

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-A

Meeting Date: February 14, 2012

Submitted By: Dan Burns

Presented By: Dan Burns

Agenda Title: Consider Options for Possible Brown Act Violation

Detailed Description: The Board of Directors is requested to discuss and consider if the Brown Act was violated on January 16, 2012.

On January 16, 2012, the Monterey County Weekly website reported the following statement:

“Marina Coast board member Jan Shriner says she was told during a special closed session this morning that a press release was forthcoming, but was instructed not to give details to the press.”

Government Code Section 54963, the last section of the Brown Act provides as follows:

(a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grandjury.

The Board Procedures Manual Sections 14 and 43 provide the following:

14. Code of Ethics.

...

Q. Directors shall protect confidential information of the District, its officers and employees from unauthorized disclosure and dissemination.

43. Director's Violation of Policies.

If a Director breaches any of the policies contained in Sections 5, 8, 13, 14, 15, 16, 17, 33, 39, and 41 the Board may, in addition to any other consequences provided by law, publicly censure the offending Director and may as part of the censure take any or all of the following other actions, to be effective for a time determined by the Board:

- a) remove the offending Director from committees and representative positions to which the Director has been appointed or designated by the Board,
- b) prevent the offending Director from placing items on the agenda without the specific, advance authorization of the Board.

Environmental Review Compliance: None required.

Prior Committee or Board Action: The Executive Committee discussed this item on January 27, 2012.

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: Article from the Monterey County Weekly that was published on their website January 16, 2012.

Possible Action: If the Board finds that a violation of Government Code section 54963 or Board Policy section 14 has occurred, the Board may take the actions specified in Government Code Section 54963(c) and Board Policy section 43.

Recommendation: No staff recommendation. This is a Board requested item.

Action Required: ___ Resolution ___ **X** ___ Motion ___ Review

Board Action

___ Resolution No ___ Motion By ___ Seconded By ___

Ayes ___ Abstained ___

Noes ___ Absent ___

Reagendized ___ Date ___ No Action Taken ___

This is Google's cache of <http://www.montereycountyweekly.com/weblogs/news-blog/2012/jan/16/regional-desal-project-canceled-almost/?templates=mobile>. It is a snapshot of the page as it appeared on Jan 17, 2012 01:20:28 GMT. The [current page](#) could have changed in the meantime. [Learn more](#)

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Regional Desal Project Canceled, Almost

Blog: [News Blog](#)

By [Kera.Abraham](#)

January 16, 2012

Several sources close to the [Regional Desalination Project](#) say the legal agreements between California American Water Company, Monterey Regional Water Resources Agency and Monterey Peninsula Water Management District are about to be scrapped.

In other words: The Regional Project is going through its agonals, and we expect it to be pronounced dead tomorrow morning. And that paves the way for a new water-supply solution to sprout in its place.

“Tomorrow has the potential to be the most positive day in many months in regards to the Regional Desalination Project,” one confidential source says.

Marina Coast board member Jan Shriner says she was told during a special closed session this morning that a press release was forthcoming, but was instructed not to give details to the press.

Marina Coast attorney Lloyd Lowrey is also evasive. “I can tell you the same thing I told [Herald reporter] Jim Johnson,” he says. “I don’t have any authority to speak on anything.”

Both referred the question to Marina Coast General Manager Jim Heitzman, who did not return multiple calls Monday afternoon.

Carmel-by-the-Sea Mayor Sue McCloud, who's involved in a [proposed joint powers authority](#) that would give the Monterey Peninsula mayors a leading role in addressing the water-supply conundrum, likewise deflected the question.

“If you ask me that in 24 hours, I might be able to address it,” she says. “Depending on what you learn tomorrow, a JPA may or may not be necessary”

Cal Am spokeswoman Catherine Bowie says she can't confirm the Regional Project's death because of mediation between the project partners. But, she adds, an official announcement will be made Tuesday morning.

Check back tomorrow for updates.

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