was held.

11. Community Outreach:

Director Gustafson commented that the quarterly reports were sent out and there will be other newspaper articles soon.

12. Regional Desalination Reports:

Mr. Heitzman commented that the report was in the packet and they could be viewed online at [regionalwaterproject.com](http://regionalwaterproject.com). He added that the intent is to have all the reports available on the website for viewing. Director Nishi said that the Community Involvement Forum meeting for the Desal Project for June 15<sup>th</sup> was canceled.

President Lee commented that he would like to hold a special meeting on Thursday, June 16<sup>th</sup> at 5:30 p.m. to receive an investigative report. The Board concurred.

President Lee inquired about July 22 or 29 for the next Strategic Planning session. Director Shriner commented that she will have to ask to rearrange her schedule at work and would let everyone know the outcome.

E. Director's Comments:

Director Shriner asked why the Community Involvement Forum was canceled and asked who canceled it. Mr. Heitzman stated that California American Water put out a news release regarding the cancellation and it will probably be in the newspaper. He added that the District did not want the forum canceled. Mr. Heitzman said that the District believes it is important to be transparent and there are issues out there, good, bad or indifferent, the public needs to be informed.

Director Nishi would like an agenda item to discuss a procedure to ensure that the District can stop the cancellation of public forums.

Director Nishi asked to have an agenda item on the LAFCO Annexation. He voiced his concern that after working for the District for 33 years an employee gets a plaque the same size as an employee who worked for the District for 15 years.

Director Gustafson said that as a government employee in public works for 30 years he doesn't expect anything.

14. Adjournment:

The meeting was adjourned at 8:43 p.m.

APPROVED:

---

William Y. Lee, President

ATTEST:

---

Jim Heitzman, General Manager

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-H

Meeting Date: July 12, 2011

Submitted By: Paula Riso

Presented By: Paula Riso

Reviewed By: Carl Niizawa

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of June 16, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of June 16, 2011.

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 June 16, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the June 16, 2011 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  
June 16, 2011  
5:30 p.m.

**Draft Minutes**

1. Call to Order:

President Lee called the meeting to order at 5:30 p.m. on June 16, 2011.

2. Roll Call:

Board Members Present:

Bill Lee – President  
Dan Burns – Vice President  
Howard Gustafson  
Jan Shriner  
Kenneth K. Nishi

Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Carl Niizawa, Deputy General Manager/District Engineer  
Jean Premutati, Management Services Administrator  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Tim Wilson, Monterey Resident  
Darby Moss Worth, Carmel Valley Resident  
George Riley, Monterey Resident  
Larry Faust, Carmel Valley Resident  
Ed Mitchell, Prunedale Resident  
Maddi Bell, MRWPCA  
David Lamicella, Marina Resident  
Gloria McKee, Marina Resident  
Greg Furey, Marina Resident  
Brad Hagemann, Del Rey Oaks  
Sylvia Shih, Seaside Resident  
Frank Lambert, Marina Resident  
Paula Pelot, Marina Resident  
Richard Newhouse, Marina Resident  
Luana Conley, Marina Resident  
Jeanine DeBacker, Hoge, Fenton, Jones & Appel  
David Brown, Marina Resident  
Grace Silva-Santella, Marina Resident  
Ken Kroopf, Attorney

3. Pledge of Allegiance:

President Lee led everyone present in the pledge of allegiance.

4. Public Comments:

There were no comments.

5. Report:

D. Receive and Discuss a Report from Independent Investigator, Jeanine DeBacker of Hoge, Fenton, Jones & Appel:

Jeanine DeBacker, Hoge, Fenton, Jones & Appel, read aloud from the report she handed out just prior to the meeting. The report reads:

Introduction:

During the May 10, 2011 meeting of the Board of Directors of the Marina Coast Water District, District General Manager Jim Heitzman made a statement to the Board during open session that Director Jan Shriner:

"seems to be intent on harassing and cause a hostile environment for staff, including the General Manager. And is soliciting legal opinion via email, etc. So I think there needs to be something done. If every ratepayer was spending \$20,000 of the District's money in pursuit of firing the General Manager and having the General Manager leave, I think that we'd be broke in one month. So I would like the Board to take into consideration that I have requested on a number of occasions that somebody speak with Director Shriner about hostile environment. Other members of staff have complained also about that issue, so I just want to put the Board on notice that I don't intend to continuously [be] harassed by Director Shriner."

I was formally retained by the District through Jean Premutati, Management Services Administrator, to investigate Mr. Heitzman's complaint of harassment and hostile work environment. I am an employment lawyer at the law firm of Hoge, Fenton, Jones & Appel, Inc. in San Jose.



Agenda Item 5 (continued):

Investigation:

From May 25, 2011 to June 9, 2011, I conducted an investigation of Mr. Heitzman's complaints. I interviewed each board member in person. I also spoke in person and on the telephone in an informal manner with Paula Riso, Executive Assistant to the GM/Board, and Jean Premutati in order to obtain documents and public information regarding dates. I spoke with Lloyd Lowrey, District Counsel, also regarding dates and for further insight into the chronology of events. I reviewed excerpts from audio recordings from the May 10, 2011 and May 24, 2011 board meetings. I reviewed meeting minutes for all meetings since January 2011 through May 24, 2011. I reviewed emails from January 2011 through June 10, 2011 from Jim Heitzman and Jan Shriner. I also reviewed a letter from Ken Kroopf, Director Shriner's attorney. And I reviewed the Board Procedures Manual Adopted March 9, 2009.

Findings:

My investigation did not reveal evidence that there had been any discrimination or harassment or creation of a hostile work environment based on sex, gender, or any other protected class. Specifically I did not find evidence that there was any violation of Section 5 of the Board Procedures Manual, which sets forth the District's Harassment Free Work Environment policy.

However, I found that Mr. Heitzman made his complaints of harassment in good faith and it was reasonable for him to complain of the conduct. I also found that he began making such complaints verbally and in email messages as early as January 19, 2011. I found that Mr. Heitzman sought to resolve the matter quickly and privately.

I found that Director Shriner's conduct was intended to assail and distress Mr. Heitzman. Director Shriner perceives this conduct as a necessary function of her position. Each of the four other directors -- and Mr. Heitzman -- acknowledged that it is important for the individual directors to take a critical stance and question and query District policy. They each also pointed out to me that the District has adopted written procedures to allow for such queries while providing for transparency in government proceedings, the orderly dissemination of information, and the cost-effective operation of the District.

I found that Director Shriner does not adhere to the Board Procedures Manual which is intended to govern the operations of the Board. Specifically, her conduct is inconsistent with the Board's procedures, including, but not limited to, the procedures articulated in Sections 7, 13, 14, 15 and Section 16.

Agenda Item 5 (continued):

Recommendations:

As no harassment, discrimination or hostile work environment based on a protected class was found during my investigation, I offer no recommendations as to those areas.

My recommendation, then, is not based on procedures driven by California and federal employment law. Instead, I suggest that the Board be reminded of the Board Procedures Manual through training, including specific training to new Board members as to guidelines for a functional, transparent, and cost-effective operation of the Board, and that the Board members hold each other accountable.

Mr. David Brown, Marina resident, commented that the agenda was posted slightly more than the 24 hour notice requirement for special meetings. He added that the report was not received until five minutes before the start of the meeting. Mr. Brown opined that the substance of the report was not specific. He said the report was inadequate because it did not specify “when” or “how” rules were not followed.

Ms. Silvia Shih, Seaside resident, commented that she has known Director Shriner for years and voiced her support of Director Shriner’s actions.

Mr. Ed Mitchell, Prunedale resident, commented that he has known Director Shriner for years and he supported the comments mentioned by the previous speakers. Mr. Mitchell stated that the findings did not indicate anything wrong with what Director Shriner had been asking for. He said that the newspaper has been full of articles about the Regional Desalination Project and that Director Shriner was diligent in looking into these issues. Mr. Mitchell stated that Director Shriner was appropriate in seeking information and encouraged her to keep it up.

Ms. Darby Moss Worth, Carmel Valley resident, commented that she has known Director Shriner for many years and voiced her admiration for her. Ms. Moss Worth suggested the Board of Directors look into “conflict resolution”.

Mr. Tim Wilson, Monterey resident, commented that he has also known Director Shriner for many years. He commented that Director Shriner looks for the “back story” in things. Mr. Wilson asked if the Board of Directors was going to be responsible and open to the residents of Marina.

Ms. Luana Conley, Marina resident, commented that this was an inappropriate meeting and a waste of funds. She said that this is a personnel matter and should not be a public meeting. Ms. Conley noted that Director Shriner is the only female Board member and voiced her support. She also commented that the Board of Directors continues to refuse to pay someone to film the meetings and they often schedule meetings on days that conflict with other important meetings.

Agenda Item 5 (continued):

Ms. Grace Silva-Santella, Marina resident, commented that Director Shriner is more than a ratepayer, she is a Board member and deserves more of the General Manager's time than a regular ratepayer. Ms. Silva-Santella said that the report states Director Shriner's "...conduct is inconsistent with the Board's procedures, including, but not limited to, the procedures articulated in Sections 7, 13, 14, 15 and Section 16", and she asked that those sections of the Board Procedures Manual be read into record.

Mr. Frank Lambert, Marina resident, commented that he has known Director Shriner for years and that she gives 100% and nothing less. He stated that the public has a right to know how money is being spent or not spent and where it is going. Mr. Lambert said that this is what Director Shriner has asked and he doesn't think it is harassment, it is a matter of transparency. He commented that the Board owed Director Shriner an apology for having this meeting.

Mr. Ken Kroopf, Attorney for Director Shriner, commented that he was extremely disappointed that the Board members would try to stifle First Amendment rights. He stated that this should have been handled internally and done in closed session.

Mr. George Riley, Monterey Resident, stated that he has supported the Board for a long time over the Regional Desal Project. Mr. Riley commented that more parties are guilty and referred to past meeting conduct. He added that he was not impressed with how things are handled.

Vice President Burns commented that when someone says that they are being harassed, the Board cannot ignore it and do nothing. He stated that the best thing to do was to get an independent company or firm to provide a report so the Board can deal with the issues. Vice President Burns said that the Board did not file a claim against each other for harassment; the claim was by the General Manager regarding Director Shriner and the Board followed up on that. He said he also thought it should be handled in closed session and that he received an answer to that earlier that day.

Director Nishi made a motion to accept the report given by Ms. DeBacker. Mr. Lowrey commented that the Board is not required to make a motion, only to receive the report. Director Nishi stated that in the past, the Board has made motions to receive reports and they vote on whether to receive it or not. He asked if things are changing now. Mr. Lowrey said that it is not on the agenda for action, but if the Board wants to formally receive the report, they may vote to receive it as the agenda language does say to "receive" a report.

Ms. Pelot raised a Point of Order that the item is not agendized as an action item.

Director Nishi asked if Mr. Lowrey is recommending the Board not take action. Mr. Lowrey stated that it is not agendized as an action item, just to receive the report which the Board is in the process of doing.

Agenda Item 5 (continued):

Director Nishi withdrew his motion.

Director Shriner commented that she spoke with President Lee soon after May 13<sup>th</sup> and asked if he had received a copy of a letter, dated May 13<sup>th</sup>, that was addressed to her and that he was copied on. President Lee answered that he couldn't recall as that was a month ago. Director Shriner commented that the letter, sent by Ms. Jean Premutati also copied Ms. DeBacker and asked if she ever received a copy of the letter. Ms. DeBacker said that she couldn't recall but assumed she did. Director Shriner asked if the Board decided on May 24<sup>th</sup> to hire Ms. DeBacker, why she was copied on the letter of May 13<sup>th</sup>. President Lee said he didn't know why.

6. Director's Comments:

The meeting was adjourned without taking comments from the Directors.

7. Adjournment:

The meeting was adjourned at 6:00 p.m.

APPROVED:

---

William Y. Lee, President

ATTEST:

---

Jim Heitzman, General Manager

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-I

Meeting Date: July 12, 2011

Submitted By: Paula Riso

Presented By: Paula Riso

Reviewed By: Carl Niizawa

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of July 1, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of July 1, 2011.

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 July 1, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the July 1, 2011 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  
July 1, 2011  
9:00 a.m.

**Draft Minutes**

1. Call to Order:

President Lee called the meeting to order at 9:00 a.m. on July 1, 2011.

2. Roll Call:

Board Members Present:

Bill Lee – President  
Dan Burns – Vice President  
Howard Gustafson  
Jan Shriner  
Kenneth K. Nishi

Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Carl Niizawa, Deputy General Manager/District Engineer  
Kelly Cadiente, Director of Administrative Services  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Ron Chesshire, Labor Union  
Candace Ingram, Ingram Group  
Mark Fogelman, Friedman, Dumas, and Springwater

Mr. Lloyd Lowrey, Legal Counsel, stated the purpose for the Closed Session is as follows:

- A. Pursuant to Government Code Section 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b): One Case

A letter dated June 21, 2011, from the Monterey County Board of Supervisors transmitted a “Summary of Preliminary Findings Regarding Director Stephen Collins’ Business Relationship With RMC Water and Environment and Marina Coast Water District.” The Summary, prepared by Remcho, Johansen & Purcell, LLP, states that certain conduct raises questions about the validity of contracts to which Marina Coast Water District is a party. Based on the statements in the Remcho Summary, and based on reports in the Monterey Herald this morning, a point has been reached where, in the opinion of the MCWD Board based on the advice of its legal counsel, there is a significant exposure to litigation against MCWD.

The Board entered into Closed Session at 9:01 a.m.

3. Closed Session:

- A. Pursuant to Government Code Section 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b)
  - One Case

The Board ended Closed Session at 11:07 a.m.

President Lee reconvened the meeting to Open Session at 11:11 a.m.

4. Possible Action on Closed Session Items:

The Board has met and conferred with and received advice from legal counsel concerning anticipated litigation. The Board took no action.

Now, in open session following the closed session, the Board will consider whether to release to the public a preliminary report on conflicts of interest in the processing and approval of Regional Project contracts, and the impact of those conflicts on the validity of the contracts, prepared by the law firm of Richards -Watson – Gershon. The Board will determine whether the public interest in releasing the preliminary report outweighs the need to keep the report confidential and justifies making a limited waiver of the attorney-client privilege only for the preliminary report and the information contained in the report, and not for any other privileged attorney-client communication or the information in any such privileged communication, including but not limited to any communication concerning the preliminary report. If the Board determines to make the preliminary report public, the Board will further determine the manner and time of release and publication.

Director Shriner said that she would like to make a motion. She stated that she finds this report to be an embarrassment to the District and will cause further harm to the reputation and ability to negotiate agreements on behalf of the ratepayers.

Director Shriner made a motion to not release the findings of the investigation that was provided to the Board. The motion died for lack of a second.

Director Gustafson made a counter motion:

1. That the Board find that the public interest in releasing and publishing a preliminary report on conflicts of interest in the processing and approval of Regional Project contracts, and the impact of those conflicts on the validity of the contracts, prepared by the law firm of Richards -Watson – Gershon, outweighs the need to keep the report confidential and justifies making a limited waiver of the attorney-client privilege for the preliminary report only.

Agenda Item 4 (continued):

2. That the Board approve waiving the attorney-client privilege only for the preliminary report and the information contained in the report, and not for any other privileged attorney-client communication or the information in any such privileged communication, including but not limited to any communication concerning the preliminary report.

3. That the Board approve immediately making copies of the preliminary report available to the public and direct the General Manager to publish the report on the District's web site.

Vice President Burns seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | No  | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

Director Nishi commented that the Marina Coast Water District's goal has always been to help their neighbors, friends to the south, with water for the future so they can continue to maintain their quality of life and economic viability. He added that the release of this report will continue with that goal.

5. Public Comments:

Vice President Burns asked to have an approximate time placed on future agendas to give an estimate of the length of closed session.

6. Action Item:

- A. Consider Adoption of Resolution No. 2011-48 which Authorizes Staff to Issue a Request for Proposal for Professional Services Related to Public Outreach Activities to Assist the Marina Coast Water District with Public Communication:

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

Director Shriner commented that the public has been crying out for more information on what the District is doing. She said a proposal was given to the District in February and never discussed by the Board. Director Shriner suggested using the funds to hire Richard Newhouse at \$60 per hour to televise the Board meetings so they would be accessible on cable television and through the Access Monterey Peninsula website, AMP.org. Director Shriner commented that it would be more effective than a brochure or new website that a public relations contract would provide. She added that the District needs to be televised in a positive way so people can see a rounded face of Marina Coast Water District.



Agenda Item 6-A (continued):

Director Shriner said that she put a copy of a biography on the dais that was going to be submitted to the Marina Gazette, which she feels is a tabloid paper, and said that it is not the public relations the District needs. She said the public needs to see more positive things from the District.

Director Nishi made a motion to adopt Resolution No. 2011-48 which authorizes staff to issue a Request for Proposal for Professional Services related to Public Outreach activities to assist the Marina Coast Water District with public communication. Director Gustafson seconded the motion. The motion was passed.

|                    |   |     |                      |   |     |
|--------------------|---|-----|----------------------|---|-----|
| Director Gustafson | - | Yes | Vice President Burns | - | Yes |
| Director Shriner   | - | No  | President Lee        | - | Yes |
| Director Nishi     | - | Yes |                      |   |     |

7. Director's Comments:

Director Shriner commented that she put a copy of the letter on the dais dated May 13, 2011 which was eleven days before the District hired Jeanine DeBacker and she has asked for an explanation but has yet to receive it.

Vice President Burns commented that it never went to the Board because it falls under the purview of the General Manager. He added that Director Shriner and the General Manager will continue to have issues and they need to figure out how to complete these issues and move on so that the Board can be positive in their direction. Vice President Burns stated that the Board received the report from Ms. DeBacker and they need to follow-up to see what they will need to do.

Director Shriner handed Vice President Burns some documents. Vice President Burns stated he didn't care to see the documents and that Director Shriner always tries to provide documents to prove her point. He said that his point is that the General Manager said there was harassment and the Board needed to take action on it. Vice President Burns added that it was probably the Human Resources manager who contacted Ms. DeBacker and not the General Manager. He said that he sees no problem with that and that he didn't care to see the documents that Director Shriner is using to try to muddy the water between the General Manager and staff.

Director Shriner stated that she would like people to stop assigning her intentions. She said that if someone said she is trying to muddy the water, they are mistaken. Director Shriner said that she is trying to clarify the process and if they don't want to see the documents that support the facts of the process, it is their situation and they are entitled to ignore the facts. She said that she is not going to assign to anyone their intention.

Special Board Meeting  
July 1, 2011  
Page 5 of 5

Agenda Item 7 (continued):

Director Nishi asked the Board President to maintain the comments and not allow the dialogue.

Director Gustafson pointed out that he has 55 family members that live in Seaside, Monterey, and the Pacific Grove area and his aim is pure in the regional project to provide them cheap and affordable water because they are young people and they are struggling.

8. Adjournment:

The meeting was adjourned at 11:24 a.m.

APPROVED:

---

William Y. Lee, President

ATTEST:

---

Jim Heitzman, General Manager

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-A

Meeting Date: July 12, 2011

Submitted By: Kelly Cadiente

Presented By: Kelly Cadiente

Reviewed By: Carl Niizawa

Agenda Title: Consider Receiving and Accepting the Conceptual Financial Plan for the Regional Desalination Project Prepared by Piper Jaffray

Detailed Description: The Board of Directors is requested to receive and accept the conceptual financial plan for the Regional Desalination Project (RDP) prepared by Piper Jaffray.

On May 24, 2011 Piper Jaffray made a presentation on the conceptual financial plan for the RDP. Staff is requesting that the Board formally receive and accept the plan.

Environmental Review Compliance: None required.

Prior Committee or Board Actions: On April 4, 2011, the Board adopted Resolution No. 2011-24 to approve a Financial Advisory Services Agreement with Piper Jaffray.

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

Materials Included for Information/Consideration: Conceptual Financial Plan for the RDP.

Staff Recommendation: Receive and accept the conceptual financial plan for the RDP.

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: 9-B

Meeting Date: July 12, 2011

Submitted By: Jean Premutati  
Reviewed By: Carl Niizawa

Presented By: Kelly Cadiente

Agenda Title: Consider Adoption of Resolution No. 2011-52 to Approve the Reorganization of the Finance Department and Related Classifications and Job Descriptions

Detailed Description: The Board is requested to consider approval of the reorganization of the Finance Department and related classifications and job descriptions. Due to a recent vacancy in the department, staff had an opportunity to evaluate and assess all classifications for possible stream-lining and improve efficiencies within the department. Composition, scope of work, and level of duties were given consideration in reviewing classifications to ensure they accurately reflect programs, internal relationships, and changing technological needs.

The proposed reorganization recommends establishing a new classification of Accountant I/II rather than fill the current Finance Director vacancy. There is a need for flexibility of assigned duties due to changing programs, technologies and workload. The new classification enables the District to hire someone with a broad spectrum of knowledge, skill and academic preparation while supporting current staff in advancing through the department by experience, training and accretion of skills.

In Customer Service (CS) there is no opportunity for growth or advancement from an Assistant to a Specialist classification unless a vacancy becomes available. Consolidating the current positions into a single classification of CS Representative I/II provides staff a greater understanding of all components of the job. In addition, the District encourages retention of current staff by recognition of expanded skills, work assignments and their added value to the District.

In order to preserve the validity of the District's compensation plan and for the proposed classes to reflect the same salary differential, the proposed plan recommends adjustments to salary ranges.

Environmental Review Compliance: None.

Prior Committee or Board Action: Board approved Resolution No. 2009-28 Approving Amended Salary Schedules.

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



July 12, 2011

Resolution No. 2011-52  
Resolution of the Board of Directors  
Marina Coast Water District  
Approve the Reorganization of the Finance Department  
and Related Classifications and Job Descriptions

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on July 12, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Board is requested to consider approval of the reorganization of the Finance Department; and,

WHEREAS, due to a recent vacancy in the department, staff evaluated and assessed all classifications and looked to stream-line work processes and improve efficiencies within the department; and,

WHEREAS, the proposed plan establishes a new classification of Accountant I/II rather than fill the current Finance Director vacancy and the Customer Service (CS) Assistant and Specialist classes will be combined into one classification of CS Representative I/II; and,

WHEREAS, current classes with grade I/II have a ten percent (10%) difference between the entry-level or grade I and journey-level or grade II positions as approved by the Board on May 12, 2009 in Resolution 2009-28. The proposed salary schedules reflect the same differential and adjustments to salary ranges; and,

WHEREAS, there is no anticipated fiscal impact at this time, however, future promotions may have an impact on compensation with the new salary schedules.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve adoption of Resolution No. 2011-52 to Reorganize the Finance Department and related Classifications and Job Descriptions and authorize the General Manager to take all actions necessary to execute this resolution.

PASSED AND ADOPTED on July 12, 2011, 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 \_\_\_\_\_

---

William Y. Lee, 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. 2011-52 adopted July 12, 2011.

---

Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-C

Meeting Date: July 12, 2011

Submitted By: Jean Premutati  
Reviewed By: Carl Niizawa

Presented By: Jean Premutati

Agenda Title: Consider Adoption of Resolution 2011-53 to Select a Law Firm to Provide Legal Services and Represent the District in Personnel and Employment Law Matters

Detailed Description: At a regular meeting on April 12, 2011, the Board approved the issuance of a Request for Proposals (RFP) to provide legal assistance on personnel and employment matters on behalf of the District. In areas where a conflict may occur or the extent of work is outside the scope of present counsel, the District would like to consider other firms who specialize in the areas of labor law, wage and hour law, collective bargaining, and employment contracts.

As an example, these legal services would include providing legal opinion, assistance and representation regarding necessary personnel, human resources, and employment issues, as well as, collective bargaining assistance, disciplinary/grievance advice, internal investigations, Department of Fair Employment and Housing (DFEH)/Equal Employment Opportunity Commission (EEOC) complaints, and, as required, attendance at Board meetings, with advance notice.

Staff emailed the RFP to the Monterey County Bar Association and received a total of seven (7) proposals. The Board has received copies of each proposal and was requested by President Lee to review for comments and discussion at the July 12, 2011 meeting. In addition, each Board member was reminded the information they received is confidential and was not to be discussed with anyone.

Staff requests the Board make a selection from the list of firms. Once a selection has been made, the Management Services Administrator will notify the selected firm and upon obtaining a mutually signed contract, will be prepared to provide services to the District when necessary.

Environmental Review Compliance: None.

Prior Committee or Board Action: On April 12, 2011, the Board approved an RFP to solicit proposals for legal services and represent the District in personnel and employment law matters.

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. 2011-53.

Staff Recommendation: The Board of Directors make a selection from the submitted proposals and adopt Resolution No. 2011-53 to Select a Law Firm to Provide Legal Services and Represent the District in Personnel and Employment Law Matters.

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

July 12, 2011

Resolution No. 2011-53  
Resolution of the Board of Directors  
Marina Coast Water District  
Selection of a Law Firm to Provide Legal Services  
and Represent the District in Personnel and Employment Law Matters

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on July 12, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, at a regular meeting on April 12, 2011, the Board approved the issuance of a Request for Proposals (RFP) to provide legal assistance on personnel and employment matters on behalf of the District; and,

WHEREAS, in areas where a conflict may occur or the extent of work is outside the scope of present counsel, the District would like to consider other firms who specialize in the areas of labor law, wage and hour law, collective bargaining, and employment contracts; and,

WHEREAS, these legal services would include providing legal opinion, assistance and representation regarding necessary personnel, human resources, and employment issues, as well as, collective bargaining assistance, disciplinary/grievance advice, internal investigations, Department of Fair Employment and Housing (DFEH)/Equal Employment Opportunity Commission (EEOC) complaints, and, as required, attendance at Board meetings, with advance notice; and,

WHEREAS, staff received a total of seven (7) proposals and President Lee has requested each Board member review them for comments and discussion at the July 12, 2011 meeting. In addition, each Board member was reminded the information they received is confidential and was not to be discussed with anyone; and,

WHEREAS, staff requests the Board make a selection from the list of firms. Once a selection has been made, the Management Services Administrator will notify the selected firm and obtain a mutually signed contract; and,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby select \_\_\_\_\_ to provide legal services and representation to the District in personnel and employment law matters.

PASSED AND ADOPTED on July 12, 2011, 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 \_\_\_\_\_

\_\_\_\_\_  
William Y. Lee, 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. 2011-53 adopted July 12, 2011.

\_\_\_\_\_  
Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-D

Meeting Date: July 12, 2011

Submitted By: Gary Rogers

Presented By: Gary Rogers

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2011-54 to Approve the Design and Construction of the Proposed Watkins Gate Well

Detailed Description and Discussion: The Board of Directors is requested to consider approving the design and construction of the design for the Watkins Gate Well.

Based on preliminary hydro-geological data collected and analyzed from the proposed Watkins Gate Well Site (exploratory test hole), the District's Consulting Hydro-Geologist (Luhdorff & Scalmanini Consulting Engineers) recommends a technical design for the Watkins Gate Site. In the well design, the consultants selected a total depth of 660 feet below ground surface in order to access the "intermediate" aquifer (also nominally identified as the "400-foot" aquifer) for the extraction of municipal drinking water. This well design will be incorporated into the bidding documents for the construction of the Watkins Gate Site Improvements. Moderate changes to the well design may occur as the actual testing and installation of the municipal well transpires.

District Staff evaluated the consultant's proposed Watkins Gate Well design and concurs with the design and recommended design depth.

Environmental Review Compliance: Final Initial Study/Mitigated Negative Declaration CEQA Document and Mitigation Monitoring and Reporting Program for the Watkins Gate Well and Pipeline Project, dated May 2, 2011 has been completed and was adopted via Board Resolution No. 2011-31 on May 10, 2011.

Prior Committee or Board Action: Resolution No. 2011-22, the Board Authorized a Professional Services Agreement with Luhdorff & Scalmanini for the Watkins Gate Well Installation for a Not-To Exceed Amount of \$151,685; Resolution No. 2011-31, the Board Adopted the Initial Study/Mitigated Negative Declaration and Mitigated Monitoring and Reporting Program for the Watkins Gate and Pipeline/Eastern Distribution Project; Resolution No. 2011-34, the Board Authorized the General Manager and/or Deputy General Manager/District Engineer to Sign a License and Indemnity Agreement with Union Community Partners-East Garrison, LLC for Temporary Access to the Watkins Gate Well and Pipeline Project Site.

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: Funding for this project is from the approved FY 2010/2011 Budget as CIP OW-116 under the Ord Community Water Cost Center. Additionally, the District will continue requesting reimbursements from the State of California Water Resources Control Board for Proposition 50 Funding.

Material Included for Information/Consideration: Resolution No. 2011-54; and Preliminary design drawing of the Watkins Gate Well form Luhdorff & Scalmanini.

Staff Recommendation: Based on its review of the consultant's findings, District staff recommends the Board of Directors approve the well design for Watkins Gate Well.

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 \_\_\_\_\_

July 12, 2011

Resolution No. 2011-54  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving the Design and Construction of the Proposed Watkins Gate Well

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on July 12, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, an additional replacement municipal well is desired by the District; and,

WHEREAS, through Resolution No. 2011-22, the District procured the professional services of Luhdorff & Scalmanini Engineering Consulting Engineers for hydro-geological, investigative services regarding the Watkins Gate Well; and,

WHEREAS, through Resolution No. 2011-34, the District signed a License and Indemnity Agreement with Union Community Partners-East Garrison, LLC for temporary access to the Watkins Gate Well and Pipeline Project Site; and,

WHEREAS, District Staff has evaluated the proposed Watkins Gate Well design provided by Luhdorff & Scalmanini Consulting Engineers and Staff recommends that Watkins Gate Well be designed and constructed to design depth of 660 feet below ground surface into the “intermediate” aquifer also nominally identified as the “400-foot” aquifer. Moderate changes to the well design may occur as the actual testing and installation of the municipal well transpires.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve adoption of Resolution No. 2011-54 to approve the design and construction of the Proposed Watkins Gate Well.

PASSED AND ADOPTED on July 12, 2011, 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 \_\_\_\_\_

\_\_\_\_\_  
William Y. Lee, 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. 2011-54 adopted July 12, 2011.

---

Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-E

Meeting Date: July 12, 2011

Submitted By: Lloyd Lowrey

Presented By: Lloyd Lowrey

Reviewed By: Jim Heitzman

Agenda Title: Consider Adoption of Resolution No. 2011-55 to Review a Request by the General Manager under Government Code Sections 995-996.6 and 825-825.6 and Authorize the District to Engage Legal Counsel for the General Manager

Detailed Description: The Board is requested to consider adoption of Resolution No. 2011-55 to review a request by the General Manager under Government Code Sections 995-996.6 and 825-825.6 and authorize the District to engage legal counsel for the General Manager.

Marina Coast Water District (MCWD) has for many years supported and participated in regional efforts to augment the water supply for the region that includes the area served by MCWD. Recent efforts have focused on the Regional Desalination Project (“RDP”) approved by the California Public Utilities Commission through its proceeding number A.04-09-019, in which MCWD has participated as a party. The Board approved a contract in 2007 to employ Jim Heitzman as MCWD’s General Manager, and Mr. Heitzman has been continuously employed in that capacity to date, devoting considerable time at the Board’s direction to MCWD’s participation in regional water planning efforts, particularly the RDP. On April 5, 2010, the Board adopted Resolution No. 2010-20, approving MCWD’s participation in the RDP in accordance with a Settlement Agreement and Water Purchase Agreement, subject to approval by the CPUC. After the CPUC approved the project in December 2010, the Board on February 22, 2011 approved a Project Management Agreement with RMC Water and Environment (“RMC”).

On June 21, 2011, Monterey County released a document entitled “Summary of Preliminary Findings Regarding Director Stephen Collins’ Business Relationship With RMC Water and Environment and Marina Coast Water District.” The Summary, prepared by Remcho, Johansen & Purcell, LLP, (the “Remcho Report”), stated that certain conduct raises questions about the validity of contracts to which Marina Coast Water District is a party and named MCWD’s General Manager, Jim Heitzman, in connection with the conduct questioned. On July 1, 2011, the MCWD Board voted to release a document entitled “Preliminary Report on Conflicts of Interest in the Processing and Approval of the Regional Desalination Project Contracts and the Impact of any Conflict on the Validity of the Contracts” prepared by James L. Markman and others of the law firm of Richards, Watson & Gershon (the “Markman Report”), which found no facts to indicate that either Mr. Heitzman or any other official of MCWD violated Government Code section 1090 or any other provision of law prohibiting conflicts of interest.

On July 6, 2011, the General Manager submitted a written request to MCWD’s Board of Directors, requesting defense and indemnification of any claims against him as General Manager or individually for his actions within the scope of his employment for MCWD in connection with the RDP, including the matters discussed in the Remcho Report. The request was made in accordance with Government Code Sections 995-996.6 and 825-825.6.



No legal or administrative claims, actions, or proceedings have been instituted against either MCWD or the General Manager. However, as demonstrated by the Remcho Report, there are ongoing investigations into this matter which involve requests or demands to interview or obtain information or testimony from the General Manager.

The Government Code requires a public entity, upon request of an employee or former employee to provide for the defense of a civil action unless the entity finds that the act or omission giving rise to the claim was not within the scope of employment, that the employee acted because of actual fraud, corruption, or actual malice, or that the defense would create a specific conflict of interest between the entity and the employee. A public entity is not required to, but may provide for the defense of an administrative proceeding and for criminal actions and proceedings for an act or omission in the scope of employment, upon a determination that the defense would be in the best interests of the public entity and that the employee acted in good faith, without malice and in the apparent interests of the public entity.

Environmental Review Compliance: None required.

Prior Committee or Board Action: The Board approved MCWD's participation in the RDP and Jim Heitzman's employment as MCWD's General Manager as discussed above.

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: Administration account.

Material Included for Information/Consideration: Resolution No. 2011-55; and, Copy of Request dated July 6, 2011, from the General Manager.

Staff Recommendation: That the Board of Directors review a request by the General Manager under Government Code Sections 995-996.6 and 825-825.6 and authorize the District to engage Mr. Steve Churchwell, DLA Piper LLP. as legal counsel for the General Manager.

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 \_\_\_\_\_

July 12, 2011

Resolution No. 2011-55  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving Engagement of Legal Counsel Steve Churchwell, DLA Piper LLP  
for the General Manager

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on July 12, 2011, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District employed Jim Heitzman in 2007 to serve as the District’s General Manager and Mr. Heitzman has been so employed continuously since then; and,

WHEREAS, the District has for many years supported and participated in regional efforts to augment the water supply for the region that includes the area served by MCWD, recent efforts having focused on the Regional Desalination Project (“RDP”) approved by the California Public Utilities Commission through its proceeding number A.04-09-019, in which MCWD has participated as a party; and,

WHEREAS, on April 5, 2010, the Directors adopted Resolution No. 2010-20, approving MCWD’s participation in the RDP in accordance with a Settlement Agreement and Water Purchase Agreement, subject to approval by the CPUC; and,

WHEREAS, after the CPUC approved the RDP in December 2010, the Directors on February 22, 2011 approved a Project Management Agreement with RMC Water and Environment (“RMC”); and,

WHEREAS, public statements have raised questions about the propriety of certain conduct in connection with the approval of agreements for the RDP by the Monterey County Board of Supervisors, which statements have mentioned the General Manager’s name in connection with the questioned conduct; and,

WHEREAS, such public statements have mentioned ongoing investigations by the Monterey County District Attorney and the State Fair Political Practices Commission; and,

WHEREAS, such statements have included statements made in a document prepared by Remcho, Johansen & Purcell, LLP, entitled “Summary of Preliminary Findings Regarding Director Stephen Collins’ Business Relationship With RMC Water and Environment and Marina Coast Water District” (the “Remcho Report”), released by Monterey County on June 21, 2011; and,

WHEREAS, the District, on July 1, 2011, received and the Directors reviewed a document entitled “Preliminary Report on Conflicts of Interest in the Processing and Approval of the Regional Desalination Project Contracts and the Impact of any Conflict on the Validity of the Contracts” prepared by James L. Markman and others of the law firm of Richards, Watson &

Gershon (the “Markman Report”), which found no facts to indicate that either Mr. Heitzman or any other official of Marina Coast violated Government Code section 1090 or any other provision of law prohibiting conflicts of interest; and,

WHEREAS, the General Manager, on July 5, 2011, submitted a written request to the Directors, requesting defense and indemnification of any claims against him as General Manager or individually for his actions within the scope of his employment for MCWD in connection with the RDP, including the matters discussed in the Remcho Report. The request was made in accordance with Government Code Sections 995-996.6 and 825-825.6; and,

WHEREAS, District Counsel advises that the Government Code requires a public entity, upon request of an employee or former employee to provide for the defense of a civil action unless the entity finds that the act or omission giving rise to the claim was not within the scope of employment, that the employee acted because of actual fraud, corruption, or actual malice, or that the defense would create a specific conflict of interest between the entity and the employee; and,

WHEREAS, District Counsel further advises that a public entity is not required to, but may provide for the defense of an administrative proceeding and for criminal actions and proceedings for an act or omission in the scope of employment, upon a determination that the defense would be in the best interests of the public entity and that the employee acted in good faith, without malice and in the apparent interests of the public entity; and,

WHEREAS, although no legal or administrative or proceedings have been instituted, public statements have referenced an ongoing investigation, which could include interviewing the General Manager or requesting or demanding information or testimony from him; and,

WHEREAS, based on the information known or available, the Directors find there is no evidence that the General Manager acted outside the scope of his employment and the authority and direction given to him by the Directors in supporting and advocating for the RDP and MCWD’s participation in the RDP and in working with legal counsel and other consultants to advise and assist the District in connection with the RDP and MCWD’s participation in the RDP; and,

WHEREAS, based on the information known or available, the Directors find there is no evidence that the General Manager did not act in good faith, without malice, upon advice of legal counsel for the District, and in the apparent interests of the District and persons served by the District; and,

WHEREAS, there is no evidence that providing for legal representation would create a specific conflict of interest between the District and the General Manager; and,

WHEREAS, the Board finds that it is in the best interests of the District and the persons served by the District to approve and authorize and provide for the legal representation of the General Manager in connection with investigations by the Monterey County District Attorney or the State Fair Political Practices Commission concerning the Regional Desalination Project, the matters discussed in the Remcho Report and any related matters; in accordance with Government Code Sections 995-996.6 and 825-825.6.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The District shall provide for legal representation of Jim Heitzman through MCWD's designated legal counsel, Steve Churchwell, DLA Piper LLP., 400 Capitol Mall, Suite 2400, Sacramento, CA 95814, in connection with any requests or demands for information or testimony as part of any investigations by the Monterey County District Attorney or the State Fair Political Practices Commission relating to Mr. Heitzman in his official or individual capacity or both, on account of any act or omission occurring within the scope of Mr. Heitzman's employment as an employee of Marina Coast Water District in connection with the Regional Desalination Project described in MCWD Board Resolution No. 2010-20 and with matters discussed in the Remcho Report; and,

2. The District will pay the reasonable cost of Mr. Heitzman's counsel approved by the Directors to advise, represent and defend Mr. Heitzman, for so long as District Counsel advises and the directors find that there is no specific conflict of interest between the District and Mr. Heitzman.

PASSED AND ADOPTED on July 12, 2011, 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 \_\_\_\_\_

\_\_\_\_\_  
William Y. Lee, 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. 2011-55 adopted July 12, 2011.

\_\_\_\_\_  
Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-F

Meeting Date: July 12, 2011

Submitted By: Jim Heitzman

Presented By: Jim Heitzman

Agenda Title: Consider Providing Direction to the Board President on Nomination to the California Special Districts Association Region 3C Seat

Detailed Description: The Board of Directors is requested to discuss and provide direction to the Board President on which candidate to vote for in the California Special Districts Association Region 3C Seat.

On June 23, 2011, the Marina Coast Water District received from California Special Districts Association (CSDA) a letter, a candidate statement and ballot for selection to one seat in Region 3 of the CSDA. There are two candidates running for the one Region 3C seat of which the term ends in 2014. The ballot must be received by CSDA by August 5, 2011.

The two candidates are:

Stanley R. Caldwell, Mt. View Sanitary District

Kathryn Slater-Carter, Montara Water and Sanitary District

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: None.

Material Included for Information/Consideration: CSDA letter received on June 23, 2011, candidate statement, and ballot for selection to one seat in Region 3 of the CSDA.

Staff Recommendation: The Board of Directors provide direction to the Board President on which candidate to vote for the California Special District Association Region 3C seat.

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: 9-G

Meeting Date: July 12, 2011

Submitted By: Jim Heitzman

Presented By: Jim Heitzman

Reviewed By: Carl Niizawa

Agenda Title: Consider Revising the Director Appointment to the Budget and Personnel Committee

Detailed Description: The Board of Directors is requested to reconsider the Director appointments to the Budget and Personnel Committee.

On January 11, 2011, President Lee appointed Vice President Burns and Director Gustafson to the Budget and Personnel Committee. The Committee met in January, but has been on hiatus since then.

President Lee would like to get the Budget and Personnel Committee back on a regular monthly schedule and proposes revising the Director appointments to include himself and Vice President Burns.

Environmental Review Compliance: None required.

Prior Committee or Board Action: On January 11, 2011, the Board of Directors approved the Committee appointments for 2011.

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: None.

Material Included for Information/Consideration: None.

Staff Recommendation: This is a Board requested item.

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: 10-A

Meeting Date: July 12, 2011

Submitted By: Patrick Breen

Presented By: Carl Niizawa

Reviewed By: Carl Niizawa

Agenda Title: Annexation of the Ord Community into the Marina Coast Water District

Summary: The Board of Directors is requested to receive a report on annexation of the Ord Community into the District service area.

The District currently provides water, wastewater and recycled water service to the former Fort Ord (Ord Community) under the Water/Wastewater Facilities Agreement with the Fort Ord Reuse Authority (FORA) of March 13, 1998. FORA is a public corporation of the State of California established by the FORA Act, and will cease to exist in 2014 (unless the FORA act is amended by the Legislature). The Water/Wastewater Facilities Agreement will also end with the planned sunset of FORA.

To continue providing service to the Ord Community following the expiration of FORA and the expiration of the Water/Wastewater Facilities Agreement, an organizational, governance and service structure will be required to replace the existing agreement. Alternatives include; annexation of the Ord Community into the District's service area, service under an agreement with a Joint Powers Authority (among the land use jurisdictions within the Ord Community), service under individual agreements (with the various land use jurisdictions within the Ord Community), transferring the water and wastewater infrastructure within the Ord Community to another service provider, or a combination of alternatives.

To resolve the issue, the Board directed Staff in June 2010 to initiate an annexation process of the Ord Community into the District. Staff met with the Local Agency Formation Commission of Monterey County (LAFCO) on several occasions to discuss the application process and the required CEQA analysis.

LAFCO staff recommended that the District consider annexation of all the developed portions of the Ord Community into its Urban Service Area and additional areas planned for redevelopment within the next five to ten years. LAFCO defines an *Urban Service Area* as: "Urban developed areas within an urban service district or city sphere of influence, which is now served by existing urban facilities, utilities, and services or is proposed to be served by urban facilities, utilities and services within the next five years." LAFCO staff also stated that it would be appropriate for the District to expand its Sphere of Influence to the Fort Ord Development Boundary for water and wastewater service. LAFCO defines a *Sphere of Influence* as: "A plan for the probable physical boundaries and service area of a local agency. The area around a local agency eligible for annexation and extension of urban service within a twenty-year period."

A CEQA study is required to accompany the LAFCO annexation application. The District's environmental consultant for this project, Denise Duffy & Associates, has prepared an

Administrative Draft Initial Study for the Ord Community Service Area Annexation. The Initial Study cites the Regional Urban Water Augmentation Project and the Coastal Water Project EIRs, and the Fort Ord Base Reuse Plan EIR. The Initial Study will be finalized once District comments and concerns are addressed. It is anticipated that it will be completed by the end of July.

The project (as defined in the Initial Study) will call for the annexation all of the Ord Community (to the development boundary) into both the Marina Coast Water District Sphere of Influence and its Urban Service Area for water and wastewater services.

If the District annexed the areas recommended by LAFCO staff and proposed in the Initial Study, the District's governance model of five at-large director positions would not need to be changed.

Staff will provide reports periodically to keep the Board informed as this action progresses.