



# MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

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

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**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, September 13, 2011, 6:45 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 54956.9

Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)

Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and Complaint for Declaratory Relief)

##### B. Pursuant to Government Code Section 54956.95

Liability Claims

Claimant: Ausonio Incorporated

Agency Claimed Against: Marina Coast Water District

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, September 8, 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 October 11, 2011.

- C. 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 news media, 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.

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

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

## **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.*

- A. Consider Engaging Remy, Thomas, Moose & Manley
- B. Consider Changing the Limited Waiver Approved July 29, 2011

## **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. 2011-64 in Recognition of Ernest Pons, Customer Service Supervisor, and Award a Plaque and Gift Certificate for 5 Years of Service to the Marina Coast Water District

**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. 2011-65 to Approve a Correction to the Finance Department Reorganization
- B. Adopt Resolution No. 2011-66 to Accept the Infrastructure Improvements Installed Under a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement Between the Marina Coast Water District and Community Hospital Properties for the Community Hospital of the Monterey Peninsula Marina Campus
- C. Adopt Resolution No. 2011-67 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between the Marina Coast Water District and Union Community Partners East Garrison for Phase I and Phase II of East Garrison Development
- D. Approve the Expenditures for the Month of August 2011
- E. Approve the Draft Minutes of the Special Board Meeting of July 29, 2011
- F. Approve the Draft Minutes of the Regular Board Meeting of August 9, 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 Approving a Request for Qualifications to Provide Review of Documents Related to the District and Respond as Needed

*Action: The Board of Directors will consider approving a Request for Proposals to provide review of documents related to the District's water and wastewater operations.*

- B. Consider Providing Direction for District Public Outreach

*Action: The Board of Directors will consider providing direction for Public Outreach.*

- C. Review the Draft Proposed Project Description for Annexation of the Ord Community and Approve Resolution No. 2011-68 Directing Staff to Initiate the CEQA Process and Prepare a Draft LAFCO Application for Future Consideration

*Action: The Board of Directors will consider Directing staff to Initiate the CEQA process and prepare a draft LAFCO Application for Future Consideration.*

- D. Consider Adoption of Resolution No. 2011-69 to Approve a Contract Amendment for Denise Duffy & Associates for Planning and Environmental Services for Marina Coast Water District's Ord Community Annexation

*Action: The Board of Directors will consider approving an amendment to the Professional Services Agreement with Denise Duffy & Associates for Phase II Planning and Environmental Services based upon the draft proposed project description.*

- E. Consider Adoption of Resolution No. 2011-70 to Approve an Agreement of Purchase and Sale with the Union Community Partners-East Garrison, LLC for the Construction of Watkins Gate Well and Pipeline

*Action: The Board of Directors will consider approving an Agreement of Purchase and Sale with the Union Community Partners-East Garrison, LLC for the construction of Watkins Gate Well and Pipeline.*

- F. Consider Adoption of Resolution No. 2011-71 to Approve a Professional Services Agreement for Geotechnical Consulting Services with Earth Systems Pacific for the Eastern Distribution System Project

*Action: The Board of Directors will consider approving a Professional Services Agreement for Geotechnical Services with Earth Systems Pacific for Well No. 34 Improvements and Watkins Gate Well/Pipeline Improvements.*

- G. Consider Adoption of Resolution No. 2011-72 to Approve a Construction Contract with The Don Chapin Company, Inc. for the Construction of the Watkins Gate Well and Pipeline Project

*Action: The Board of Directors will consider approving a Construction Contract with The Don Chapin Company, Inc. for the construction of the Watkins Gate Well and Pipeline Project.*

- H. Consider Adoption of Resolution No. 2011-73 which Authorizes Staff to Issue a Request for Proposal for Professional Services Related to Real Estate Services for District Owned Property at Imjin Office Park

*Action: The Board of Directors will consider authorizing staff to issue a Request for Proposal for Professional Services related to Real Estate Services for District owned property at Imjin Office Park.*

- I. Consider Adoption of Resolution No. 2011-74 to Approve Obtaining Permanent Easements from the Federal Government for Recycled Water Pipelines

*Action: The Board of Directors will consider obtaining permanent easements from the Federal Government for Recycled Water Pipelines.*

- J. Consider Adoption of Resolution No. 2011-56 to Amend the Board Procedures Manual

*Action: The Board of Directors will consider amending the Board Procedures Manual.*

**10. Staff Report**

- A. Receive an Update on the Status of the Water Loan to the Monterey Peninsula Water Management District
- B. Receive an Update on the District Audit Commissioned by the FORA Board

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

**12. Director's Comments**

**13. Correspondence**

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

*Board Workshop: Friday, September 30, 2011, 9:00 a.m.,  
Holiday Inn Express  
189 Seaside Court, Marina*

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

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: September 13, 2011

Submitted By: Kelly Cadiente

Presented By: Jim Heitzman

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2011-64 in Recognition of Ernest Pons, Customer Service Supervisor, and Award a Plaque and Gift Certificate for 5 Years of Service to the Marina Coast Water District

Detailed Description: The Board is requested to adopt a resolution approving a plaque and gift certificate for Ernest Pons, Customer Service Supervisor, who has reached his five year anniversary with the District.

Ernest Pons began his employment with the District on August 16, 2006. As the department Supervisor, Ernest oversees the day-to-day operations of the billing and customer service activities of the District including troubleshooting problems that require special handling and responding to customer inquiries. Ernest strives to ensure the service customers receive is always accurate, thorough and professional.

He has been instrumental in developing a Customer Service Procedures Manual for use as a reference and training tool to ensure continuity of service to our ratepayers.

Ernest has been successful in developing a collection tracking process which has assisted in reducing the outstanding balance of accounts sent to collections over 80% since fiscal year 2007.

It is appropriate for the District to recognize Ernest Pons' five years of service to the Marina Coast Water District.

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:     Hospitality & Awards account numbers for four cost centers.

Material Included for Information/Consideration:     Resolution No. 2011-64.

Staff Recommendation: The Board of Directors approve Resolution No. 2011-64 recognizing Ernest Pons, Customer Service Supervisor and award a plaque and gift certificate for his five years of service to the Marina Coast Water District.

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

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Board Action

Resolution No  Motion By  Seconded By

Ayes  Abstained

Noes  Absent

Reagendized  Date  No Action Taken

September 13, 2011

Resolution No. 2011 - 64  
Resolution of the Board of Directors  
Marina Coast Water District  
Recognizing Ernest Pons, Customer Service Supervisor, and  
Award a Plaque and Gift Certificate for 5 Years of Service to Marina Coast Water District

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, Ernest Pons joined the District August 16, 2006 and was hired as the Customer Service Supervisor; and,

WHEREAS, Ernest's accomplishments include the implementation of a collection tracking process to reduce the outstanding balance on accounts sent to collections and creation of the Department Procedures Manual to ensure continuity of service to our ratepayers.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby express its gratitude and recognizes Ernest Pons for five years of service to the Marina Coast Water District, presents him with a plaque and gift certificate, and wishes him continued success with the District.

PASSED AND ADOPTED on September 13, 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. 2011-64 adopted September 13, 2011.

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Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8

Meeting Date: September 13, 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. 2011-65 to Approve a Correction to the Finance Department Reorganization
- B) Adopt Resolution No. 2011-66 to Accept the Infrastructure Improvements Installed Under a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement Between the Marina Coast Water District and Community Hospital Properties for the Community Hospital of the Monterey Peninsula Marina Campus
- C) Adopt Resolution No. 2011-67 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between the Marina Coast Water District and Union Community Partners East Garrison for Phase 1 and Phase 2 of East Garrison Development
- D) Approve the Expenditures for the Month of August 2011
- E) Approve the Draft Minutes of the Special Board Meeting of July 29, 2011
- F) Approve the Draft Minutes of the Regular Board Meeting of August 9, 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        X   Motion      \_\_\_\_\_ Review  
(Roll call vote is required.)

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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: September 13, 2011

Submitted By: Jean Premutati

Presented By: Kelly Cadiente

Reviewed By: Carl Niizawa

Agenda Title: Adopt Resolution No. 2011-65 to Approve a Correction to the Finance Department Reorganization

Detailed Description: The Board of Directors is requested to consider approval of a correction to the Finance Department reorganization. At the July 12, 2011, Regular Board Meeting, approval was given to reorganize the Finance Department.

This correction is submitted to amend an error in reporting the salary range of the Accounting Technician. The correct salary range should be Range T3 of the Teamsters Salary Schedule shown below:

T3	\$43,651.368	\$45,833.936	\$48,125.633	\$50,531.914	\$53,058.510	\$55,711.436
	\$3,637.614	\$3,819.495	\$4,010.469	\$4,210.993	\$4,421.543	\$4,642.620
	\$1,678.899	\$1,762.844	\$1,850.986	\$1,943.535	\$2,040.712	\$2,142.748
	\$20.986	\$22.036	\$23.137	\$24.294	\$25.509	\$26.784

In addition, a revised organizational chart for the Finance department is included.

Environmental Review Compliance: None.

Prior Committee or Board Action: Board adopted Resolution No. 2011-52 approving the reorganization of the Finance Department and related classifications and job descriptions.

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

At this time there is no anticipated fiscal impact. Future promotions with the new salary schedules may have an impact on compensation.

Material Included for Information/Consideration: Resolution No. 2011-65; and Revised Organizational Chart.

Staff Recommendation: The Board of Directors adopt Resolution No. 2011-65 to approve a correction to the Finance Department reorganization.

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

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Board Action

\_\_\_\_\_ Resolution No \_\_\_\_\_    Motion By \_\_\_\_\_    Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_    Abstained \_\_\_\_\_

Noes \_\_\_\_\_    Absent \_\_\_\_\_

Reagendized \_\_\_\_\_    Date \_\_\_\_\_    No Action Taken \_\_\_\_\_

September 13, 2011

Resolution No. 2011-65  
Resolution of the Board of Directors  
Marina Coast Water District  
Approve a Correction to the Finance Department Reorganization

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, a correction is submitted to amend the salary range of the Accounting Technician to Range T3 of the Teamsters Salary Schedule.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve adoption of Resolution No. 2011-65 to revise the reorganization and salary schedule of the District and authorizes the General Manager to take all actions necessary to execute this resolution.

PASSED AND ADOPTED on September 13, 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-xx adopted September 13, 2011.

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

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-B

Meeting Date: September 13, 2011

Submitted By: Sean Knight

Presented By: Carl Niizawa

Reviewed By: Carl Niizawa

Agenda Title: Adopt Resolution No. 2011-66 to Accept the Infrastructure Improvements Installed under a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement Between the Marina Coast Water District and Community Hospital Properties for the Community Hospital of the Monterey Peninsula Marina Campus

Detailed Description: The Board of Directors is requested to accept from Community Hospital Properties the water, sewer and recycled water improvements they constructed and are transferring to the District for ownership per the executed Infrastructure Agreement.

The District executed an Infrastructure Agreement for Water, Sewer and Recycled Water Facilities with Community Hospital Properties on September 14, 2010.

Under the terms of the Infrastructure Agreement, the District requires the following items prior to final acceptance:

- Completed easements for all pipelines outside of public rights-of-way
- Conveyance of the property to the District by means of a Bill-of-Sale
- Submission of As-Built drawings for the work
- Submission of a One-Year Warranty Bond to replace the Performance and Payment Bonds

Community Hospital Properties has finished the first phases of construction of the Community Hospital of Monterey Peninsula (CHOMP) Marina Campus which includes the Medical Office Building I and the Health and Wellness Center. The CHOMP Marina Campus is located in Marina on the Former Fort Ord at the corner of Imjin Parkway and 2<sup>nd</sup> Avenue.

Community Hospital Properties has submitted a signed Grant of Easement Document which was executed by the General Manager per Resolution No. 2010-04. As-built drawings for the infrastructure improvements listed above were received and accepted as of March 23, 2011. A Bill of Sale has also been signed by Community Hospital Properties and included for reference. A One-Year Warranty Bond (for 20% of the construction costs enumerated in the Bill of Sale) has also been submitted. In accord with the Infrastructure Agreement, this list fulfills the District's requirements regarding review of infrastructure as a condition of its acceptance.

Environmental Review Compliance: None required.

Prior Committee or Board Action: Board Resolution No. 2010-04 on January 12, 2010, authorized the General Manager and/or Deputy General Manager/District Engineer to Accept

Easements for the District; Board Resolution No. 2010-55 on August 10, 2010, Approved the Infrastructure Agreement for Community Hospital of Monterey Peninsula.

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.; and Goal No. 4 – To manage the District’s finances in the most effective and fiscally responsible manner.*

Financial Impact:      Yes      No

Funding Source/Recap: Routine operations and maintenance of infrastructure once owned.

Material Included for Information/Consideration: Resolution No. 2011-66.

Staff Recommendation: The Board of Directors consider adoption of Resolution No. 2011-66 accepting the infrastructure improvements installed under a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between the Marina Coast Water District and Community Hospital Properties for the CHOMP Marina Campus.

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

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Board Action

\_\_\_\_\_Resolution No\_\_\_\_\_     Motion By\_\_\_\_\_     Seconded By\_\_\_\_\_

Ayes\_\_\_\_\_     Abstained\_\_\_\_\_

Noes\_\_\_\_\_     Absent\_\_\_\_\_

Reagendized\_\_\_\_\_     Date\_\_\_\_\_     No Action Taken\_\_\_\_\_



September 13, 2011

Resolution No. 2011 - 66  
Resolution of the Board of Directors  
Marina Coast Water District

Accepting the Infrastructure Improvements Installed Under a  
Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement  
between the Marina Coast Water District and Community Hospital Properties  
for the Community Hospital of the Monterey Peninsula Marina Campus

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, Community Hospital Properties, a California Non-profit Corporation (“Developer”) has constructed water, sewer and recycled water infrastructure for their Community Hospital of Monterey Peninsula (CHOMP) Marina Campus; and,

WHEREAS, the Developer entered into a Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement with the District on September 14, 2010; and,

WHEREAS, construction of the water, sewer and recycled water infrastructure is now completed, and the Developer has satisfied all of the close-out conditions required in the Infrastructure Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby accept the transfer of the Water, Sewer, and Recycled Water Infrastructure through the CHOMP Marina Campus and directs the General Manager and/or Deputy General Manager/District Engineer to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on September 13, 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:

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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. 2011-66 adopted September 13, 2011.

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Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-C

Meeting Date: September 13, 2011

Submitted By: Brian True

Presented By: Brian True

Reviewed By: Carl Niizawa

Agenda Title: Adopt Resolution No. 2011-67 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between the Marina Coast Water District and Union Community Partners for Phase I and Phase II of the East Garrison Development

Detailed Description: The Board of Directors is requested to approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement (hereafter referred to as the Infrastructure Agreement) between MCWD and Union Community Partners East Garrison (UCPEG) for Phase I and Phase II of the East Garrison Development. The enclosed draft Infrastructure Agreement is based upon the most recent board-approved format used for other development groups within the MCWD service area.

The East Garrison Development is located in Monterey County on approximately 224-acres of the Former Fort Ord. The project is bounded by Reservation Road to the north and east, Watkins Gate Road to the south, and Intergarrison Road (formerly West Camp Road) to the west. The Development will consist of approximately 1470 housing units of the medium to medium-high density varieties and approximately 200,000-SF of commercial space (including an arts facility) and public facilities.

The new infrastructure being transferred to the District will be constructed within public right-of-ways, dedicated public utility easements, or within easements provided to MCWD by UCPEG. The specific infrastructure proposed for transfer once completed includes PVC potable water pipelines, PVC recycled water pipelines, PVC gravity sewer pipelines, and associated appurtenances (e.g. sewer man-holes, potable water valves, etc).

A Water Supply Assessment/Written Verification of Supply was prepared by MCWD for this development in 2004. The entitlement of water allocation by Monterey County to the development and developer is consistent with the Water Supply Assessment/Written Verification of Supply findings. The amount of water allocated to the East Garrison Development is 470.0-AFY; this amount of water is the allocation for all current and future phases of the Development.

A Monterey County entity called the East Garrison Public Financing Authority (Authority) is signatory to this Infrastructure Agreement. Monterey County has established Community Facilities District 2006-1 (CFD) managed by the Authority that will finance a portion of the capital infrastructure expenditure by UCPEG via the Mello-Roos Community Facilities Act of 1982. The Mello-Roos Act requires that the Authority enter into an agreement with UCPEG to insure that all infrastructure funded by the Authority and installed by UCPEG be constructed to applicable standards. Because this Infrastructure Agreement can serve this purpose for water, recycled water, and sanitary sewer infrastructure, the County, UCPEG, and MCWD are agreeing

to have all three parties be signatory to the Infrastructure Agreement. The previous Infrastructure Agreement (Board Resolution No. 2006-36) with the East Garrison developer contained this same understanding and provision. No County funds will come to MCWD and MCWD will have no involvement with or responsibility for UCPEG's request for reimbursement from the Authority if the Board takes this action. The inclusion of this CFD consideration within the Infrastructure Agreement may be seen by reviewing paragraph 1.3, paragraph 10.2, the signature page, and Exhibit F.

Environmental Review Compliance: This Infrastructure Agreement is not a "project" under the California Environmental Quality Act (CEQA). This work is categorically exempt under CEQA. Upon authorization of this proposed action by the Board, a Notice of Exemption will be filed.

Prior Committee or Board Action: Resolution No. 2006-36 on May 24, 2006 Approving the Infrastructure Agreement between the East Garrison Partners I, LLC, the East Garrison Public Financing Authority and MCWD for East Garrison I Development; Resolution No. 2007-11 on January 24, 2007 Approving a Reimbursement Agreement for Water, Sewer and Recycled Water/ Facilities between East Garrison Partners I, LLC and Marina Coast Water District; and Resolution No. 2008-42 on September 9, 2008 Accepting the Off-Site and On-Site Improvements Installed Under the Reimbursement Agreement with East Garrison Partners That Includes a Portion of the Transmission Main Within the Eastern Distribution System Project (MCWD Capital Project OW-116).

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

Funding Source/Recap: There is no financial impact.

Material Included for Information/Consideration: Resolution No. 2011-67; and, draft Infrastructure Agreement.

Staff Recommendation: The Board of Directors adopt Resolution No. 2011-67 approving the Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement between MCWD and Union Community Partners East Garrison for Phase I and Phase II of the East Garrison Development.

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

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Board Action

\_\_\_\_ Resolution No \_\_\_\_ Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

September 13, 2011

Resolution No. 2011 - 67  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving a Construction and Transfer of  
Water, Sewer, and Recycled Water Infrastructure Agreement between  
the Marina Coast Water District and Union Community Partners East Garrison  
for Phase 1 and Phase 2 of the East Garrison Development

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, Union Community Partners East Garrison (“Developer”) has coordinated with the District on their East Garrison Development, consisting of the new construction and related infrastructure on the former Fort Ord lands within Monterey County, CA; and,

WHEREAS, the County of Monterey has allocated a portion of its former Fort Ord water supply allocation for the Developer’s use in developing the East Garrison Development, and,

WHEREAS, the District and the Developer are working cooperatively regarding proposed water, recycled water and sewer system improvements; and,

WHEREAS, the District and the Developer have agreed upon the proposed Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement and desire to enter into same.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager and/or the Deputy General Manager/District Engineer to sign the Construction and Transfer of Water, Sewer and Recycled Water Infrastructure Agreement between MCWD and Union Community Partners East Garrison for Phase I and Phase II of the East Garrison Development and to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED September 13, 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 \_\_\_\_\_

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William Y. Lee, President

ATTEST:

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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. 2011-67 adopted September 13, 2011.

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Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-D

Meeting Date: September 13, 2011

Submitted By: Kelly Cadiente  
Reviewed By: Carl Niizawa

Presented By: Kelly Cadiente

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

Detailed Description: The Board of Directors is requested to approve the attached August 2011 check register for expenditures totaling \$2,224,384.11.

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: August 2011 Summary Check Register.

Staff Recommendation: The Board of Directors approve the August 2011 expenditures totaling \$2,224,384.11

Action Required:     \_\_\_ Resolution     \_\_\_ **X** \_\_\_ Motion     \_\_\_ Review

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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-E

Meeting Date: September 13, 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 July 29, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of July 29, 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 29, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the July 29, 2011 special Board meeting.

Action Required:     \_\_\_\_\_Resolution     \_\_\_X\_\_\_Motion     \_\_\_\_\_Review

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Board Action

\_\_\_\_\_Resolution No\_\_\_\_\_     Motion By\_\_\_\_\_     Seconded By\_\_\_\_\_

Ayes\_\_\_\_\_     Abstained\_\_\_\_\_

Noes\_\_\_\_\_     Absent\_\_\_\_\_

Reagendized\_\_\_\_\_     Date\_\_\_\_\_     No Action Taken\_\_\_\_\_

Marina Coast Water District

Marina Library  
190 Seaside Circle  
Marina, California

Special Board Meeting  
July 29, 2011  
9:00 a.m.

**Draft Minutes**

1. Call to Order:

President Lee called the meeting to order at 9:03 a.m. on July 29, 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  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Brent Ives, BHI Management Consulting  
Rebecca Robinson, Monterey County Weekly

3. Public Participation:

There were no public comments.

4. Workshop:

A. Board Workshop:

Mr. Brent Ives, BHI Management Consulting, briefly went over the topics that were going to be discussed during the workshop. Mr. Ives gave a presentation with slides that discussed the following items:

What we are doing this morning  
Overview of the Manual

Agenda Item 4-A (continued):

Mr. Ives stated that the Board Procedures Manual is a guide, and not a law, for how the District wants to do business. He emphasized that although everyone may not completely agree with the verbiage in the Manual, they must respect the process and understand that the Board as a group has agreed to it and approved it.

Director Shriner commented that Mr. Ives said that the Board should do what is best for the District and asked what Mr. Ives definition of “the District” is. She added that in documents, “the District” may be defined as the General Manager, the Board, or the employees. Director Shriner said that she would like to include the ratepayers in the definition, and asked how Mr. Ives defined “the District”. Mr. Ives answered that all definitions are true. He said that the ratepayers were the owners, the Board represents the owners by virtue of their vote, the General Manager works for the Board and the employees work for the General Manager.

Director Nishi asked what Director Shriner thought “the District” means. Director Shriner answered that she just said what “the District” means. She added that she was not going to respond to irrelevant questions and questions of personality. Director Shriner said that she thinks the nineteen pages of personality problems undermine the process of creating a team and she has asked several questions of those minutes that have not been answered to date. She said she will change the way she participates in the workshop based on the problems she sees with the past recording of the last workshop.

Director Nishi said that the reason the Board was at the workshop was to have a dialogue, have everyone work together, and have a facilitator present to moderate and bring the Board together even when they bump heads and have a difference of opinion. He added that Mr. Ives has a difficult time getting all the different personalities together and finding a common ground to help everyone agree.

Director Shriner started to comment but Director Nishi said he wasn't finished talking. Director Shriner commented that Director Nishi had paused which allows for discussion. Director Shriner said that the four other Board members approved the minutes which were created in opposition of the current Board Procedures Manual and created by staff in opposition to the current Board Procedures Manual. Director Shriner said that there is the distinction that one person is undermining the process and she disagrees. She said that the process has been undermined and that the Board needs to address the problems openly and honestly. Director Shriner added that the recordings are against the Board's own policies.

Director Nishi stated that everyone has to respect each other's space and as long as he has been on the Board, just because someone pauses to get a thought, doesn't give another individual the right to interrupt. Director Nishi commented that he expects the Chair to do the job they are elected by the Board to do.

Agenda Item 4-A (continued):

Director Nishi commented that he and Mr. Ives butted heads at the last meeting, and had a difference of opinion, but he doesn't hold it against Mr. Ives. He stated that this is another day and the common goal is to pull it together and achieve something beneficial to the ratepayers. Director Nishi said that he is old, not a very eloquent speaker, and it sometimes takes him time to get his thoughts together. He apologized for not letting Director Shriner know that when he is finished speaking, he says "Thank you." Director Nishi emphasized that the Board has to move forward.

Director Gustafson commented that a lot of the tension started with the word "questions". He said that nobody could answer the questions because a certain group of people just don't like the answers that were given and they keep saying that their questions haven't been answered.

Vice President Burns commented that with Mr. Ives as the facilitator, he thought the duties of running the meeting were passed from the Chair to Mr. Ives. Mr. Ives said that it is generally true, but sometimes the Chair needs to intervene so they work together.

Mr. Ives clarified that the reason they are meeting is because of what just happened. He said there is mistrust exuding among the Board and they all should be dedicated to the Mission. Mr. Ives said that if they were all dedicated to the Mission, they would treat each other with respect because they were all elected by the people. He added that no matter what, no one is better or worse than the rest. Mr. Ives said that the suspicion, the questions, and the distrust are the root of all the Board's issues. He said that if someone is on the losing end of a 4-1 vote, they need to be able to move to the next item with a clean slate. Mr. Ives said if they can't, they are no longer serving the Mission or the people, they are serving their own hurt feelings or distrust. He returned to his presentation.

13 Sections for review  
Proposed reviews  
Section 1 – Purpose of the Manual

Vice President Burns commented that he never approved this manual. He suggested reviewing it every two years so everyone is knowledgeable on the manual. Mr. Ives agreed, saying that candidates should see the manual when running for office. He said after they are elected they can ask to review the manual. Director Nishi said he disagreed. He said that when the candidate signs on, they agree to the manual. Director Nishi commented that every new Director gets a copy of the manual among other things. He added that a new Director can approach the Chair at a later time and suggest discussing it at a Board meeting where everyone can make comments on the manual.

Mr. Ives returned to his presentation.

Agenda Item 4-A (continued):

Section 3 – Authority

Mr. Ives suggested adding the following paragraphs to Section 3:

The Board of Directors is the unit of authority within the District. Apart from his/her normal function as a part of this unit, Directors have no individual authority. As individuals, Directors may not commit the District to any policy, act, or expenditure.

Directors do not represent any fractional segment of the community, but are, rather, a part of the body that represents and acts for the community as a whole.

Vice President Burns suggested providing the Board a redlined version of the manual for review and bringing it back at a later date for consideration. He asked the Board what their thoughts were. Director Nishi said that he would like to wait until after the workshop to see what changes Mr. Ives is suggesting. He said that if they are simple changes, he may be agreeable to voting on the changes after the workshop.

Section 5 – Harassment

Mr. Ives suggested the following change to Section 5:

It is the Board's policy to ensure the District's work environment is free from all forms of harassment. ~~based upon sex, race, color, religious creed, mental or physical disability, pregnancy, sexual orientation, veteran status, ancestry, disability, medical condition, age, or marital status. Harassment may be verbal, physical, or visual in nature. Such behavior in the District is expressly forbidden in any form.~~

Director Shriner said that Section 5 is missing another form of harassment - "not following the Board Procedures Manual" - as claimed by the investigative attorney. She said that the attorney said that if a Director does not follow the Board Procedure Manual, or the common interpretation of the manual, they are committing harassment. Director Shriner added that Mr. Ives' suggested change allows for that form of harassment.

Section 7 – Director Duties

I. assisting the General Manager by looking at problems from broader points of view, and providing outside perspective and guidance;

Mr. Ives asked if the General Manager had any concerns over the verbiage of Section 7I. Mr. Heitzman said that he appreciates that some Board members may have expertise, experience, knowledge, or a point of view from the ratepayers, in areas that the staff may not have.

Agenda Item 4-A (continued):

Director Shriner commented that she sees Section 7I as a very important section as the District's role has changed from "Marina centered" to the "Regional Water Plan". Director Nishi commented that he feels the District has been looking at things from a regional point of view since joining the Monterey Regional Water Pollution Control Agency in 1997 and agrees with treating the BPM as a living document and changing/updating it as things occur.

Mr. Ives suggested the following change to Section 7P:

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 (add reference from Brown Act here) and as necessary to safeguard the assets of the District and to protect the rights of the District's employees;

Director Shriner commented that she thinks there should be a measurable objective for when people try to measure what "open" is. She added that the Orange County Grand Jury did a survey of water districts in their county looking for specific openness and targets on websites such as agenda packets, minutes, compensation packages, and the flow chart of the staff. Director Shriner said she didn't know if Monterey County has that kind of measurable openness and asked if it was something the District would want to incorporate.

President Lee commented that he looks at openness as "does the District follow the law?"

Mr. Lloyd Lowrey, Legal Counsel, commented that he would not have a specific reference in item P, but if he did, it would be the Proposition 59 reference.

Vice President Burns commented that although Director Shriner mentioned the Orange County Grand Jury, the District has never heard from the Monterey County Grand Jury that the District wasn't being open and communicating.

Section 9 – Board President

Mr. Ives suggested the following change to Section 9G:

G. serving as public spokesperson of the District, along with General Manager; and,

Director Shriner commented that she had some suggestions to Section 7. Mr. Ives asked that she wait until later and they can go over any other suggested changes in the BPM.

Director Shriner asked how a "public spokesperson" is defined and if the Board President and General Manager are unavailable, who is the next in line?

Agenda Item 4-A (continued):

Mr. Ives said that it would fall to the Vice President and then on to the Deputy General Manager. Vice President Burns commented that there are times when the President or General Manager cannot make a statement, due to conflict of interest or confidentiality laws, and it looks to the public that they are hiding something. Mr. Ives stated that it can be quite challenging to be a spokesperson.

Vice President Burns said that many times no matter how careful someone is, the message they are trying to convey doesn't always come across as what they meant it to; or, the media will take pieces of what is said and fit it into the story they are trying to tell. Director Nishi agreed that it happens and suggested referring people to the President or General Manager with their questions, or the attorney if it is a legal question.

President Lee commented that in the past, the Legal Counsel had pointed the Board in the General Manager's direction when they needed guidance.

Director Shriner clarified that in the President or General Manager's absence, there is a natural flow of who comes next. Mr. Ives stated that in the absence of the President, the Vice President is next in line, and in the absence of the General Manager, the Deputy General Manager or other delegates appointed by the General Manager.

Mr. Heitzman commented that, depending on the circumstance, sometimes a staff member might have more knowledge on an issue and be the most appropriate person to speak. He then explained that a Board member might mistakenly make a comment that could make the District liable for something they might not normally assume. Vice President Burns commented that sometimes it is better to not say anything at all rather than saying the wrong thing.

Mr. Ives suggested adding another item to Section 9:

- I. assist with the orientation of new Board members as they are elected or appointed to the Board of Directors.

Mr. Heitzman commented that he had recently been thinking about, and discussing with Legal Counsel, ways of orienting new Board members and/or new employees. He said one thought is to create a twenty minute documentary discussing important facts about the District and hand a CD to new Board members and/or new employees for them to view. Mr. Heitzman commented that it would be easier to digest than a three foot stack of papers to look through.

Director Shriner commented that she had done a lot of reading on facts versus frames and there are a lot of frames here. She added that JPIA has free training and discounts for Board members who receive training and clarified that it doesn't have to only be new Board members.

Agenda Item 4-A (continued):

Section 11 – Orientations

Mr. Ives suggested the following addition to Section 11:

Each new director, upon assuming his or her duties, will be provided a comprehensive District orientation by the General Manager and Board President. The Board shall strive to develop and maintain a superior level of competence and preparation among its members through a process of continuing training, education and preparation. Directors may schedule to attend, on behalf of the District, such educational programs, conferences, and meetings to the extent funds are allocated in annual Budgets. Attendance will be scheduled through the Clerk of the Board. The General Manager will from time to time provide the Board lists of such conferences or meetings so that the Board may consider individual or collective attendance with local locations preferred over out-of-town.

Section 12 – Board Committees and Commissions

Mr. Ives suggested adding a sentence to Section 12A:

A. Committee and Commission Actions. Committee and Commission actions shall be governed by the provisions of the California Water Code and all other applicable California Codes as well as District policies, rules, and regulations. The Board may adopt rules for the governance of any committee not inconsistent with the provisions of the California Codes. Committees have no legal authority to act for the Board or the District except with prior Board approval, but shall report their findings and recommendations to the Board for action. All committees and commissions of the Board are advisory in nature and are authorized only to provide recommendations to the whole Board. Committees and commissions are evaluated periodically by the Board based on their necessity and value to District business.

Section 13 – Communications

Mr. Ives suggested discussion on Section 13:

The Board and the individual board members will be committed to establishing and maintaining an environment that encourages the open exchange of ideas and information among Board members, the staff and the public, that is positive, honest, respectful, concise, understandable, responsive, and cost-efficient.

Mr. Ives stated that this section says, “The Board *will* be committed to establishing and maintaining...” and that it is an important piece that says the Board is committed to the Mission.



Agenda Item 4-A (continued):

Director Gustafson said the Board is not ashamed for sticking up for themselves and they are not shy, especially if information that is counterpoint to them isn't true, respectful, courteous, and honest. Mr. Ives agreed that the open exchange of ideas can get dysfunctional. He said that the best teams can trust one another in order to have an honest, open exchange of ideas, and that they can conflict functionally because they understand that everyone is committed to the Mission. Mr. Ives stated that the public, current and future generations, depend on this team working together.

President Lee recessed the meeting from 10:17 – 10:26 a.m.

Mr. Ives returned to discussion on Section 13 – Communications.

Director Shriner suggested inserting “constructive criticism” because the Board does have a lot of defensiveness around criticism. President Lee commented that he feels it is already covered in the Section. Director Gustafson said that he felt the word “responsive” is open-ended and covers everything. Mr. Ives said that the Board needs to be able to move through the process, come out the other end, and moving on to the next item applying everything they have towards it. He said it can't come across as attacking; instead it needs to come across as positive and respectful. Mr. Ives said that instead of coming together in the ring to have an honest evaluation, the Board members retreat to their corners and wait for the bell. He stated that only the Board members can fix it and they need to filter everything through the respect they have for each other. Mr. Ives reminded everyone that no one is better or worse than the other. He said that everyone needs to respect the process of moving through the evaluation, to the vote, and then moving on.

Director Shriner commented that at a recent meeting she remembered discussing the Emergency Water Shortage Contingency Plan at the different levels, and was in the process of suggesting adding a couple more things, like water catchment incentives, to Stage 2 when she was interrupted without the Chair recognizing, and a motion was made and seconded and then they were ready to vote. She said she didn't think that this kind of communication was achieving Board policy. Director Shriner said that she felt disrespected. She said she had the floor and it was disregarded and there was not an open exchange of ideas or any discussion upon her suggestions. Director Gustafson said that sometimes there is repetition, it may be a long issue, and some Board members are ready to move on. Mr. Ives said that most information gathering should come before a motion, although some agencies may do things differently.

President Lee said that he is not perfect and sometimes he makes mistakes and they are pointed out to him. He said that he usually thanks the person for letting him know and he will move forward.

Agenda Item 4-A (continued):

Director Shriner said she would like to discuss the content of respectful and what it looks like from a variety of people. She said that in the case of the Water Shortage Contingency Plan discussion, she was the only one who had questions and then she was rudely interrupted. Director Shriner commented that maybe she had the wrong concept of what respectful is and maybe she doesn't understand what respect would look like from other people. Director Gustafson said Director Shriner needs to not dwell on it and move on. He said that all of them have been on the losing end at one time or another and he just moves on. President Lee commented that everyone has a different idea of what respect is. Director Gustafson said that Director Nishi has probably been interrupted more than anyone, but he lets them know when they do it, and that is how they remember not to interrupt him.

Director Shriner asked if they could all agree that when the Chair recognizes someone to have the floor, that others will not interrupt that person without getting recognition from the Chair. Mr. Ives said that the Chair has a difficult job and the Chair needs to control the meeting, even if it means recessing the meeting. Vice President Burns said that everyone is guilty of interrupting. He added that this is the first year as President for Director Lee and he is doing a reasonably well job trying to control the meeting. President Lee said that even if there is chaos, the meeting doesn't have to be stopped because there can still be forward movement.

Mr. Ives continued with his presentation.

#### Section 14 – Code of Ethics

Mr. Ives commented that there are a lot of "should/shall's" in the BPM and suggested the following addition to the second paragraph:

The Board of Directors is committed to providing excellence in legislative leadership that result in the provision of the highest quality services to its constituents. The Board and its individual members are expected to maintain the highest ethical standards, to follow District policies and procedures, and to abide by all applicable local, state, and federal laws. Board member conduct should at all times enhance the integrity and goals (Mission) of the District, and the confidence the public has in the District. In order to assist in the governance of the behavior between and among members of the Board, the following rules shall be observed:

Mr. Ives suggested the following change to Section 14D:

D. The primary responsibility of the Board is the formulation and evaluation of policy. ~~Routine matters concerning the~~ All operational aspects of the District are to be delegated to the General Manager.

Director Shriner commented that item D could refer to the Water Shortage Contingency Plan.

Agenda Item 4-A (continued):

Mr. Lowrey commented that the Water Code provides that the General Manager has statutory control of the operation of the District facilities, as does the General Manager's contract. He added that it is not just routine matters, it is all matters.

Mr. Ives continued with his presentation.

Mr. Ives stated that every comment and idea the Board members have should be linked back to the positive outcome of the Mission.

Director Shriner gave an example of someone having an issue of where she parks during meetings and asked if that would be countering item E – Directors should commit themselves to emphasizing the positive. Mr. Ives questioned how much time should be spent on such issues, unless there are designated or handicap spots. Director Shriner said that she thinks it is odd and asked how a parking area ties to the Mission and how it emphasizes the positive. Director Nishi stated that he was the one guilty of what Director Shriner was talking about. He said it refers back to item A - The dignity, style, values and opinions of each director shall be respected. Director Nishi commented that as a Board of Director of the District, they have to set the standard. He said that they can't expect the employees to park in the employee parking if the Board has the mentality that they are a Director and they can take the best spots. Director Nishi said that as a Director, they should accommodate the ratepayer they work for and set the example for the employees. He said that it bothers him tremendously when a Director takes the best spot for themselves. Director Nishi added that they should be accommodating for the elderly or people with difficulty walking and allow them the ability to park in those spaces. He said that he thinks it is a high priority that Directors set the bar. Mr. Ives commented that the Board has the ability to set parking spaces for customers and where the Board will park. Director Nishi said that he is not selective on who he criticizes on this issue. He said if a Director is parking in the customer parking during business hours it is not appropriate because there are customers coming up to pay their bills. Director Shriner asked what the business hours were. Director Nishi said that there have been times when meetings started before the office was closed for business. Director Shriner commented that there are visitor spaces and that the District has invested in signage for the parking lot. She said the parking lot is maybe 100 feet and it would be interesting to see Director parking signs.

Mr. Ives continued with his presentation.

In discussing item M - Directors should develop a working relationship with the General Manager wherein current issues, concerns and District projects can be discussed comfortably and openly, Director Shriner said that in regards to the harassment issue, in one set of minutes, a Director commented that the harassment claim was made in December 2010. She said that the investigative attorney said that it came up in January 2011. Director Shriner stated that she felt she made every effort, but she was only sworn in on December 14, 2010.

Agenda Item 4-A (continued):

Director Shriner stated that if there was already a complaint about her in December as a Board member, she didn't have a chance to recover from that. She said that she has tried to reassure staff that they are doing a good job and she isn't going to take away their job, and yet, this thing happened. Director Shriner asked what responsibility does the General Manager have in helping create a comfortable and open working relationship. Mr. Ives said that it was a reasonable question. Director Nishi commented that he didn't know why they continued to go over this thing. He said that they hired an outside attorney, they came to a conclusion, and they are still back to square one. Mr. Lowrey stated that maybe one of the reasons Director Shriner asked that question, is that because the District used to have a Resolution (98-1) and the District lumped everything together including the duties of the General Manager. He said that some of Resolution 98-1 has been incorporated into the BPM and some of it hasn't. Mr. Lowrey suggested that there should be an appendix to the BPM with Resolution 98-1 so people can refer to it and it doesn't get lost. He added that the question of what the General Manager should do is dealt with in the General Manager's contract which recapitulates what the statutory language is and what Resolution 98-1 states. Director Nishi said that it doesn't answer Director Shriner's question about there already being a hostile work environment when she took office in December. He added that there is documentation that she was doing it and the General Manager was trying to solve the problem, and just as now, they are back to step one where she is saying it is the General Manager. Director Nishi said that it is over and they need to just move on.

Director Nishi commented that they said they wouldn't talk about personality. He said he had been sitting there from the beginning of the workshop, and when he paused he was rudely interrupted, and had been under attack ever since. Director Nishi reiterated that they needed to work together as a team and move on.

Director Gustafson commented that the idea of questions and transparency had come up in the newspapers. He said that the idea of questions always comes up, but whenever he asked people "What questions?" they couldn't tell him. Director Gustafson stated that the questions had been answered but they just don't like the answers they get so to them the questions never got answered.

Director Shriner commented that she had sent a question via email with regards to the General Manager's intentions because she was confused about how they were interacting. She said that in response the General Manager sent her an attachment of the General Manager's 1997 job description and it includes the ability to deal tactfully, convincingly, and effectively with District personnel, government officials, representatives of specific interest groups and the general public. With regard to item M, Director Shriner commented that she feels she fulfilled, as much as possible, to developing the working relationship with the General Manager, and in response she has found the General Manager somewhat lacking in that area of his job description.

Agenda Item 4-A (continued):

Mr. Ives commented that all the Directors have a working relationship with the General Manager and it is probably different for each of them. He added that there is no guarantee that things can always be discussed comfortably and openly. Mr. Ives said that if they don't trust or like one another etc., it is not unheard of for working relationships to not work very well. He added that if there was only one boss, it may be that they fire him, but as a collective boss, each Board member only has a 20% vote and collectively this Board believes Mr. Heitzman is worth keeping. Mr. Ives said that they should both try to work on the relationship although there are some hurdles to get over.

Mr. Ives continued with his presentation.

Section 15 – Directors and Staff...

Section 16 – Interference with the Administrative of the District

Mr. Ives suggested the following change to Section 16:

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.~~

Simple Information Requests. - Individual Board members may make simple information requests of staff, through the General Manager. A simple Information request is one that would take the General Manager, District Staff or Counsel less than two hours to complete in the view of the General Manager.

Substantial Information Requests. - A Substantial Information Request is one that would take the General Manager, District Staff or Counsel more than two hours to complete in the view of the General Manager. Individual Board members may place an item on any future agenda to request a Substantial Information Request or to add an item on a future agenda. The request shall be made as a motion under the Director Comments section of the agenda. A majority affirmative vote is necessary to approve the action.

Director Nishi commented that he would like to add “consultants” to the information requests so that it reads, “Individual Board members may make simple information requests of staff *and consultants*, through the General Manager.” He added that he would like to remove the time limit and leave it at the General Manager’s discretion to recommend putting the request on the agenda especially if it is requiring District Counsel’s time which can get quite expensive.

Director Shriner commented that the reason she made a Public Records Request on May 8<sup>th</sup> was because as part of the Public Records Request, you either get the records or get an estimate of how much time it will take to get the records together.

Agenda Item 4-A (continued):

Director Shriner commented that she has been asking for some documents since February with no estimate of how much longer it would be to receive the documents. She stated that she would like to add to Section 16 – Simple Information Requests the following:

Simple Information Requests. - Individual Board members may make simple information requests of staff, through the General Manager, waiting the answer up to 5 business days before attempting other resources.

Director Shriner stated that when she asked for a copy of the updated version of the General Manager's contract, she waited 34 days to receive it. She said that there were questions about the June 9<sup>th</sup> meeting that are still outstanding and she doesn't have an estimate of when they will be answered. Director Shriner asked how they can write this section in a way so that if a person is trying to make informed decisions while taking responsibility in their role as a Board member, they are not stonewalled and unable to perform their duties as a Board member. Mr. Ives commented that, as a Board, they have the ability to make the BPM as prescriptive as they want or loosen them up and hope they hold together. President Lee commented that anything the individual Directors want can be brought to the Board and the Board as a whole can direct the General Manager who will then drop everything to respond. Mr. Ives said that it could pull away some of the unilateral ability to get information. President Lee commented that he meant if a Board member felt that they were getting passed over because staff had alleged more important things to do, bringing it to the Board's attention and getting them to direct staff to get it done, could be more effective.

Vice President Burns asked if there were time limits to Public Records Requests. Director Nishi answered that there were. Vice President Burns suggested using the same time limits for simple information requests and if it is simple information it is free, but if the request is for paper, they would have to pay. Mr. Ives commented that he didn't think that was the way it should work for the General Manager.

Director Nishi voiced his concern that there is an accusation made and asked the General Manager if he had failed to respond to Director Shriner in a timely manner. Mr. Heitzman stated that he didn't believe so. Director Nishi stated that there has been an accusation and there have been dates given, and he suggested that President and Vice President meet in an Executive Committee to look into it and have the General Manager get the information and any documentation he may have. He asked that the Executive Committee make an audit of the facts and come back to the Board. Director Nishi voiced his concern over the accusations and the fact that nothing is followed up to see what is occurring. He recommended that Director Shriner get the dates to the General Manager and the General Manager gets his documentation, then the Executive Committee reports back to the Board with the findings.

Agenda Item 4-A (continued):

Vice President Burns commented that people can't request documents that don't exist. He gave an example of the Desal Plant and the request for change orders. Vice President Burns said that there were no documents for change orders, yet there was the insistence that staff provide the documents for change orders. Mr. Ives commented that as Director Nishi pointed out, the Executive Committee could go through the items one-by-one and mark down if they exist or don't exist and report back to the Board for them all to look at it. Director Nishi stated that this should have been addressed long ago to avoid the continued repetition of the allegations. Mr. Ives said this was a good example of being respectful to their fellow Board members.

Director Shriner commented that she has seen contracts and when it says "the District", or "Marina Coast Water District", or "MCWD", it is hard to be clear in the documents who all that means. She stated that the Project Management Contract says that MCWD will receive the five documents she was requesting, including change orders, and she wanted to know if it included the Board. Director Shriner said that at the first meeting when she brought it up, the initial response she received was five men yelling at once. She stated that Vice President Burns had the presence of mind to say that it needed to be discussed at an open Board meeting because it was clear there was misunderstanding of what she was trying to say. Director Shriner said that she sent an email to reassure the General Manager and Board President that she was only asking for things that were in the contract and she just wanted to know if they were coming before the Board. She said that it was on a meeting agenda, was discussed as a Board, and she simply asked if, as the things were produced, they could have a copy. Director Shriner commented that she was already aware that the permit matrix existed from attending a Community Involvement Forum where it was shown. She added that as a Board, they had not seen it. Director Shriner stated that she was simply asking if it was coming before the Board but with all the fighting, the facts were lost. Mr. Ives asked if Director Shriner was still not settled with that. Director Shriner answered that there have been other documents that she has asked for and the pattern is similar. Mr. Ives commented that maybe the process of taking it to the Executive Committee will settle the issue.

President Lee commented that there might be a slight confusion in that sometimes when a question is asked, and the General Manager answers it, they move on. He said that maybe it hadn't been answered to the degree that the individual who asked the question had wanted although it may have been understood to the others because they may have a background to help them understand, where the questioning individual didn't.

Mr. Lowrey commented that this whole discussion points up the need for everyone to be attentive to all parts of the BPM, because it is easy, in the course of public discussion, to slip into dealing with personalities rather than process. He noted that they have seen examples around the table within the last several minutes, in which they are talking about each other or making specific references to the General Manager rather than the process.

Agenda Item 4-A (continued):

Mr. Lowrey commented that one of the procedures discussed earlier was that the Board members wouldn't be criticizing staff in public and cautioned that everyone needed to be vigilant on their behavior at this meeting and other public venues to make sure they are talking about the processes they are concerned about rather than on personalities.

Director Gustafson gave an example of an issue with the pilot desal plant intake vault on the beach where Director Nishi had questions, wasn't happy with the answers given, and the rest of the Board voted for it while Director Nishi voted against it. Director Gustafson said that even though Director Nishi was unhappy with the outcome, he has not continued to make an issue of it.

Mr. Ives clarified that at the last meeting, Director Shriner said that she had a deal with detail and that was the way she was wired. He stated that if that personality trait gets in the way of the process, it is incumbent for all of them to work through that, including Director Shriner.

Director Shriner responded to the accusations that her questions are getting answered but not to her satisfaction, so she gave an example of the June 9<sup>th</sup> Special Board Workshop. She stated that she has four questions that have been outstanding since July 10<sup>th</sup> and they included: reasonable cost on how the District is using staff time; undermining the teamwork workshop; is the transcription of nineteen pages, which goes against BPM and probably cost a lot of money, precedented. Director Shriner stated that she has never received an answer either by email or verbal. She asked if nineteen pages have ever been precedented; how much did this cost in staff time; how does it serve the ratepayers; would a video tape have been more cost effective at \$60 per hour. Director Shriner stated that not one of these questions has been answered and it is now nineteen days. She said that this is speaking to the District Mission and not a single answer has been received...not even partway. Director Shriner stated that these are questions about responsibility and role and are not being answered. She added that this is about the frame under which they are all operating under, their responsibilities, and how they are working together as a team.

Vice President Burns commented that some of the questions had been answered at the July Board meeting. He added that they have come full circle again because Director Shriner started off the meeting asking about the nineteen pages, and it always goes full circle back to her and only what she wants. Vice President Burns commented that Director Shriner doesn't like any of the answers she received. In regards to the videotaping at \$60 an hour, Vice President Burns remarked that it may be cheaper but Director Shriner cannot guarantee that even 100 people will watch the show and those with Direct TV don't even get the channel. Vice President Burns commented that in regards to the other issue of nineteen pages of documentation, if Director Shriner doesn't want people to read what she said, she shouldn't say it. He then asked where it states it is against the BPM.



Agenda Item 4-A (continued):

Director Shriner asked Vice President Burns if the answers were given, then tell her what they were. She asked when it was preceded. She said the TV is available at [ampmedia.org](http://ampmedia.org) any day and any time. Director Shriner commented that as to the minutes, page 14, Section 35 of the BPM says “The minutes of meetings of the Board and of board committees shall be action minutes that will accurately reflect actions of the Board and the committees and the vote taken on such actions, and shall not be verbatim minutes of all matters discussed and comments made at Board or committee meetings.” She said that unless they want to specify “workshop” and change the BPM, the nineteen pages was not preceded, and was not a reasonable cost to the ratepayers, nor has she received an answer. Vice President Burns replied that Mr. Heitzman responded about Ms. Riso doing the work on the recap of the meetings. He added that it couldn’t be verbatim because it would be very difficult to do. Vice President Burns asked if nineteen pages was unprecedented and said that he didn’t know, but he is sure there have been more than that many pages at other workshops with other agencies.

Mr. Ives stated that the approach at the question and the process for the answer is the issue. He asked why everyone couldn’t work through that. Mr. Ives asked if the question comes with a hook; does it make staff defensive in the answer; is it because they are just not hearing each other; could it have been an innocent question; or, is there always something buried in the question. He stated that this is the reality of the dynamic. Mr. Ives said, okay, so this is unprecedented, maybe this is the first workshop where they ever discussed these things and looking back in retrospect said let’s document this as much as we can. He said that he didn’t know if that was the answer, but it could be. Mr. Ives said that the process of asking questions and getting answers is broken somewhere and that is where they struggle.

Vice President Burns commented that he struggles with it because it was brought up at the last meeting about the nineteen pages, the first comment that morning was about the nineteen pages, they moved on and it came back about the nineteen pages again. He said that if someone doesn’t want something they said documented then they shouldn’t say it because it is going to be documented by a person who has to make judgments and assumptions in the process to get it there. Vice President Burns rhetorically asked if nineteen pages was too many, and answered it could have been, or maybe it wasn’t enough and should have been thirty pages. He added that they have spent three hours on this now.

Mr. Ives said that maybe a video would have been nice, but it wasn’t there and maybe they were trying to document everything as best they can. He added that there doesn’t have to always be some insidious reason for things. Mr. Ives said that there is not always a reason to distrust on both sides of the equation.

Mr. Ives continued with his presentation.

Agenda Item 4-A (continued):

Mr. Ives suggested deleting Section 17 if it is incorporated into Section 16.

Mr. Ives said that Section 17 referred to using District Counsel's time and if it is included in Section 16, there is no need for 17. He noted that it could always be added back if the Board wants to describe specific time for attorneys other than consultants.

Director Shriner commented that until she heard from the General Manager that she had been spending so much time with the District Counsel, she had no warning from District Counsel. She said that it is not specific about how much time during her four-year term she can have with the District Counsel. Mr. Ives answered that if they want to get particular with times, the BPM needs to be prescriptive.

Director Shriner said that in May, she asked to see the District Counsel invoices of which she is being accused of running up. She said that they are public records and if Marina Coast Water District is paying a law firm, the invoices the law firm submits are public record. Director Shriner asked how long she is supposed to wait after having asked for these things as a Director, before she returns to the law of a Public Records Act. Mr. Ives answered that it needs to be dealt with, but it won't happen within the next fifteen minutes. Director Nishi asked what Director Shriner's question was regarding. Mr. Ives answered that it was regarding invoices. Mr. Heitzman asked when the request was made. Director Shriner answered that she asked the question as soon as the accusation was made, on May 22<sup>nd</sup>. She said that she would be asking again as she sent an email last evening.

Mr. Ives stated that the concern is for the clarity and intention of the question is well known and out in front of everyone so that they know it is attached to something positive. He added that there is an inherent distrust in the questions that Director Shriner asks. Director Shriner stated that it was related to an accusation about her and she has the right to defend herself. Mr. Ives answered that it needs to be proven differently and the questions need to be attached to something positive. He added that staff needs to get Director Shriner the answers, and everything should be documented if needed to be, and then everyone needs to move on.

Mr. Ives continued with his presentation.

#### Section 27 – Closed Session

Mr. Ives reminded everyone that the violation of this section "could" put them and the District in difficult liability circumstances.

Mr. Ives concluded his presentation and asked if any Board members had anything else they wanted to discuss.

Agenda Item 4-A (continued):

Director Shriner said that she had a question on page 3, Section 7R of the BPM. She said that Section 7R is about Director's "reporting and avoiding conflicts of interest". She asked if it was limited to Marina Coast Water District or is it other agencies that they are aware of. Mr. Ives answered that they are responsible as a Director with Marina Coast Water District for their own potential conflict of interest. He clarified that other agencies have other their own set of ethics and contextually they could be slightly different. Director Gustafson commented that if a legal procedure has to be done, a person must be presumed to be innocent until proven guilty once an investigation has commenced.

Director Shriner asked if the word "individual" should be added so it reads, "reporting and avoiding individual conflicts of interest". Mr. Ives said that it is what it is meant to mean.

Director Shriner inquired on Section 7S - 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 they are getting the teamwork right now, but she said that she has been told that she had more training than any other Director right now. Director Shriner commented that the other Directors have been here a lot of years and yet she has more training than them. She asked if they should remove this item or start following it. Director Gustafson answered that the District belongs to ACWA and there is a lot of opportunity for training there. Director Nishi voiced his concern that Director Shriner was making another accusation that she had more training than any other Director.

President Lee noted that they were getting off-track and stated that the Executive Committee would look into it and report back to the Board. Director Nishi asked that the Executive Committee look into it because everything Director Shriner hears is gospel to her. Vice President Burns clarified that the Board had received required training on workplace violence, ethics and others. He added that when he joined the Board, he and President Lee attended a Directors Training course, and the only thing he knows Director Shriner has attended is the JPIA conference.

Director Shriner questioned item 9A4 - determining questions of order and enforcing rules of the Board. She stated that she would like to have more in the BPM for instances of when someone is going on-and-on without a break, especially about personality and issues not related to the Mission. Director Shriner would like to see some kind of a warning system where it is declared that the person is off topic or out of order, and a recess is taken to discuss with the offender to control their emotions or leave the meeting, because they are not contributing. Mr. Ives stated that it was discussed earlier in the workshop where the Chair will take more control of the meeting.

Agenda Item 4-A (continued):

Director Shriner commented that Section 11 advises that “Attendance will be scheduled through the Clerk of the Board.” and stated that she had an email reprimanding her that she could only go through the General Manager to schedule training. Director Shriner offered to either strike the sentence or change it to “Attendance will be scheduled through the General Manager.” Director Nishi said that the sentence is ambiguous. Mr. Lowrey explained that “Clerk” is probably the wrong word and it should be “Secretary” as the General Manager is the Secretary to the Board.

Director Shriner questioned Section 14 – Code of Ethics – “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.” She asked if they should keep this item in the BPM or if they should highlight the fact that they don’t always seem to be “assisting”. Mr. Ives said that a lot of the discussion throughout the workshop has been aimed at that issue and it is up to the Board members and how they react to each other.

Director Shriner reiterated that she still had concerns on Section 14 R – Directors shall report and avoid conflicts of interest; and, S – Training shall be provided 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.

Director Shriner commented that she had questions on Section 22 – Special Meetings. “An emergency or special meeting may be called at any time by the President of the Board, or by a majority of the members of the Board, by following the notice and agenda requirements set forth by California Government Code sections 54956 or 54956.5. No other business shall be considered at such meetings by the Board other than the item(s) requiring the special meeting.” She questioned how “a majority of members of the Board” can call a special meeting without it being a Brown Act violation. Mr. Lowrey said that a majority of members of the Board can call a special meeting while presiding at an agenda meeting.

Vice President Burns asked to return to Director Shriner’s questions about conflict of interest. He stated that if a Director knows that another Director may have a conflict of interest, they should report it to the Board President or General Manager. Mr. Lowrey commented that if a Board member notices something is missed at a Board meeting, that Board member needs to call the President’s attention to it. He also noted that if someone notices a Brown Act violation or a possible conflict of interest with another Board member during a meeting, they should bring it to his or the President’s attention. Mr. Ives noted that it shouldn’t be in an accusatory tone, but rather in a supportive manner.

Director Shriner said that she had a question on Section 34 - Abstention/Conflict of Interest.

Agenda Item 4-A (continued):

Director Shriner questioned if the following phrase was correct in Section 34. “A director shall abstain from voting when he/she has a disabling conflict of interest. In the presence of a declared disabling conflict of interest, the affected director shall enter the declaration in the Board minutes, shall not participate in discussing that agenda item, shall absent himself/herself from the Board seat, and shall not cast a vote on that matter. *If the board member is not personally involved in the matter before the Board, that director shall leave the room.* The minutes shall record a director’s absence for any circumstance where a board member is not seated at the dais at the time of a vote.” Mr. Lowrey answered that if a Director has a conflict and has removed themselves from the dais, they may remain in the room if they are personally involved, for example, if the Director needs a water meter for a business they own, they may remain as a member of the public. He added that if they removed themselves from the dais because they live next door to a project or development that might affect the value of their house, then they must leave the room. Mr. Ives asked if the answer given cleared up Director Shriner’s question. Director Shriner said that she still thought the language could use a little more wordsmithing.

Director Shriner said that she wanted to discuss Section 35 – Minutes of Board and Board Committee Meetings. In regards to verbatim minutes, she asked to clarify the issue so that the Board members are not surprised with which method is the method of the day.

Vice President Burns suggested adding an item to define remote meetings and what the requirements are if a Board member is out of town for a meeting. He also questioned parameters and asked what the violations and processes are if the rules are not followed. Mr. Lowrey stated that the courts have defined what can and cannot be done. He said that it goes back to the concept that the Board members sit in a trustee capacity and are elected by their constituents. Mr. Lowrey said that if Board members do something to each other, they are really doing it to the constituents that elected them. He said that limits the ability of what the Board can do, such as taking away the ability to vote on certain things, unless there is a violation under the recent Nevada case which said that a Board or Council member could be precluded from voting if they had a conflict of interest. Mr. Lowrey said the rules regarding conflict of interest, in which Board members are supposed to not vote, are legitimate and not unconstitutional. He added that the Board can censure each other without taking away the authority of a Director but procedurally certain things can be done. Mr. Lowrey stated that the courts are developing the rules of a trustee in the context of defining what a trustee can and can’t do. He said that it might be a good idea to add a section explaining what authority the Board has under the law, or just to give guidance.

Director Shriner stated that there was the investigation on the hostile work environment which was based on violating some of these policies and depending on how they are interpreted, any Board member may have already violated. She asked if they really wanted to generate expensive investigations as a District.

Agenda Item 4-A (continued):

Director Nishi commented that he would like to make a change to Section 9 – Duties of the President so that it reads, “This District shall have a President who shall be elected by the Board from among the five (5) elected directors. The President shall be elected annually in the month of December. ~~It is the Board's policy to rotate the office of President among the Board members~~ and No Director shall serve more than three (3) consecutive years as president. The President's responsibilities include:” Director Shriner asked if that meant they wouldn't rotate the President every year. Director Gustafson said it is up to the Board if they want to or not. Director Nishi commented that he was the one who initiated the policy, but now in seeing the evolution, it might be in the best interest of the District, especially when times are difficult, to keep certain people in as a Chair. He added that it is more efficient in the long run instead of changing the Chair in mid-stream. Director Shriner suggested timing it with election years. Director Nishi answered that if the Chair is doing a good job, they can keep them in that position for no more than three terms. Mr. Ives clarified that every December the Board will make that decision. Director Nishi said that it gives the opportunity to put a new Chair in, but they don't have to if they don't want to. He asked if it would be wise to change the Chair in the middle of this crucial desal project.

Director Nishi asked if there was going to be another workshop. Mr. Ives answered affirmatively. Director Nishi stated that he would like to see discussion of an Organizational Chart as an item. Mr. Ives agreed and asked if the Board would like a redlined version of the BPM for discussion at another workshop or in the regular meeting format. Director Nishi agreed to the redlined version at a regular meeting with the Executive Committee reviewing it first.

Mr. Ives commented that at the next workshop, they would be discussing strategy and how it starts to fall out in terms of long term study, but the workshop will begin with the org chart.

Vice President Burns stated that he thinks the District needs to develop their central goals first such as Desal and RUWAP. Mr. Ives said that he will work with the Board Chair and get the agenda right. Director Shriner asked if they were going to update the 2007 Strategic Plan. Mr. Ives answered that they would.

President Lee asked to have a copy of the PowerPoint presentation sent to all Directors.

5. Possible Action Item:

A. Consider Adoption of Resolution No. 56 to Amend the Board Procedures Manual:

President Lee stated that they were going to table this item until a future meeting. No action was taken.

Mr. Lowrey stated that the Board was going to go into Closed Session after announcement per Government Code Section 54957.7(a).

The Board of Directors entered into closed session at 12:16 p.m.

6. 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

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 news media, 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 of Directors returned to open session at 1:22 p.m.

7. Possible Action on Closed Session Item:

Mr. Lowrey handed out a letter received by the District from the Monterey County Water Resources Agency dated July 13, 2011.

Mr. Lowrey stated that the Board met and conferred with and received advice from legal counsel concerning anticipated litigation, and no action was taken.

Mr. Lowrey advised that now, in open session following the closed session, the Board will consider whether to approve a limited waiver of the attorney-client privilege for investigations being conducted by the Monterey County District Attorney and the Fair Political Practices Commission concerning matters mentioned in the Remcho Summary and in a "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 attorneys James L. Markman and B. Tilden Kim of the law firm of Richards, Watson, Gershon and previously made public by the MCWD Board.

A. Consider Limited Waiver of Attorney-Client Privilege for Investigations:

Director Gustafson made the following motion:

MOTION TO APPROVE LIMITED WAIVER OF ATTORNEY-CLIENT PRIVILEGE

1. The Board finds that the Board has reviewed a letter from the Office of the District Attorney of Monterey County requesting the cooperation of Marina Coast Water District in the investigation of matters mentioned in the "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 attorneys James L. Markman and B. Tilden Kim of the law firm of Richards, Watson, Gershon.

2. The Board finds that the public interest in approving a limited waiver of the attorney-client privilege to cooperate as requested by the Monterey County District Attorney in coordinated investigations by the Monterey County District Attorney and the California Fair Political Practices Commission justifies approval of a limited waiver of the attorney-client privilege to affirm the District's cooperation with the coordinated investigations.

3. Based on the foregoing findings, the Board approves a limited waiver of the attorney-client privilege as follows:

a. The Board approves a limited waiver of attorney-client privilege that will apply only to communications made before January 1, 2011. No privileged communications concerning the DA's investigation or an investigation by the Fair Political Practices Commission will be included in the waiver.

b. There will be no waiver by MCWD or any attorney representing and advising MCWD of the attorney's work product privilege, save and except a limited waiver of interview notes, written summaries of interviews, and recordings of interviews conducted by Mr. Markman and Mr. Kim to prepare the preliminary report referenced above.

c. The interviews of Mark Fogelman, Lloyd Lowrey, Don Evans, Jim Heitzman and Kelly Cadiente will relate only to the matters discussed in the Markman report and not to any other matters except with a further express waiver of any applicable attorney client privilege by the Board of Directors of MCWD.

d. Any further waivers of the attorney-client privilege in connection with the request of the District Attorney's Office may be approved by concurrence of the President and Vice President of the Board based on the advice of District Counsel.

After discussion, Director Gustafson amended his motion to omit 3d and make it a separate motion. Vice President Burns seconded the motion for 1-3c. Director Gustafson called for the question. The motion was passed.

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



Agenda Item 7-A (continued):

Director Gustafson made a motion to add Section d. Any further waivers of the attorney-client privilege in connection with the request of the District Attorney's Office may be approved by concurrence of the President and Vice President of the Board based on the advice of District Counsel. The motion died for a lack of a second.

8. Directors Comments:

Director Shriner commented that she received information from Mr. Roland Chandler inquiring on an update on the lease of the District's Desal plant and asked that it be provided to the Directors.

9. Adjournment:

The meeting was adjourned at 1:32 p.m.

APPROVED:

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William Y. Lee, President

ATTEST:

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Jim Heitzman, General Manager

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 8-F

Meeting Date: September 13, 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 August 9, 2011

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

Staff Recommendation: The Board of Directors approve the draft minutes of the August 9, 2011 regular Board meeting.

Action Required:     \_\_\_\_\_Resolution     \_\_\_X\_\_\_Motion     \_\_\_\_\_Review

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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  
August 9, 2011  
6:45 p.m.

**Draft Minutes**

1. Call to Order:

President Lee called the meeting to order at 6:45 p.m. on August 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  
Lloyd Lowrey, Legal Counsel  
Carl Niizawa, Deputy General Manager/District Engineer  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
Thomas Barkhurst, Water Quality Chemist  
Paul Lord, Water Conservation Specialist  
Brian True, Capital Projects Manager  
James Derbin, Interim Operations and Maintenance Superintendent  
Patrick Breen, Capital Projects Manager  
Gary Rogers, Associate Engineer  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Tom Moore, Marina Resident  
Richard Newhouse, Marina Resident  
George Riley, Monterey Resident  
Bob Holden, MRWPCA  
Luana Conley, Marina Resident  
Suresh Prasad, Marina Resident  
Candace Ingram, Ingram Group  
Carlos Ramos, Carmel Resident  
Efrem Valentin, Marina Resident

The Board entered into closed session at 6:45 p.m., after announcement per Government Code Section 54957.7(a).

3. Closed Session:

- A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)  
Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and Complaint for Declaratory Relief)
- B. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: General Manager
- C. 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.
- D. Pursuant to Government Code Section 54959.9  
Conference with Legal Counsel – Anticipated Litigation  
Potential Initiation of Litigation (c)  
One Case

The Board ended closed session at 7:07 p.m.

President Lee reconvened the meeting to open session at 7:07 p.m.

4. Possible Action on Closed Session Items:

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

3-A – the Board of Directors conferred with Legal Counsel and no action was taken.

3-B – the Board of Directors met on the evaluation of the General Manager and no action was taken.

3-C – the Board of Directors conferred with Legal Counsel and no action was taken.

3-D – the Board of Directors conferred with Legal Counsel and no action was taken.

5. Pledge of Allegiance

President Lee asked Mr. James Derbin, Interim Operations and Maintenance Superintendent, to lead everyone present in the pledge of allegiance.

6. Oral Communications:

Mr. Tom Moore, Marina resident, commented that More Transparency is a non-profit association that raises money to pay for the filming and re-broadcasting of Marina Coast Water District Board meetings. He said donations can be sent to: More Transparency, P.O. Box 693, Marina, CA 93933.

Mr. Moore commented that for more than a year, the Marina City Council and staff have been trying to get development started at the Cypress Knolls area of the former Fort Ord. He said that it appears that communications may have broken down between the City and the District regarding water for this site. Mr. Moore asked if the District has informed the City about the state of the agreement that enabled a Water Supply Assessment and Written Verification of Supply (WSA/WV) to be issued for the original Front Porch project at Cypress Knolls. He asked if the District informed the City that a new WSA/WV will have to be approved for any new proposed development at the Cypress Knolls site and that District records indicate that there may be little or no water available for this purpose in the City's water allocation from FORA.

Mr. Moore commented that he was disappointed that the Board has not answered his question from July 12th about whether or not the Board took action to authorize the Markman Report regarding the allegations related to the conflict of interest issue. He stated that if the Board took action, it appears to not have been documented in Board minutes; and, if the Board didn't authorize the Markman Report, then it appears as though the Board has lost control of the District and has simply become a rubber stamp for the General Manager.

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:

President Lee noted that Mr. Reeves was unable to attend the meeting.

Director Nishi made a motion to adopt 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. 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			

8. Consent Calendar:

Mr. Moore requested to pull item B from the Consent Calendar.

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

- A. Adopt Resolution No. 2011-57 to Authorize the General Manager and/or the Deputy General Manager/District Engineer to Sign an Amendment to Extend the License Agreement with the Regents of the University of California for the Well No. 32 Replacement/Well No. 34 Installation Project
- C. Approve the Draft Minutes of the Special Joint Board Meeting of July 8, 2011
- D. Approve the Draft Minutes of the Regular Board Meeting of July 12, 2011

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. Approve the Expenditures for the Month of July 2011:

Mr. Moore inquired if check number 52321 to Dilbeck & Sons was a progress payment or the total amount. He asked if check number 52256 to Friedman Dumas & Springwater was for one month's work or, if not, why they aren't billing on a monthly basis so the Board can keep better track of the charges.

Director Gustafson made a motion to approve the expenditures for the month of July 2011. Vice President Burns seconded the motion.

Agenda Item 8-B (continued):

Director Shriner commented that she would like to have the public member's questions answered. She asked staff if the payment to Dilbeck & Sons was the entire payment.

Mr. Carl Niizawa, Deputy General Manager/District Engineer, answered that Dilbeck & Sons was the contractor for the FORA building and the payment was a scheduled payment towards a \$2 million contract.

Director Shriner inquired on the payment to Friedman Dumas & Springwater.

Director Nishi asked if staff could get back to Mr. Moore and the Board and provide an answer on both questions that were asked. Mr. Jim Heitzman, General Manager, answered that they would.

Vice President Burns suggested adding more information in the register to further explain the payments.

Director Shriner commented that she would be voting no on this item because she would like to see everyone more prepared for the meeting.

The motion was passed.

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

9. Action Items:

- A. Reconsider 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:

Mr. Heitzman recused himself from the room at 7:19 p.m.

Mr. Lowrey introduced this item and explained that Director Shriner asked for the opportunity to move reconsideration of the action taken to approve the request by the General Manager for the District to engage legal counsel. He explained that the request was timely and properly submitted and is now in front of the Board for reconsideration.

Mr. Lowrey advised that the Board is guided, but not bound, by Robert's Rules of Order. He stated that Robert's Rules of Order says that the purpose for reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action, or to take into account additional information that has developed since the taking of the vote.

Agenda Item 9-A (continued):

Mr. Lowrey noted that if the Board determines, based on the information that was presented in the Board packet and the supplemental information sent to the Board (Markman Report and the July 15<sup>th</sup> letter from County Counsel McKee), that the matter was hasty, ill-conceived or ill-advised, then they can vote to reconsider the matter after which they could reconsider the matter.

Mr. Lowrey opined that from a legal standpoint, procedurally the action taken was taken deliberately, not hastily. He said it is up to the Board to determine if the action was ill-conceived or ill-advised. Mr. Lowrey stated that when he proposed it to the Board, it was not ill-conceived or ill-advised. He added that the question if there was new information presented that would relate not to actions by the County, but to the District and Mr. Heitzman. Mr. Lowrey stated that he had not seen any new information, but it was for the Board to judge.

Director Shriner stated that the Directors were presented with the contract at the meeting and did not have a copy of it ahead of time or on the dais upon arrival. She said that when she was listening to the discussion, there were concerns over the fact that there was no cap on the contract amount or time limit. Director Shriner read a paragraph from the Markman Report and voiced her concerns over the expense, the reasonable cost to the ratepayers, and the fact that others involved did not have a blanket defense or indemnification. She asked that, as a Board, they could serve the ratepayers better by having a cap to the contract amount.

Director Nishi asked if the Board needed to vote to reconsider this item. Mr. Lowrey answered that the first step was to vote to reconsider the item but as of yet, no motion had been made. Director Nishi asked if the Board had to listen to this discussion all night if a motion is never made. Mr. Lowrey answered that the President can call a halt to the discussion if no motion is made.

Director Shriner made a motion to reconsider the 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. The motion failed for a lack of a second.

B. Consider Adoption of Resolution No. 2011-58 to Approve Revisions to the Finance Department Reorganization, Job Description and Salary Schedules

Mr. Niizawa stated that staff was requesting that this item be pulled from the agenda. President Lee pulled this item from the agenda.



- C. Consider Adoption of Resolution No. 2011-59 to Approve Submittal of the Clean Water State Revolving Fund Financial Assistance Application to the State Water Resources Control Board and Designate the General Manager as the Authorized District Representative:

Mr. Niizawa introduced this item. Vice President Burns asked if the application was for the Regional Urban Water Augmentation Project, the Regional Desal Project or both. Mr. Heitzman answered that it was for the Regional Desalination Project.

Director Nishi asked if there was an amount the District was seeking. Mr. Heitzman answered that no amount had been determined yet. He said that this action is to authorize staff to continue with the application process and then later to seek an amount based on construction design among other things. Director Nishi asked if there was a cap. Mr. Heitzman answered that there was no cap, but it would be associated with construction only costs and the District is looking at approximately \$125 million at around 2.8% interest.

Director Gustafson made a motion to adopt Resolution No. 2011-59 approving submittal of the Clean Water State Revolving Fund Financial Assistance Application to the State Water Resources Control Board and designate the General Manager as the authorized District representative. 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			

- D. Consider Adoption of Resolution No. 2011-60 to Authorize the General Manager and/or Deputy General Manager/District Engineer to Execute a Consultant Services Agreement with Evans Group International, LLC for Services Related to the Regional Desalination Project

Mr. Heitzman introduced this item.

Director Shriner asked if the advisory group was still meeting. Mr. Heitzman answered affirmatively. Director Shriner asked how this contract was different from the Project Management contract that RMC already has. Mr. Heitzman answered that Mr. Evans would be doing different work from RMC on the project. He stated that Mr. Evans sits above and is trusted by all three parties, Monterey County Water Resources Agency (County), California American Water Company (Cal Am), and the District. Mr. Heitzman said that Mr. Evans has far reaching experiences, not only with Federal and State Government but with financiers across the world. He said that Mr. Evans is heavily relied on by the Mayors and the parties, and any of them can go to him to get an unbiased response. Director Shriner stated that RMC's contract is \$28 million and now this contract for Mr. Evans is \$300 an hour. She asked if there was a cap to the contract.

Agenda Item 9-D (continued):

Mr. Heitzman answered that Mr. Evans' going rate is \$1,200 an hour and, as a result of a long relationship with the District, Mr. Evans has agreed to only charge the District \$300 per hour. He added that in the future, Mr. Evans may be hired by "the parties" because he has worked well with the Mayors, Cal Am and the County. Mr. Heitzman stated that long ago, Cal Am had agreed for the District to pay Mr. Evans from the Reimbursement Agreement and the Line of Credit. Director Shriner asked if the project fails and doesn't happen, would those expenses still be covered by Cal Am. Mr. Heitzman answered that it depended on what fails the project. He said that if the project fails due to an action of the District Board, they may not be covered, but if the Water Purchase Agreement is followed, in the District's opinion, they would be covered.

Director Gustafson made a motion to adopt Resolution No. 2011-60 authorizing the General Manager and/or Deputy General Manager/District Engineer to execute a Consultant Services Agreement with Evans Group International, LLC for services related to the Regional Desalination Project. 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			

- E. Consider Adoption of Resolution No. 2011-61 to Approve a Request for Proposals to Provide Legal Review of Documents Related to the District's Water and Wastewater Operations:

Mr. Heitzman stated that staff was pulling this item.

- F. Consider Adoption of Resolution No. 2011-62 to Authorize the General Manager and/or Deputy General Manager/District Engineer to Enter into a Professional Services Agreement with Davies Public Affairs for Public Outreach Services:

Mr. Niizawa introduced this item and gave a brief review of the consultants that turned in proposals. He also explained that there are other agencies, such as the Monterey Peninsula Water Management District, who have hired permanent staff members specifically for Public Outreach, which is an ongoing annual expense.

Ms. Luana Conley, Marina resident, commented that she went online and viewed the Davies Public Affairs website and found they promote "minimizing damage by managing the message and the messenger". Ms. Conley commented that Davies is a crisis manager and if the District had better outreach they wouldn't have a crisis. She urged the Board to be more open and transparent. Ms. Conley stated that she found this proposed action objectionable.

Agenda Item 9-F (continued):

Mr. Moore inquired why the proposals were not included in the packet, and he hoped that, as the District's outreach member, Director Gustafson was not disappointed about this action.

Mr. Carlos Ramos, Carmel resident, thanked the Board and staff for the wonderful job they were doing under the circumstances. He commented that Davies is a very reputable firm. Mr. Ramos stated that the District is critical to both the Monterey Peninsula and Monterey County. He said that for the District to stand still and try to continue to do business as people are being uncivil, unrealistic, taunting, and outright bullies, is difficult and he applauded them. Mr. Ramos stated that his humble recommendation is to hire this firm.

Vice President Burns commented that he would have liked to see the Request for Proposal and see what deliverables the District is getting for \$100,000.

Director Nishi thanked Mr. Ramos for his wonderful comments. He commented that he agreed with Vice President Burns' comment. Director Nishi stated that he would like to see what the hourly rate and scope of work was. He asked if this was the firm that the County Weekly said was \$375 per hour with a \$5,000 retainer. Director Nishi commented that he has been pushing to get the public outreach moving forward, not for crisis, but for transparency and getting out information.

Director Nishi said that he cannot make a decision until all the information is received and made a motion to table this item pending more information. Director Shriner seconded the motion.

Director Gustafson commented that he disagreed with an earlier speaker and said that he has not heard from the public about anything bad about the water, although there are some circles that fight everything and make up stories. He added that the best community outreach program was the public REPOG group who was the one that created the Regional Desal Project.

Director Shriner commented that she would prefer to spend Board time with answers that the public brings up rather than refuting the public's opinions. She asked where the Davies firm was located. Mr. Niizawa answered that they were located in Santa Barbara. Director Shriner noted that there was only one local firm and asked if their cost was higher or lower than Davies. Mr. Niizawa answered that their hourly cost was lower, but that the District was looking for the most qualified individual with competitive rates. Director Shriner commented that there was a well defined perspective and frame from local people and was pleased that there was a cost cap on this item.

The motion to table this item was passed.

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

G. Consider Adoption of Resolution No. 2011-63 to Amend the Professional Services Agreement for General Engineering Services with Schaaf & Wheeler Consulting Civil Engineers for the Well No. 34 Installation:

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

Director Shriner commented that she appreciated the cost cap and inquired on the 24 amendments to the contract asking if it was common. Mr. Rogers answered that this was a general contract that began in 2007 for various services and many projects have applied to this contract.

Director Nishi asked if, in the beginning, there was an engineer's estimate for the total package of Well 34. Mr. Rogers stated that he believed the construction estimate was approximately \$1.5 million and the design cost, including this current proposal, is approximately \$206,000. Director Nishi said at the beginning of the project, there was an engineer's estimate of the cost and asked what it was. Mr. Rogers said that things have changed quite a bit since the engineer's estimate and he wasn't quite sure what it was.

President Lee stated that Mr. Rogers will provide the answer to the Board at a later time.

Director Nishi asked if the project was part of the Prop. 50 grant funding and asked if it was open-ended. Mr. Heitzman answered that it was not open-ended in either time or funds. Director Nishi asked if there was time to hold this for the next meeting. Mr. Heitzman answered that time is of the essence and if it wasn't completed in time, the District would have to return all the money received for the project.

Director Nishi made a motion to adopt Resolution No. 2011-63 amending the Professional Services Agreement for general engineering services with Schaaf & Wheeler Consulting Civil Engineers for the Well No. 34 Installation and have staff provide the engineer's estimate to the Board. 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 Revising the Director Appointment to the Joint City District Committee and the Liaison to the Monterey Regional Water Pollution Control Agency

President Lee stated that he would like to appoint Director Gustafson to replace Vice President Burns on the Joint City District Committee and Director Nishi to replace Vice President Burns on the Monterey Regional Water Pollution Control Agency.

Agenda Item 9-H (continued):

President Lee made a motion to appoint Director Gustafson to the Joint City District Committee and Director Nishi to the Monterey Regional Water Pollution Control Agency. Director Gustafson seconded the motion. Director Shriner asked why the changes were suggested. President Lee answered that Vice President Burns asked to be removed from both Committees. The motion was passed.

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

10. Staff Report:

- A. A Receive 2<sup>nd</sup> Quarter 2011 Ord Community Water Consumption and Sewer Flow Report:

Mr. Brian True, Capital Projects Manager, introduced this item.

Director Nishi noted that there was a large difference between the metered and unmetered accounts for CSUMB on page 97 of the packet. He also asked what the reason was for the large increase of water use for Seaside on the bottom of page 97. Mr. True answered that it was contributable to the water now being provided for the Bayonet/Blackhorse golf course. Director Nishi questioned why page 101 did not show a reduced number of unmetered accounts since the Army had been replacing meters over the last year. Mr. True answered that the meters the Army replaced were in the Stillwell Kidney area and were not part of this calculation. Director Nishi stated that there were 300 new meters put in and asked staff to update him where they are in the report at a later time. Mr. Heitzman commented that the meters that were installed were new accounts and did not affect the unmetered accounts which remained stable. He added that staff will provide information to Director Nishi at a later time. Director Nishi also noted that the Marina portion of the Ord Community showed a reduction in water use.

11. Informational Items:

- A. General Manager's Report:

No report.

- B. District Engineer's Report:

No report.

C. Counsel's Report:

Mr. Lowrey passed out a copy of an article that he wrote about conflicting duties between individual values and duties, and representation values and duties, and will be published in the *Gilroy Today* newspaper.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

President Lee noted that the minutes were in the packet on page 119. Director Nishi commented that the Commission met on July 7<sup>th</sup> and made a recommendation to the Board regarding the in-school education program. He stated that when the Commission makes a recommendation to the Board, the minutes should be made available to the Board when they are considering the item.

2. Joint City-District Committee:

President Lee commented that the minutes were in the packet on page 122. Mr. Heitzman commented that there was good dialogue at the meeting. Director Nishi voiced his concerns that the District recommended a fix to the Teen Center problem and added that he hoped the fix was legal. Director Nishi noted that the minutes said Councilmember Ford made a comment that someone was attending the Marina City Council meetings and making comments about the District being delinquent in paying someone and that he would get more information and let Mr. Heitzman know what it was about. Director Nishi asked that Mr. Heitzman inform the Board when he found out what the details were.

Director Shriner inquired about the members on both the Water Conservation Commission and the Joint City District Committee and noted that a husband and wife were on the Water Conservation Commission and the same Marina City Councilmember was on both Committees as well.

3. MRWPCA Board Member:

President Lee commented that the meeting was boiler-plate.

4. LAFCO Liaison:

Director Nishi stated that there was no meeting in July.

5. FORA:

Director Nishi commented that the FORA Board didn't pass the budget and they voted to hire an auditor and will come back in 60 days.

7. JPIA Liaison:

Director Shriner said nothing happened.

8. CalDesal:

Vice President Burns commented that CalDesal was working with the State Water Resources Control Board to develop criteria for brine discharge and ocean outfalls. He said that there was a conference call coming up in the next week.

9. Executive Committee:

President Lee stated that the Committee met with the General Manager in closed session and there was nothing to report.

10. Community Outreach:

Director Gustafson said there was nothing to report.

11. Regional Desalination Reports:

Mr. Heitzman commented that the Advisory Committee met earlier that day and finally approved the April minutes but not the March minutes. Director Shriner commented that there was a Community Involvement Forum at the Monterey Plaza on August 23<sup>rd</sup>.

6. Special Districts Association Liaison:

Director Gustafson commented that they met and took care of business and it was boiler-plate.

E. Director's Comments:

Director Shriner commented that she was amazed that Mr. Lowrey had time to write the article with everything going on at his office and with the District.

Director Nishi asked for an update on the status of the water loan to the Monterey Peninsula Water Management District to be placed on the next agenda explaining when the District will get the water back and why it is taking so long. He also asked to have the RFQ for the attorney on the next agenda.

12. Correspondence:

President Lee commented that the District received a CAFR award. Mr. Heitzman stated that the award was from the Government Finance Officers Association when an agency's budget is put together in such a way that it is readable and understandable to the public.

Director Nishi congratulated staff on a good job and asked that the correspondence be date stamped in the future.

Adjournment:

The meeting was adjourned at 8:12 p.m.

APPROVED:

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William Y. Lee, President

ATTEST:

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Jim Heitzman, General Manager



Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-A

Meeting Date: September 13, 2011

Submitted By: Kelly Cadiente

Presented By: Jim Heitzman

Reviewed By: Carl Niizawa

Agenda Title: Consider Approving a Request for Qualifications to Provide Review of Documents Related to the District and Respond as Needed

Detailed Description: Staff is requesting the Board consider approving a Request for Qualifications (RFQ's) to provide professional review and response of documents and requests that come to the District from time to time. Staff would also request a review and summarization of a number of existing contracts and agreements that the District is a party. It is essential for both Board and staff members to be well versed and knowledgeable in the multiple agreements and contracts that span the District's over fifty-year history.

With recent changes in the Board and staff, a need has been identified to create a summary of all key documents in chronological order that includes established provisions and legal requirements. As part of succession planning this will assist as an orientation and reference tool and offset any shortfall of institutional knowledge.

The scope of services in the RFQ will include:

- Review District agreements and documents
- Provide a synopsis of the documents reviewed
- Compiling a summarized chronological history of District agreements and contracts
- Work with staff to respond to inquiries, records requests, and other sorted needed communication

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: Funded through FY 2011/2012 Operating Budget of the Central Marina and Ord Community cost centers – Consulting Services line item.

Material Included for Information/Consideration: None.

Staff Recommendation: The Board of Directors consider approving a request for RFQ's to provide professional review of documents related to the District's water and wastewater operations, response of documents and requests that come to the District from time to time, and compile a summarized chronological history of key District agreements and contracts.

Action Required: \_\_\_\_\_Resolution  X Motion \_\_\_\_\_Review

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Resolution No \_\_\_\_\_ Motion By \_\_\_\_\_ Board Action \_\_\_\_\_  
Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-B

Meeting Date: September 13, 2011

Submitted By: Patrick Breen

Presented By: Carl Niizawa

Reviewed By: Carl Niizawa

Agenda Title: Provide Direction for District Public Outreach

Detailed Description: Based on the quantity of District activities in recent months, staff believes the District could benefit from the assistance of a Public Outreach firm to ensure accurate and transparent communications with the public. Other area agencies have staff and/or outside firms to facilitate such needs.

To address this need staff had recommended that a Request for Proposal process be initiated for procurement of a consultant for public outreach and communication services.

At the July 1, 2011 Special Board Meeting the Directors passed Resolution No. 2011-48 that authorized the issuance of a Request for Proposal (RFP) for Professional Services Related to Public Outreach Activities which was issued by staff on July 7, 2011. The RFP was advertised on the District website and electronic mailers.

Four firms; Davies Public Affairs, Lynn Banks Marketing Consulting, Circlepoint, and Tramutola responded to the RFP. Staff conducted interviews with the four respondents at District Offices on July 29, 2011 and August 1, 2011. Staff considered the relevant experience, past performance, situational awareness, approach, and availability of each firm.

At the August Board meeting, the Board continued the item and requested staff provide more information to the Board so they may consider the selection. Given the multiple options which exist for outreach implementation and the associated volume of information associated with such review, staff recommends the Board appoint an Ad Hoc committee for District Public Outreach for review and recommendations regarding outreach scope, budget, possible selection, and approaches for implementation.

Environmental Review Compliance: Not required.

Prior Committee or Board Action: On July 1, 2011, the Board of Directors approved Resolution No. 2011-48 that authorized the General Manager and/or Deputy General Manager/District Engineer to issue a Request for Proposal for Professional Services Related to Public Outreach Activities.

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:    \_\_\_\_\_Yes    \_\_\_X\_\_\_No

Funding Source/Recap: These services will be funded from District reserves.

Material Included for Information/Consideration: None.

Staff Recommendation: Provide direction to staff regarding Public Outreach Services.

Action Required:    \_\_\_\_\_Resolution    \_\_\_X\_\_\_Motion    \_\_\_\_\_Review

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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-C

Meeting Date: September 13, 2011

Submitted By: Patrick Breen

Presented By: Carl Niizawa

Reviewed By: Carl Niizawa

Agenda Title: Review the Draft Proposed Project Description for Annexation of the Ord Community and Approve Resolution No. 2011-68 Directing Staff to Initiate the CEQA Process and Prepare a Draft LAFCO Application for Future Consideration

Detailed Description: The Board of Directors is requested to confirm the attached "Draft Proposed Project Description" to be used for the environmental analysis and draft Local Agency Formation Commission (LAFCO) application or identify a preferred alternative.

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), dated March 13, 1998. The term of the agreement is coincident with the legal existence of FORA. 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.

In June 2010, the Board directed staff to initiate the annexation process for the Ord Community. 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 apply to annex all the developed portions of the Ord Community into its Urban Service Area, and additional areas projected for redevelopment within the next five to ten years. LAFCO staff also stated that it would be appropriate for the District to concurrently request expanding its Sphere of Influence to the Fort Ord Development Boundary.

An alternatives analysis was prepared, as discussed in the attached Proposed Project Description for the Ord Community Sphere of Influence Amendment and Service Area Annexation. Alternative urban service areas were considered, as follows:

- Annexation to the development boundary described in the Fort Ord Base Reuse Plan
- Annexation to the projected five-year development boundary
- Annexation to the projected ten-year development boundary
- Annexation to the Marina City Limit

In all of the alternatives, the governance model was assumed to remain the same as the current model, a five member board elected at-large.

Staff recommends that the District initiate review under CEQA and begin the formal application process with LAFCO to annex all of the Ord Community Development Parcels. All current water supplies for the Ord Community are provided by the District, and additional future water supplies for the Ord Community are being developed by the District. Omitting future development parcels from annexation at this time will add the unnecessary expense of annexing those areas separately in the future because MCWD is the only water provider providing

essential water supply planning functions for these areas. In addition, future development areas included in the Ord Community are considered redevelopment areas, not designated open space or agricultural lands, by the relevant land use jurisdictions and institutions, and the Proposed Project Description was designed in consideration of LAFCO policies related to orderly boundaries and avoiding islands, corridors or strips of land within or adjacent to boundaries (Cortese-Know-Hertzberg Local Government Reorganization Act of 2000, as amended, Government Code Section 56668 d.). Annexation only to the Marina City Limit was deemed impractical due to the economic and technical advantages of maintaining and improving upon the existing interconnected water and wastewater systems of the Ord Community.

Wastewater collection service for the southern portion of the Ord Community (south of Eucalyptus Road and east of General Jim Moore Blvd) could be accomplished under an agreement between MCWD and Seaside County Sanitation District (SCSD). SCSD is downhill from these areas, and could therefore convey the wastewater to the MRWPCA regional interceptor without adding lift stations, which would be required if the wastewater has to be conveyed to the District's point of connection to the interceptor at 8<sup>th</sup> Street. Staff recommends that the District Sphere of Influence and Urban Service Area include these areas regardless of the ultimate wastewater collection agreement(s) of individual properties because MCWD intends to supply potable and recycled water to those areas.

Staff requests Board confirmation or guidance regarding the Draft Proposed Project Description for the Ord Community Sphere of Influence Amendment and Urban Service Area Annexation. If not confirmed, staff requests guidance as to desired changes or preferred alternatives to that Draft Proposed Project Description.

A milestone schedule for the annexation process is included for reference. The significant time steps in the process include a recommended 30-day public review period for the CEQA initial study, a minimum of 30-days for LAFCO staff review of the application packet, and a minimum of one month between completion of the staff review and bringing the application before the LAFCO Board for consideration (LAFCO staff review periods are subject to their workload and review). Optimistically, this action may be completed as early as late Spring/Summer 2012. If the process requires an additional year to complete, it will still be finalized prior to FORA's sunset in 2014.

**Environmental Review Compliance:** An Environmental Impact Report is not considered necessary for this project under CEQA. Instead, an Initial Study/Negative Declaration is proposed to be prepared and circulated for public review. After required noticing and public review of this document, the Board will be asked to consider the adequacy of the CEQA documentation and process and the comments received, if any, prior to making a decision on the project.

**Prior Committee or Board Action:** The Board of Directors has taken a series of actions accepting responsibility for the provision of water, wastewater and recycled water service to the Ord Community. Key actions include:

- Entering into Water/Wastewater Facilities Agreement with FORA, March 13, 1998
- Submitting a Public Benefit Conveyance Application for the Fort Ord Water and Sewer Facilities, 1999

- Accepting the title to and easements for the Water and Sewer infrastructure on the former Fort Ord, Resolution No. 2001-52, October 24, 2001
- Certifying the final EIR for the Regional Urban Water Augmentation Project and Filing a Notice of Determination for the Project, Resolution No. 2004-56, October 27, 2004
- Forming the Ord Community Ad Hoc Committee to make recommendations to the Board regarding annexation of the Ord Community to the District service area.
- Approving a Revised Memorandum of Understanding between Marina Coast Water District, Monterey County Water Resources Agency and the Monterey Regional Water Pollution Control Agency Regarding Cooperative Planning and Joint Analysis for a Monterey Regional Water Supply Program, Resolution No. 2009-44, July 1, 2009
- Directing District Staff to Work with LAFCO Staff to Initiate an Annexation Process of Any or All of the Ord Community, Resolution No. 2010-43, June 22, 2010

Board Goals: *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. Goal No. 3: The District shall adopt a governance model in a timely manner that accomplishes the District’s mission, provides fair political representation and separate service area cost centers, and appropriately assigns full marginal costs to future customers.*

Financial Impact:      Yes      No

Funding Source/Recap: Funding for this effort will come from the FY 2011/2012 Ord Water and Sewer cost centers.

Material Included for Information/Consideration: Resolution No. 2011-68; Proposed Project Description for the Ord Community Sphere of Influence Amendment and Service Area Annexation; and, Milestone schedule.

Staff Recommendation: The Board of Directors confirm the Draft Proposed Project Description and approve Resolution No. 2011-68 directing staff to initiate the CEQA process, prepare the LAFCO application based upon the Draft Proposed Project Description.

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

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Board Action

\_\_\_\_\_ Resolution No \_\_\_\_\_ Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

September 13, 2011

Resolution No. 2011 - 68  
Resolution of the Board of Directors  
Marina Coast Water District  
Directing District Staff to Prepare a LAFCO Application for Annexation of the  
Ord Community into the Marina Coast Water District

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, 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), the term of which is coincident with the legal existence of FORA; and,

WHEREAS, FORA will cease to exist in 2014, unless extended by State legislation; and,

WHEREAS, the District holds title to all of the water, sewer and recycled water infrastructure within the Ord Community; and,

WHEREAS, the District has made significant investment in the Ord Community in the form of water, wastewater and recycled water infrastructure, addition of staff and equipment, adoption of redevelopment standards and procedures, and the preparation of master plans and water supply project studies; and,

WHEREAS, water service for Central Marina and the Ord Community is provided under a single water system permit; and,

WHEREAS, annexation of all or part of the Ord Community into the District service area would provide improved governance for customers; and,

WHEREAS, the Local Agency Formation Commission (LAFCO) of Monterey County has made the determination that the District may pursue annexation of the former Fort Ord portion of its service area upon LAFCO’s adoption of the 2007 Municipal Services Review; and,

WHEREAS, compliance with the California Environmental Quality Act (CEQA) is required for the annexation action; and,

WHEREAS, District staff and consultants have prepared a draft proposed project description for the LAFCO application and CEQA process that presents proposed sphere of influence and urban service area boundaries for relevant areas of the Ord Community.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize staff to prepare a draft LAFCO application for



annexation of the Ord Community into the District, and to initiate the CEQA process in support of the application based upon the attached Draft Proposed Project Description.

PASSED AND ADOPTED on September 13, 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. 2011-68 adopted September 13, 2011.

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

### Attachment 3: Milestone Schedule for the Ord Annexation Process

September 13, 2011	Board Meeting: <ul style="list-style-type: none"><li>- Confirm Draft Proposed Project Description</li><li>- Initiate CEQA Process</li><li>- Begin preparing LAFCO application</li></ul>
September /October 2011	Issue Public Review Draft IS/ND for the Ord Annexation
October 5, 2011	Discuss the Public Review Draft IS/ND at the FORA Water and Wastewater Oversight Committee
October/ November 2011	Initial presentation to LAFCO Board (if required)
November 8, 2011	Board Meeting (earliest date, may be delayed if Draft Proposed Project Description requires changes) to include the following actions: <ul style="list-style-type: none"><li>- Adopt CEQA IS/ND for the Ord Annexation</li><li>- Approve the LAFCO Application for Ord Annexation</li></ul>
December 13, 2011	Board Meeting (actions above, if not completed at November 8, 2011 meeting)
December 2011- January 2012	Submittal of Application to LAFCO, LAFCO staff review, 30-days minimum, 60-days likely
February/March 2012	LAFCO Board considers Ord Annexation Application
March – June 2012	LAFCO Board acts on Ord Annexation Application
2014	FORA Sunsets

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-D

Meeting Date: September 13, 2011

Submitted By: Patrick Breen

Presented By: Carl Niizawa

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2011-69 to Approve a Contract Amendment for Denise Duffy & Associates for Planning and Environmental Services for Marina Coast Water District's Ord Community Annexation

Detailed Description: The Board of Directors is requested to approve Resolution No. 2011-xx that approves an amendment for Denise Duffy & Associates for a 2<sup>nd</sup> Phase of planning and environmental services for the District's Ord Community Annexation for a not to exceed amount of \$63,000.

In June 2010, the Board directed staff to initiate the annexation process for the Ord Community. To facilitate this work, the Board approved \$37,840 to Denise Duffy & Associates for the initial phase of planning and environmental work associated with the former Ft Ord area annexation.

In compliance with previous Board authorization, the initial phase of planning and environmental services provided by Denise Duffy & Associates is nearing completion. These services included preparation of the alternatives analysis, the proposed project description, early environmental analysis and recommendation on the proposed California Environmental Quality Act (CEQA) process, and meeting attendance and preparation.

Denise Duffy & Associates is now proposing to perform the next phase of environmental services to assist staff in completing the CEQA and LAFCO application processes. These services include completion of the CEQA Initial Study and Negative Declaration document and procedural requirements (including Board adoption), completion of the LAFCO Application, processing assistance, and Board consideration/approval, and support at meetings, as required. The fee for their services, including a 10% contingency, is \$63,000.

Environmental Review Compliance: An Environmental Impact Report is not considered necessary for this project under CEQA. Instead, an Initial Study/Negative Declaration is proposed to be prepared and circulated for public review. After required noticing and public review of this document, the Board will be asked to consider the adequacy of the CEQA documentation and process and the comments received, if any, prior to making a decision on the project.

Prior Committee or Board Action: The Board of Directors has taken a series of actions accepting responsibility for the provision of water, wastewater and recycled water service to the Ord Community. Key actions include:

- Entering into Water/Wastewater Facilities Agreement with FORA, March 13, 1998
- Submitting a Public Benefit Conveyance Application for the Fort Ord Water and Sewer Facilities, 1999

- Accepting the title to and easements for the Water and Sewer infrastructure on the former Fort Ord, Resolution No. 2001-52, October 24, 2001
- Certifying the final EIR for the Regional Urban Water Augmentation Project and Filing a Notice of Determination for the Project, Resolution No. 2004-56, October 27, 2004
- Forming the Ord Community Ad Hoc Committee to make recommendations to the Board regarding annexation of the Ord Community to the District service area.
- Approving a Revised Memorandum of Understanding between Marina Coast Water District, Monterey County Water Resources Agency and the Monterey Regional Water Pollution Control Agency Regarding Cooperative Planning and Joint Analysis for a Monterey Regional Water Supply Program, Resolution No. 2009-44, July 1, 2009
- Directing District Staff to Work with LAFCO Staff to Initiate an Annexation Process of Any or All of the Ord Community, Resolution No. 2010-43, June 22, 2010

Board Goals: *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. Goal No. 3: The District shall adopt a governance model in a timely manner that accomplishes the District’s mission, provides fair political representation and separate service area cost centers, and appropriately assigns full marginal costs to future customers.*

Financial Impact:     \_\_\_X\_\_\_ Yes    \_\_\_\_\_ No

Funding Source/Recap: Funding for this effort will come from the FY 2011/2012 Ord Water and Sewer cost centers. Funding authorized under resolution 2010-43 for engineering and technical support by Schaaf & Wheeler, Consulting Civil Engineers, and for application and processing fees, remains available for use under Phase 2.

Material Included for Information/Consideration: Resolution No. 2011-69.

Staff Recommendation: The Board of Directors is requested to approve Resolution No. 2011-69 that authorizes the General Manager or the Deputy General Manager/District Engineer to approve an amendment for Denise Duffy & Associates for Phase 2 Planning and Environmental Services based upon the Draft Proposed Project Description for the Ord Community Annexation.

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

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Board Action

\_\_\_\_\_ Resolution No \_\_\_\_\_ Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

September 13, 2011

Resolution No. 2011 - 69  
Resolution of the Board of Directors  
Marina Coast Water District  
Approve an Amendment for Denise Duffy & Associates  
for Planning and Environmental Services for the Ord Community Annexation

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, Denise Duffy & Associates and District staff have prepared a draft proposed project description for the LAFCO application and CEQA process that presents proposed sphere of influence and urban service area boundaries for relevant areas of the Ord Community; and,

WHEREAS, Denise Duffy & Associates has proposed a scope for completion of the planning and environmental services for the annexation, they are knowledgeable about the CEQA and LAFCO requirements, the District and the Ord Community, and staff agrees that their proposal is reasonable.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby adopt Resolution No. 2011-69 which does hereby;

1) Authorize the General Manager and/or Deputy General Manager/District Engineer to execute an amendment to the Professional Services Agreement with Denise Duffy & Associates for Phase 2 planning and environmental services for the annexation, and,

2) To take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution, the total dollar amount not-to-exceed \$63,000.

PASSED AND ADOPTED on September 13, 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:

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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. 2011-69 adopted September 13, 2011.

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Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-E

Meeting Date: September 13, 2011

Submitted By: Gary Rogers

Presented By: Gary Rogers

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2011-70 to Approve an Agreement of Purchase and Sale with the Union Community Partners-East Garrison, LLC for the Construction of Watkins Gate Well and Pipeline

Detailed Description: The Board of Directors is requested to authorize the General Manager and/or the Deputy General Manager/District Engineer to sign an "Agreement of Purchase and Sale" (Agreement) with Union Community Partners-East Garrison, LLC (UCP) for land conveyance regarding the Watkins Gate Well and Pipeline Project.

The District desires to build the Watkins Gate Well and Pipeline on land owned by UCP and this Agreement is necessary for obtaining the use of the land. The Agreement includes discussion of construction work, contract terms, conditions of Escrow and conditions of liability as they relate to the lot purchase for the well site and the non-exclusive easement for the pipeline. The District is pursuing the conveyance of the well site (approximately 0.5 acre) for \$100 and the conveyance of the pipeline easement (approximately 0.8 acre) for no cost.

District legal counsel and staff are currently in review and final negotiations on this Agreement with UCP in order for this to be acceptable for execution. District staff requests from the Board that staff and legal counsel be allowed to continue to negotiate, make appropriate changes and execute the final Agreement with UCP subsequent to the adoption of this Resolution and prior to the construction of the Well and Pipeline. The prompt execution of this Agreement is necessary to complete the construction of the Watkins Gate Well and Pipeline Project within Proposition 50 time constraints and, therefore, continue receiving Proposition 50 funding.

This proposed lot purchase (well site) includes a small portion of Watkins Gate Road that will continue to allow controlled access (security gate) for future landowner construction traffic and limited public traffic during special events at the Laguna Seca Raceway Facility. The purchase of the roadway section is necessary in order for the District to secure a large enough area around the water well, as required by the California Department of Public Health. District staff has discussed the purchase of the road section with District's insurance provider (ACWA/JPIA), and they have deemed this roadway acceptable if certain insurance conditions are included in the Agreement.

Since the MCWD is a public Agency, District staff is seeking exemption by Monterey County from the California Subdivision Map Act (processing guidelines) regarding the purchase of the well site lot. This will allow the well lot to be conveyed in a much shorter time period. In the event that the District cannot obtain this exemption, the District will pursue an exclusive easement for the well site from UCP instead of the above-described lot purchase.

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. 2010-04, the Board Authorized the General Manager and/or Deputy General Manager/District Engineer to Accept Easements for the District; 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:  Yes  No

Funding Source/Recap: Funding for District staff to process this Agreement is from the approved FY 2010/2011 Budget as CIP OW-116 under the Ord Community Water Cost Center and is a line item in the FY 2011/2012 Budget.

Material Included for Information/Consideration: Resolution No. 2011-70; and, the “Agreement of Purchase and Sale” document and attachments.

Staff Recommendation: The Board of Directors adopt Resolution No. 2011-70 authorizing the General Manager and/or the Deputy General Manager/District Engineer to Sign a Land Purchase and Easement Agreement with the Union Community Partners-East Garrison, LLC for the Watkins Gate Well and Pipeline Project.

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

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Board Action

Resolution No. \_\_\_\_\_ Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_



September 13, 2011

Resolution No. 2011 - 70  
Resolution of the Board of Directors  
Marina Coast Water District

Authorizing the General Manager and/or the Deputy General Manager/District Engineer to Sign a Purchaser and Seller Agreement with the Union Community Partners-East Garrison, LLC for the Construction of Watkins Gate Well and Pipeline

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 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, in Resolution No. 2010-04, The Board Authorized the General Manager and/or Deputy General Manager/District Engineer to Accept Easements for the District; and,

WHEREAS, in 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; and,

WHEREAS, in 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; and,

WHEREAS, the execution the Agreement of Purchase and Sale for the construction Watkins Gate Well and Pipeline Site and permanent access to the subject site is necessary for the furtherance of the Watkins Gate and Pipeline Project.

NOW, THEREFORE, BE IT RESOLVED THAT, based upon the foregoing, the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager and/or Deputy General Manager/District Engineer to sign an Agreement of Purchase and Sale with Union Community Partners-East Garrison, LLC for the permanent construction/access of Watkins Gate Well and Pipeline Site and to take all actions and execute all documents necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on September 13, 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 \_\_\_\_\_

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William Y. Lee, President

ATTEST:

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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. 2011-70, adopted September 13, 2011.

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Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-F

Meeting Date: September 13, 2011

Submitted By: Gary Rogers

Presented By: Gary Rogers

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2011-71 to Approve a Professional Services Agreement for Geotechnical Consulting Services with Earth Systems Pacific for the Eastern Distribution System Project

Detailed Description: The Board of Directors is requested to authorize a Professional Services Agreement (PSA) for Geotechnical Consulting Services with Earth Systems Pacific to provide construction related services for the Well No. 34 and Watkins Gate Well/Pipeline as part of the Eastern Distribution System Project. These services include:

- Oversight of earthwork, grading, trenching, backfilling and compacting activities for proper installation of underground water/electrical utilities and surface features.
- On-site observation, soil testing and materials sampling/lab testing of concrete slabs/structures.
- Special inspection of reinforced masonry construction of electrical building.
- Deliverables including daily field reports, lab analysis, delivery tickets for imported soils and concrete, consultant findings and recommendations.

The above services will be performed on a Time & Materials (not-to-exceed) Basis and are subject to California prevailing wage law. The value of this PSA shall have a not-to-exceed amount of \$27,972.50.

Earth Systems Pacific is a local firm specializing in geotechnical work and has done fine work for the District in the past.

Environmental Review Compliance: An Initial Study/Mitigated Negative Declaration for the Well No. 32 Replacement/Eastern Distribution System Project and Mitigation Monitoring and Reporting Program was completed and adopted via Board Resolution No. 2009-11, on February 10, 2009; An Initial Study/Mitigated Negative Declaration for the Watkins Gate Well and Pipeline/Eastern Distribution System Project and Mitigated Monitoring and Reporting Program was completed and adopted via Board Resolution No. 2011-31, on May 10, 2011.

Prior Committee or Board Action: Resolution No. 2009-11, the Board adopted the Initial Study/Mitigated Negative Declaration for the Well No. 32 Replacement/Eastern Distribution System Project and approved the Mitigated Monitoring and Reporting Program; 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 System Project.

Board Goals/Objectives: – *Objectives 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:      Yes      No

Funding Source/Recap: Funding for this project is from the approved FY 2010/2011 Budget as CIP OW-0170 and CIP OW-116 (Well No. 34 and Watkins Gate Well/Pipeline respectively) under the Ord Community Water Cost Center and are line items in the FY 2011/2012 Budget. Additionally, the District will continue requesting partial reimbursements from the State of California Water Resources Control Board for Proposition 50 Funding.

Material Included for Information/Consideration: Resolution No. 2011-71.

Staff Recommendation: The Board of Directors consider adopting Resolution No. 2011-71 to approve a Professional Services Agreement for Geotechnical Consulting Services with Earth Systems Pacific for the Eastern Distribution System Project (Well No. 34 and Watkins Gate Well/Pipeline) for a not-to-exceed amount of \$27,972.50.

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

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Board Action

\_\_\_\_\_ Resolution No \_\_\_\_\_ Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

September 13, 2011

Resolution No. 2011 - 71  
Resolution of the Board of Directors  
Marina Coast Water District

Approving a Professional Services Agreement for Geotechnical Consulting Services with Earth Systems Pacific for the Eastern Distribution System Project

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District desires to install two replacement drinking water wells and appurtenances called “Well No. 34” and the “Watkins Gate Well and Pipeline” as part of the Eastern Distribution System Project; and,

WHEREAS, in Resolution No. 2009-11 the Board Adopted the Initial Study/Mitigated Negative Declaration for the Well No. 32 Replacement (Well No. 34 Installation)/Eastern Distribution System Project and Approved the Mitigated Monitoring and Reporting Program; and,

WHEREAS, in 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 System Project; and,

WHEREAS, the timely completion of the subject drinking water wells is necessary in order for the District to continue receiving Proposition 50 Funding; and,

WHEREAS, authorization of this Professional Services Agreement is necessary to complete the work for Well No. 34 and Watkins Gate Well and Pipeline.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby adopt Resolution No. 2011-71 to approve a Professional Services Agreement for Geotechnical Consulting Services with Earth Systems Pacific for the Eastern Distribution System Project (Well No. 34 and Watkins Gate Well/Pipeline) for a not-to-exceed amount of \$27,972.50.

PASSED AND ADOPTED on September 13, 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. 2011-71 Adopted September 13, 2011.

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

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-G

Meeting Date: September 13, 2011

Submitted By: Gary Rogers  
Reviewed By: Carl Niizawa

Presented By: Gary Rogers

Agenda Title: Consider Adoption of Resolution No. 2011-72 to Approve a Construction Contract with The Don Chapin Company, Inc. for the Construction of the Watkins Gate Well and Pipeline Project

Detailed Description: The Board is requested to authorize the construction contract and contingency for CIP# OW-116 with “The Don Chapin Company, Inc.” (Don Chapin Company, Inc.) for the construction of a replacement municipal well (identified as the Watkins Gate Well) and associated transmission pipeline located in the East Garrison Area.

The work scope of the construction contract includes (1) installation of an 18-inch diameter, 660-foot deep drinking water well and associated mechanical/electrical equipment (2) building structures (3) emergency generator (4) approximately 2200 feet of 16 and 24-inch pipeline and appurtenances.

In August of this year the District put out for competitive bid the “Watkins Gate Well and Pipeline Project” Construction Bid Package. On September 1, 2011, District staff opened bids submitted on a competitive basis from contractors for the Watkins Gate Well and Pipeline Project. The Don Chapin Company, Inc., located in Salinas, California, has been deemed the apparent low bidder by submitting a project bid totaling \$1,705,340. The second low bidder was Mountain Cascade, Inc., who submitted a bid in the amount of \$1,759,325 while third and fourth lowest bids received were for \$1,793,785 and \$1,939,690 respectively. The Engineer’s estimate for this construction contract is \$2,570,969.

Staff has examined the Don Chapin Company, Inc, bid documents submitted, and finds them and the contractor’s qualifications to be in conformance with the bidding requirements. The District will hold the Payment and Performance Bonds for the full amount bid.

Staff is recommending an award of contract to Don Chapin Company, Inc in the amount of \$1,705,340. Staff also recommends a contingency value of \$255,800 (15% over contract value), be budgeted for this project, making the Board-authorized not-to-exceed project work amount \$1,961,141. This contingency may be required to address unanticipated construction costs and to pay for permitting costs.

Environmental Review Compliance: An Initial Study/Mitigated Negative Declaration for the Watkins Gate Well and Pipeline/Eastern Distribution System Project and Mitigated Monitoring and Reporting Program was completed and adopted via Board Resolution No. 2011-31, on May 10, 2011.

Prior Committee or Board Action: 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 System Project; Resolution No. 2011-32, the Board approved the Amendment of the Professional Services Agreement with Luhdorff & Scalmanini for the Watkins Gate Well Installation Not-to-Exceed \$36,500; Resolution No. 2011-33, the Board approved the Amendment of the Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for Engineering Services Related to the Eastern Distribution Project Watkins Gate Well & Pipeline Installation for a Not-to-Exceed Amount of \$167,100; Resolution No. 2011-54, the Board approved the Design and Construction of the Proposed Watkins Gate Well.

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:      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 and is a line item in the FY 2011/2012 Budget. The District will continue requesting partial reimbursements from the State of California Water Resources Control Board for Proposition 50 Funding.

Material Included for Information/Consideration: Resolution No. 2011-72.

Staff Recommendation: The Board of Directors consider adoption of Resolution No. 2011-72 approving a construction contract for CIP# OW-116 with “The Don Chapin Company, Inc.”, for the construction of the Watkins Gate Well and Pipeline within a not-to-exceed project work amount of \$1,961,141 (including contingency of \$255,800).

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

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Board Action

\_\_\_\_\_ Resolution No \_\_\_\_\_ Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_



September 13, 2011

Resolution No. 2011-72  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving a Construction Contract With The Don Chapin Company, Inc  
for the Construction of the Watkins Gate Well and Pipeline Project

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District desires to install a replacement drinking water well and transmission pipeline called the “Watkins Gate Well and Pipeline” as part of the Eastern Distribution System Project; and,

WHEREAS, in 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 System Project; and,

WHEREAS, the timely completion of the subject drinking water well is necessary in order for the District to continue receiving Proposition 50 Funding; and,

WHEREAS, authorization of this subject contract is necessary to complete the work for the Watkins Gate Well and Pipeline; and,

WHEREAS, The Don Chapin Company, Inc. submitted the apparent low bid of \$1,705,340 and The Don Chapin Company, Inc submittal met the bid requirements.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager and/or the Deputy General Manager/District Engineer to execute a construction contract with The Don Chapin Company, Inc to conduct CIP# OW-116 and to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution within a Board-authorized not-to-exceed project work amount of \$1,961,141 that includes a \$255,800 contingency value of approximately 15%.

PASSED AND ADOPTED on September 13, 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. 2011-72 adopted September 13, 2011.

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

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-H

Meeting Date: September 13, 2011

Submitted By: Patrick Breen

Presented By: Patrick Breen

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2011-73 to Authorize Staff to Issue a Request for Proposal for Professional Services Related to Real Estate Services for District Owned Property at Imjin Office Park

Detailed Description: Staff is requesting authorization from the Board of Directors for issuance of a Request for Proposal for professional services related to real estate services for Imjin Office Park, specifically for the lease of Imjin Office Park Building C, Suite B.

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In May 2009, the Board approved an agreement with the Fort Ord Reuse Authority (FORA) for the purchase and lease of the to-be-built FORA office building (Building C) and their share of the Imjin Office Park. The District bid this project in May of 2010 and the building has recently been completed and is partially occupied by FORA.

Building C is a 15,000 square foot building divided into two suites. Suite A (which the Ft. Ord Reuse Authority leases from the District) is 8,796 square feet. The remaining 6,204 square feet (Suite B) was constructed to a shell condition (no partition walls, finishes, etc.) and was planned to be leased and for the future tenant to improve the space pursuant to their needs.

In order to secure a tenant for Suite B and other property within the development, staff is recommending the District pursue the services of a real estate professional through a Request for Proposal process.

The scope for the real estate professional will include the necessary marketing and advertising to secure tenants, and assistance in negotiation of leases including but not limited to recommendations regarding delivery and the cost of the tenant improvements.

Environmental Review Compliance: Not required.

Prior Committee or Board Action: On May 12, 2009, the Board adopted Resolution No. 2009-34 approving agreements with the Fort Ord Reuse Authority to purchase property and lease back space in the Imjin Office Park. On December 12, 2009, the Board adopted Resolution No. 2009-80 authorizing the General Manager to sign contracts relating to the Imjin Office Park Project. On May 11, 2010, the Board adopted Resolution No. 2010-27 authorizing a professional services agreement with Paul Davis Partnership for Design of the FORA building. On June 22, 2010 the Board adopted Resolution No. 2010-38 which authorized a construction contract and related expenses for construction of the FORA Building at Imjin Office Park Building.

Board Goals/Objectives: *Strategic Plan, Goal No. 3 – 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:      Yes      No

Funding Source/Recap: The District will utilize District Reserves to fund this proposed project; will be shared across all four cost centers.

Material Included for Information/Consideration: Resolution No. 2011-73.

Staff Recommendation: The Board of Directors authorize staff to issue a Request for Proposal for professional services related to Real Estate Services for District Owned Property at Imjin Office Park.

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

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Board Action

\_\_\_\_\_Resolution No\_\_\_\_\_     Motion By\_\_\_\_\_     Seconded By\_\_\_\_\_

Ayes\_\_\_\_\_     Abstained\_\_\_\_\_

Noes\_\_\_\_\_     Absent\_\_\_\_\_

Reagendized\_\_\_\_\_     Date\_\_\_\_\_     No Action Taken\_\_\_\_\_

September 13, 2011

Resolution No. 2011-73  
Resolution of the Board of Directors  
Marina Coast Water District

Authorizing Staff to Issue a Request for Proposal for Professional Services Related Real Estate Services for District Owned Property at Imjin Office Park

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District is contractually required to construct a building in the Imjin Office Park for the Ft. Ord Reuse Authority (FORA) occupancy; and,

WHEREAS, the building planned by FORA was designed into two suites; one (Suite A) occupied by the Ft. Ord Reuse Authority and the other (Suite B) to be leased; and,

WHEREAS, the District does not currently plan to occupy the Suite B and would like to lease the space and have it improved; and,

WHEREAS, the District is in need of Real Estate Services to secure a tenant for the Imjin Office Park Building C Suite B and other District owned property at Imjin Office Park.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby:

- 1) Authorize the General Manager and/or Deputy General Manager to issue a Request for Proposal for Professional Services Related Real Estate Services for District Owned Property at Imjin Office Park.
- 2) To take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on September 13, 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:

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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. 2011-73 adopted September 13, 2011.

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Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-I

Meeting Date: September 13, 2011

Submitted By: Brian True

Presented By: Brian True

Reviewed By: Carl Niizawa

Agenda Title: Consider Adoption of Resolution No. 2011-74 to Approve Obtaining Permanent Easements from the Federal Government for Recycled Water Pipelines

Detailed Description: The Board of Directors is requested to approve MCWD staff to obtain permanent recycled water (RW) pipeline easements from the Federal Government with the expenditure of a not-to-exceed amount of \$55,000. The easements are for approximately 6,300 linear feet of the RUWAP pipeline route.

The Board adopted Resolution No. 2010-54 on August 10, 2010 that authorized the expenditure of \$25,000 for the review and processing of these prospective easements for recycled water pipelines; this action will help complete the easement process with the Federal Government.

The RW pipeline alignment segments for which the District can obtain permanent easements are those portions extending southwards in General Jim Moore Boulevard from the Lightfighter intersection and terminating in Normandy 500-feet east of Normandy's intersection with General Jim Moore Boulevard, as well as segments behind Marshall Elementary School adjacent to the City of Seaside property boundary eastwards to the D/E Reservoir site. Maps depicting the easement areas and alignment are included with this Agenda Transmittal for reference. The total distance of RW pipeline easement within this proposed action is approximately 6,300 linear feet.

The Army Corp of Engineers has provided the District with draft easement documents on June 23, 2011. With the submittal of the draft easement documents, the Army Corp has also offered an alternative to the permanent easement. The alternative is for payment of \$17,000 for a temporary five-year easement. This provides an option to pursue the permanent easements at a future time.

District staff finds that the greatest benefit to the District would be to obtain the permanent easements from the Federal Government. This finding is based on the following:

- While the cost is higher to obtain permanent easements (up to \$55,000 for the permanent easements versus \$17,000 for the 5-year easements), the District would eventually have to pay to obtain permanent easements after the 5-year easements expired in addition to the cost of the 5-year easements; therefore, the total cost of obtaining the easements for the segments of RW pipeline will be lower if permanent easements are pursued now.
- Obtaining permanent easements appears to best satisfy State Revolving Fund requirements.

Payments are proposed to be made to the Army Corp of Engineers on behalf of the Federal Government for the purchasing and final processing of the easements.

If the Board approves staff to pursue the permanent easements, estimated costs to obtain the permanent easements are \$1,000 in administrative costs and \$40,000 for the easements themselves. Staff recommends a not-to-exceed amount as \$55,000 for this action in the event the final cost of the easements is higher than estimated.

Environmental Review Compliance: No environmental review is required for this action.

Prior Board Action: The Board of Directors adopted Resolution No. 2010-54 on August 10, 2010 authorizing a \$25,000 expenditure within CIP# RW-0156 to review and process Marina Coast Water District's request for the Right of Entry and Easements from the Army Corp of Engineers for recycled water pipelines.

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

Financial Impact:     \_\_\_X\_\_\_ Yes     \_\_\_ \_\_\_ No

Funding Source/Recap: The proposed expenditure is planned within the design phase of CIP# RW-0156 which will be funded through District Reserves.

Material Included for Information/Consideration: Resolution No. 2011-74; two (2) maps depicting the easement areas and alignments.

Staff Recommendation: The Board of Directors consider adopting Resolution No. 2011-74 to Approve Obtaining Permanent Easements From the Federal Government for Recycled Water Pipelines

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

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Board Action

\_\_\_ Resolution No \_\_\_     Motion By \_\_\_     Seconded By \_\_\_

Ayes \_\_\_     Abstained \_\_\_

Noes \_\_\_     Absent \_\_\_

Reagendized \_\_\_     Date \_\_\_     No Action Taken \_\_\_



September 13, 2011

Resolution No. 2011 - 74  
Resolution of the Board of Directors  
Marina Coast Water District  
Approving Obtaining Permanent Easements from the  
Federal Government for Recycled Water Pipelines

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District Board of Directors adopted Resolution No. 2010-54 on August 10, 2010 authorizing the expenditure of \$25,000 within the design phase of CIP# RW-0156 for the review and process of the Right of Entry and Easements from the Federal Government for recycled water pipelines; and,

WHEREAS, the Army Corp of Engineers, on behalf of the Federal Government, has processed the Easements for segments of the recycled water pipeline and have provided the District options for a permanent easement or a 5-year easement; and,

WHEREAS, District finds that the greatest benefit to the District would be to obtain the permanent easements from the Federal Government; and,

WHEREAS, the cost for obtaining the permanent easements from the Federal Government as described by the Army Corp of Engineers is estimated by staff to be as much as \$55,000.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager and/or Deputy General Manager/District Engineer to expend a not-to-exceed amount of \$55,000 within the design phase of CIP# RW-0156 to obtain permanent easements from the Federal Government for recycled water pipelines and to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution.

PASSED AND ADOPTED on September 13, 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 \_\_\_\_\_

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William Y. Lee, President

ATTEST:

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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. 2011-74 adopted September 13, 2011.

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Jim Heitzman, Secretary

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-J

Meeting Date: September 13, 2011

Submitted By: Paula Riso  
Reviewed By: Carl Niizawa

Presented By: Jim Heitzman

Agenda Title: Consider Adoption of Resolution No. 2011-56 to Amend the Board Procedures Manual

Detailed Description: The Board of Directors is requested to review and amend the revised Board Procedures Manual (BPM).

The BPM is a resource for directors, staff and the public in defining the roles, responsibilities and procedures of the Board.

The BPM is in need of revision from time-to-time due to outdated information and policies. On July 29, 2011 as part of the Board Workshop, Mr. Brent Ives, the facilitator, discussed the BPM with the Board and suggested several changes. The resulting redlined version is before the Board for final approval.

Environmental Review Compliance: None required.

Prior Committee or Board Action: On March 10, 2009, the Board approved a revised BPM. On July 29, 2011, the Board reviewed the BPM at a Board Workshop.

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: Resolution No. 2011-56; and, Redlined version of Board Procedures Manual (provided separately).

Staff Recommendation: The Board of Directors review and approve the revisions to the Board Procedures Manual.

Action Required:     \_\_\_X\_\_\_Resolution     \_\_\_\_\_Motion     \_\_\_\_\_Review  
(Roll call vote is required.)

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Board Action

\_\_\_\_ Resolution No \_\_\_\_ Motion By \_\_\_\_\_ Seconded By \_\_\_\_\_

Ayes \_\_\_\_\_ Abstained \_\_\_\_\_

Noes \_\_\_\_\_ Absent \_\_\_\_\_

Reagendized \_\_\_\_\_ Date \_\_\_\_\_ No Action Taken \_\_\_\_\_

September 13, 2011

Resolution No. 2011-56  
Resolution of the Board of Directors  
Marina Coast Water District  
Amend the Board Procedures Manual

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on September 13, 2011 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Board Procedures Manual (BPM) was adopted on April 24, 2002; and,

WHEREAS, the BPM was last revised on March 10, 2009;

WHEREAS, the BPM is a resource for directors, staff and the public defining the roles, responsibilities and procedures of the Board; and,

WHEREAS, the Board has reviewed and suggested revisions to the BPM to bring it current with information and policies.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby approve the suggested revisions and updates to the Board Procedures Manual and directs staff to finalize the revisions.

PASSED AND ADOPTED on September 13, 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. 2011-56 adopted September 13, 2011.

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Jim Heitzman, Secretary

Marina Coast Water District  
Staff Report

Agenda Item: 10-A

Meeting Date: September 13, 2011

Prepared By: Brian True  
Reviewed By: Carl Niizawa

Presented By: Brian True

Subject: Update on the Status of the Water Loan to Monterey Peninsula Water Management District

Summary: This is a report on the current status of the 68.8 acre-feet of water loaned to the Monterey Peninsula Water Management District (MPWMD) in 2009.

The Coordination Agreement between Monterey Peninsula Water Management District, Marina Coast Water District, and Monterey County Water Resources Agency for Aquifer Storage and Recovery (ASR) Injection Testing (Agreement) was approved by the MCWD Board on November 14, 2007. The Agreement was subsequently approved by the Seaside Groundwater Basin Watermaster on November 5, 2008. An amendment to the Agreement was generated on January 6, 2009 that specified a requirement for MPWMD to return the water used for testing to MCWD within 12-months of demand.

The MCWD water used by MPWMD was for testing the injection processes of the ASR wells located at the Santa Margarita site on General Jim Moore Boulevard south of Coe Avenue. MCWD water was needed because the MPWMD/CalAm facilities to achieve the test-required flow rates did not exist at that moment in time. The testing was conducted between January 8 and January 21, 2009 and successfully demonstrated the simultaneous use of two injection wells.

The District staff has pursued the return of this water diligently and in a manner that provides the greatest community benefits. The most recent effort has yielded a proposed return of the 68.8 acre-ft through a mechanism termed "in lieu replenishment" involving concurrence between the City of Seaside, Monterey County Water Resources Agency, the Seaside Groundwater Basin Watermaster, MPWMD, and MCWD. The draft agreements are awaiting discussion with and input from the County and the Watermaster before they would be in a form ready for consideration by MCWD's Board.

Marina Coast Water District  
Staff Report

Agenda Item: 10-B

Meeting Date: September 13, 2011

Prepared By: Kelly Cadiente

Presented By: Kelly Cadiente

Reviewed By: Carl Niizawa

Subject: Receive an Update on the District Audit Commissioned by the FORA Board

Summary: This is a report to update the status of the Fort Ord Reuse Authority (FORA) commissioned audit of the District rates requested by the FORA Board at its July meeting. This audit request came in the FORA Board review of the District's request for a 4.9% increase in its Ord Community Water and Wastewater rates for fiscal year 2011-12.

At the FORA Joint Administrative and Water/Wastewater Oversight Committee meeting held on September 7<sup>th</sup>, the FORA auditor, Jamie Gomes of the firm Economic & Planning Systems, presented his draft findings of his audit of the District proposed rate increase. He found overall that the revised 4.9% (from the Bartle Wells recommendation of 7.8%) increase is warranted.