



REVISED

MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: www.mcwd.org

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DIRECTORS

DAN BURNS
President

HOWARD GUSTAFSON
Vice President

KENNETH K. NISHI
JAN SHRINER
WILLIAM Y. LEE

Agenda
Special Board Meeting
Board of Directors
Marina Coast Water District
11 Reservation Road, Marina, California
Tuesday, October 23, 2012, 5:30 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)

1) 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)

2) In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in

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, 24 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 Monday, October 22, 2012 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 November 13, 2012.

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Connection Therewith in Rates, California Public Utilities Commission No. A.04-09-019

3) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

4) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

- B. Pursuant to Government Code Section 54956.9 (c)
Conference with Legal Counsel – Anticipated Litigation
Potential Initiation of Litigation
One Case – MCWD Claims against Monterey County and MCWRA
- C. Pursuant to Government Code Section 54956.9(b)(1) and 54956.9(b)(3)(C)
Conference with Legal Counsel – Anticipated Litigation
Potential Litigation
Two Cases
 - 1) Claims of MCWRA and Monterey County against MCWD
 - 2) Claims of California–American Water Company against MCWD
- D. Pursuant to Government Code Section 54956.9 (c)
Conference with Legal Counsel – Anticipated Litigation
Potential Initiation of Litigation
One Case

Reconvene Open Session

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

5. Pledge of Allegiance

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

7. 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.*

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- A. Consider Adoption of Resolution No. 2012-66 to Approve a Professional Services Agreement with Schaaf & Wheeler to Serve as Interim District Engineer for Marina Coast Water District

Action: The Board of Directors will consider approving a Professional Services Agreement with Schaaf & Wheeler for interim District Engineer services.

- B. Discuss and Provide Direction to Staff Regarding the District's Legal Counsel Position

Action: The Board of Directors will discuss the vacancy of the District's Legal Counsel position and provide direction to staff regarding course of action.

8. Director's Comments

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

*Regular Meeting: Tuesday, November 13, 2012, 6:45 p.m.,
11 Reservation Road, Marina*

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Marina Coast Water District Agenda Transmittal

Agenda Item: 7-A

Meeting Date: October 23, 2012

Submitted By: Kelly Cadiente

Presented By: Jim Heitzman

Reviewed By: Jim Heitzman

Agenda Title: Consider Adoption of Resolution No. 2012-66 to Approve a Professional Services Agreement with Schaaf and Wheeler to Serve as Interim District Engineer for Marina Coast Water District

Detailed Description: The District is mandated to have a District Engineer. The sudden loss of the Deputy General Manager/District Engineer created an emergency situation for the District whereby the General Manager contracted with Schaaf and Wheeler to serve as District Engineer who has done so for the District in the past.

The Board of Directors is now requested to approve a Professional Services Agreement with Schaaf and Wheeler to serve as Interim District Engineer until staff can recruit and hire a permanent replacement of the Deputy General Manager/District Engineer position.

Interim District Engineer duties include:

- Represent the Marina Coast Water District professionally.
- Attend Board and Committee meetings, make presentations on engineering issues, petition for acceptance of projects, and respond to board member questions.
- Manage the District Capital Improvements Program, to include scheduling and budgeting capital work items, coordinating with developers for infrastructure space and updating the plan for future years.
- Review and approve construction documents for District capital improvements.
- Coordinate with developers, to include attending project meetings, negotiating Construction and Transfer of Infrastructure Agreements, and responding to developer requests for service ("Will-Serve" letters).
- Review and approve/reject proposed development water and sewer infrastructure and easements.
- Manage District engineering staff, to include running routine meetings, reviewing timecards, and contributing to/ preparing personnel evaluations.
- Coordinate the interaction between Operations & Maintenance and Engineering staff. Serve as the primary engineering point of contact for decisions related to long term systems operations modifications.
- Coordinate the efforts of Engineering, O&M and the Lab for periodic renewal of the water and sewer system permits.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

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

Financial Impact: Yes No

Funding Source/Recap: This Professional Services Agreement will be resourced from the funds allocated to the vacant Deputy General Manager/District Engineer position in the District's FY 2012-2013 Budget.

Material Included for Information/Consideration: Resolution No. 2012-66.

Staff Recommendation: The Board of Directors adopt Resolution No. 2012-66 to approve a Professional Services Agreement with Schaaf and Wheeler to Serve as Interim District Engineer for Marina Coast Water District.

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

Board Action

_____ Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

REVISED

October 23, 2012

Resolution No. 2012-66
Resolution of the Board of Directors
Marina Coast Water District
Approving a Professional Services Agreement with
Schaaf and Wheeler to Serve as Interim District Engineer for
the Marina Coast Water District

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a special meeting duly called and held on October 23, 2012 at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District is mandated to have a District Engineer; and;

WHEREAS, with the sudden loss of the Deputy General Manger/District Engineer, there is a need to obtain an Interim District Engineer until the position can be filled; and,

WHEREAS, Schaaf and Wheeler provides cost-effective services and has previously served as Interim District Engineer for the District.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager to execute a Professional Services Agreement with Schaaf and Wheeler to serve as Interim District Engineer for the Marina Coast Water District until a permanent replacement for the Deputy General Manager/District Engineer is hired.

PASSED AND ADOPTED on October 23, 2012 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 _____

Dan Burns, President

ATTEST:

Jim Heitzman, Secretary

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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. 2012-66 adopted October 23, 2012.

Jim Heitzman, Secretary

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Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-B

Meeting Date: October 23, 2012

Submitted By: Jim Heitzman

Presented By: Jim Heitzman

Agenda Title: Discuss and Provide Direction to Staff Regarding the District's Legal Counsel Position

Detailed Description: The Board of Directors will discuss the District's Legal Counsel position vacancy and provide direction to staff.

In July 2012, the Board of Directors directed staff to fill the in-house legal counsel position. The position was filled in August 2012 and subsequently vacated in October 2012. Since that time, the District has used interim legal assistance from various legal firms.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Financial Impact: Yes No

Funding Resource/Recap: This position is funded in the FY 2012-2013 District Budget.

Material Included for Information/Consideration: None.

Staff Recommendation: The Board of Directors discuss the District's legal counsel position and provide direction to staff regarding a course of action.

Action Required: Resolution Motion Review

Board Action

Resolution No. Motion By Seconded By

Ayes Abstained

Noes Absent

Reagendized Date No Action Taken