

Marina Coast Water District

District Office  
11 Reservation Road  
Marina, California

Regular Board Meeting  
February 14, 2012  
6:30 p.m.

Draft Minutes

1. Call to Order:

President Burns called the meeting to order at 6:30 p.m. on February 14, 2012.

2. Roll Call:

Board Members Present:

Dan Burns – President  
Jan Shriner  
Kenneth K. Nishi

Board Members Absent:

Howard Gustafson – Vice President – excused (illness)  
Bill Lee – excused (out of state on business)

Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Carl Niizawa, Deputy General Manager/District Engineer  
Jean Premutati, Management Services Administrator  
Thomas Barkhurst, Water Quality Chemist  
Brian True, Capital Projects Manager  
James Derbin, Interim Operations and Maintenance Superintendent  
Joe Correa, Interim Assistant Operations and Maintenance Superintendent  
Martin Rosales, System Operator II  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Richard Newhouse, Marina Resident  
Bob Holden, MRWPCA  
Bill Hood, Carmel Resident  
Julie Hood, Carmel Resident  
Sara Rubin, Monterey County Weekly  
George Riley, Citizen's for Public Water  
Tom Moore, Marina Resident

The Board entered into closed session at 6:30 p.m., after announcement per Government Code Section 54957.7(a) by Mr. Lloyd Lowrey, Legal Counsel.

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

- C. Pursuant to Government Code Section 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b)  
One Case (Validity of agreements for the Regional Desalination Project)

- 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 6:50 p.m. President Burns reconvened the meeting to open session at 7:00 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, no action was taken.  
3-C – the Board of Directors conferred with Legal Counsel, no action was taken.  
3-D – the Board of Directors conferred with Legal Counsel, no action was taken.

5. Pledge of Allegiance

President Burns led everyone present in the pledge of allegiance.

President Burns recessed the meeting from 7:02 to 7:07 p.m. to allow staff time to ensure the Marina State Beach entrance gate was open for the public.

6. Oral Communications:

Mr. Tom Moore, Marina resident, commented that contributions can be sent to: More Transparency, P.O. Box 693, Marina, CA 93933 to help pay for the videographer.

Mr. Moore encouraged the Board and/or General Manager to address whether or not it is the opinion of the Marina Coast Water District if the Regional Project has met its demise, and if so, how much the District may have lost in the process.

7. Presentation:

- A. Consider Adoption of Resolution No. 2012-04 in Recognition of Martin Rosales, System Operator II, for 10 Years of Service to the Marina Coast Water District:

Director Nishi made a motion to adopt Resolution No. 2012-04 recognizing Martin Rosales, System Operator II, for 10 Years of Service to the Marina Coast Water District. Director Shriner seconded the motion. The motion was passed.

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

Mr. Jim Heitzman, General Manager, read the narration and presented Mr. Rosales with a plaque and gift certificate in recognition of his 10 years of service to the District.

8. Consent Calendar:

Director Shriner requested to pull agenda item 8-C from the Consent Calendar. Director Nishi requested to pull agenda items 8-B and 8-D from the Consent Calendar.

Director Shriner made a motion to approve the Consent Calendar consisting of:

- A) Adopt Resolution No. 2012-05 to Amend the Professional Services Agreement with Harris & Associates for Inspection Services for the Watkins Gate Well & Pipeline Project
- E) Approve the Draft Minutes of the Special Board Meeting of January 16, 2012

President Burns seconded the motion. The motion was passed.

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

B) Adopt Resolution No. 2012-06 to Direct Staff to Distribute Request For Proposals for a District Compensation Survey:

Director Nishi commented that the compensation survey was approved at the last meeting and asked why it was back before the Board. Ms. Jean Premutati, Management Services Administrator, answered that at the last meeting, the Board approved a classification and compensation survey and this Resolution would only be for a compensation survey, postponing the classification survey thus saving the District \$10,000 to \$15,000. Director Nishi asked what changed in the last thirty days to warrant this. Ms. Premutati answered that staff has been working on the District reorganization and doing a classification survey at this time might conflict with what staff is proposing.

Director Nishi commented that both the survey and reorganization were on this agenda and asked what should be done first. Mr. Heitzman answered that the reorganization should come first and a salary survey can be done at the same time because the positions are well defined in the world of salary surveys. He added that if the reorganization was approved, staff would have more appropriate job descriptions and a better understanding of what to ask the consultant to review in a classification study if one was requested.

President Burns clarified that the Budget and Personnel Committee discussed this at their last two meetings and a compensation survey was what was originally decided on and then it changed to include the classification survey.

Director Shriner commented that a salary survey should be done before any compensation changes are made, as proposed later in the agenda, to ensure the salary is in the correct range. She added that this should be done before the other items are considered so they could be thoroughly addressed with an informed decision.

Mr. Heitzman said the reorganization has compensation included for those positions that have been working out-of-class and are taking on new duties by not filling the vacant management positions. He clarified that if the reorganization were approved, the consultant selected for the compensation survey would look at all positions to see if they are where they need to be salary-wise. Mr. Heitzman added that if the reorganization was not approved, the District would have to look into filling the vacant management positions thus losing out on saving over \$200,000 in salary costs. Director Nishi commented that the District should look into the reorganization first as that would show the savings of \$200,000 as a real number.

There was no motion made to approve this item, thereby no action was taken.

C) Approve the Expenditures for the Month of January 2012:

Director Shriner questioned check numbers 53360 and 53361 payable to California American Water and asked what they were for and what their frequency was. Mr. Heitzman answered that these payments were made under the Water Purchase Agreement for the Line of Credit.

Director Shriner questioned check number 53375 for the Imjin Office Park Owners Association Fee. Mr. Heitzman answered that each member of the Imjin Office Park Owners Association pays an annual fee that covers the landscaping, lighting, parking lot and common area maintenance.

Director Nishi questioned check number 53335 for a new weed sprayer pump. He asked if there was a licensed applicator on staff. Mr. Heitzman said that one wasn't needed as they were only spraying Round-up. Director Nishi disagreed and asked staff to look into it. Mr. Heitzman answered that they would look into it and if one was needed, it would be handled immediately.

Director Shriner made a motion to approve the expenditures for the Month of January 2012. Director Nishi seconded the motion. The motion was passed.

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

A) Approve the Draft Minutes of the Regular Board Meeting of January 10, 2012

Director Nishi commented that the second to the last paragraph on page 4 of the minutes did not accurately reflect what he said at the meeting. He stated that the Armstrong property was not purchased for the Regional Desalination Plant and that only a portion of the property was to be used for the Regional Desalination Plant. Director Nishi asked that staff listen to the tape and correct the minutes to reflect what he was trying to convey.

Mr. Lowrey asked that last line of the page be corrected to read, "...and distribution of water, ~~with a~~ approximately ten acres are to be utilized..."

President Burns asked that this item be tabled until the next meeting so the minutes could be revised.

9. Action Items:

A. Consider Options for Possible Brown Act Violation:

Mr. Lowrey gave a brief background on this item.

Agenda Item 9-A (continued):

Mr. Lowrey explained that on January 16, 2012, the Monterey County Weekly website reported that “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.” Mr. Lowrey said that the question is whether there has been a violation of Government Code Section 54963 which reads: (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.

Mr. Lowrey stated that the question is whether the quoted statement reflects that there was a disclosure of information; whether it reflects that there was a disclosure of confidential information that was acquired in an authorized closed session; whether the disclosure was made to a person not entitled to receive it; and, whether the legislative body authorized the disclosure of that information. He said that those are the findings that would have to be made by the Board.

Mr. Lowrey said that if the Monterey County Weekly statement is accurate, it verifies that the information was obtained in a closed session. He said that in his opinion, the closed session was authorized and the information discussed in closed session would be confidential. Mr. Lowrey stated that the persons authorized to receive the confidential information were District Board members and there was no authorization for disclosure of the information. Mr. Lowrey said that if the Board makes the determination that there was disclosure of confidential information acquired in closed session to a person not authorized to receive it and with no authorization by the Board, a majority of the Board would have to find that the violation justified injunctive relief, referral to the Grand Jury, or some other authorized action. He added that other authorized action includes the District’s Board Procedure Manual Code of Ethics section that allows censure, and/or removal from committees and representative positions, and/or prevention of the offending Director from placing items on the agenda without advance authorization of the Board.

Mr. Lowrey concluded saying that the Board would have to make those determinations and to take its action by an affirmative vote of three Board members.

Mr. Bill Hood, Carmel resident, asked for a definition of confidential information and asked if anything said in closed session was considered confidential. Mr. Lowrey answered that, theoretically, there could be information that is imparted during closed session that would not meet this requirement. He gave an example of someone saying they were going to a specific restaurant for lunch and clarified that it would not be something related to the meeting and subject to the restriction. Mr. Lowrey added that anything that was said that related to the reason for the meeting would be covered. In his opinion, Mr. Lowrey stated that what was reported was information that was related to the meeting.

Agenda Item 9-A (continued):

Mr. Moore commented that it would be the call of the Board if what was reported by the Monterey County Weekly was indeed confidential and reminded the Board that the purpose of the confidentiality law is to protect the District from harm. He asked what harm was done to the District by a statement that says there will be a press release forthcoming.

Ms. Linda Madsen, Marina resident, commented that she knew nothing about what was going on and learned nothing further after reading the statement Director Shriner made, as it was inconsequential.

Mr. George Riley, Citizens for Public Water, commented that he is focused on transparency and, while he would like to hear what is said in closed session, when he read the article, it didn't even register with him as he felt it was a neutral comment.

Director Shriner stated that she would like to compare the harm of the one line in the blog and open session agenda items for the District. She commented that she has great respect for the media and characterized this as a misunderstanding. Director Shriner remarked that the actions she has taken, based on the initial alarm being raised, and to restore the dignity of the Board, was to take an extra Ethics Training, read the Government Code, and made apologies to the General Manager and the Board President. She said that she also took the time to speak with the Monterey County Weekly staff so that they could come to a better understanding in the future. Director Shriner commented that the District Board has previously stated that they are misrepresented in the media, and finds it funny that this time the Board is saying the media is very accurate. Director Shriner asked to reiterate who is responsible for taking responsibility and talking to the media. She said she keeps getting feedback that the media is having a difficult time getting their calls and emails returned by the people who say they have the authority. Director Shriner asked if they could have better cooperation, or an ambassador, to step up for the District to disseminate information to the media as this is a public agency. Director Shriner said that she emailed the FPPC and asked if this could be a Brown Act violation and they directed her to the Attorney General's office. She said that although she finds the language in the Attorney General's response difficult to understand, they did respond that the public might be being deprived of information. Director Shriner isn't sure if that is because she informed them of the possibility that she might not be heard as one of the options that the Board may take to prevent her from placing items on the agenda for an indefinite period of time.

Director Nishi asked Director Shriner if the article in the paper was correct. Director Shriner answered that she thought it was a paraphrase and she isn't sure which portion she could say is correct. She says the part of her being a Director is correct along with her name. Director Shriner said the rest is slightly embellished as semantics are sometimes embellishing. Director Nishi asked if Director Shriner embellished it to the press. Director Shriner said that she thinks that is the misunderstanding. She said that what they heard may have been an embellishment and that is what they tried to capture, but in her eyes, they embellished what she said.

Agenda Item 9-A (continued):

Director Nishi asked Director Shriner if the Ethics Training she and the other Directors received said that embellishment was okay. Director Shriner stated that she didn't recall embellishment being a topic. Director Nishi said that he remembers Ethics Training teaching Directors that what is said in closed session stays in closed session. He added that several people said that nothing significant was violated and he doesn't know who determines that. Director Nishi said that what is insignificant to some people is not to other people. He reiterated that what is said in closed session stays in closed session. Director Nishi stated that it is not up to the Director to figure out what is significant to say because whatever information they give out could be used against them so it is better to keep quiet.

Director Nishi asked what staff's recommendation was. Mr. Lowrey answered that this item was put on the agenda by the Board and that he was asked by the Committee not to make a staff recommendation. Director Nishi asked what the options were. Mr. Lowrey answered that the options were to obtain an injunction against the disclosure of confidential information; to refer the matter to the Grand Jury for determination of whether it warrants further action; and, internally the Board could censure the offending Director if it is determined that there has been an unauthorized release of confidential information. He added that along with the censure, the Board could remove the Director from committees and representative positions; and/or restrict the Director from placing items on the agenda.

Director Nishi commented that this should be discussed when the full Board was present although he was leaning towards referring this to the Grand Jury so that an outside source could make the decision.

President Burns commented that to him this is a trust issue. He stated that the District is in a difficult time right now and is complying with all the agreements such as the Water Purchase Agreement. President Burns said that if closed session information gets revealed, it could make things very difficult on the District and has the potential for causing damage. President Burns stated that he finds it interesting that a reporter would call Director Shriner and ask questions about a closed session item if it hadn't happened previously. He said that Director Shriner told him that her only regret was that the blog used her name. President Burns stated that he is in favor to wait until there is a full Board to hear this item.

President Burns made a motion to table this item. The motion died for lack of a second.

Director Shriner said that she was sorry if it sounded like she was only worried about her name in the blog, but the blog was unfortunate and was only up for a few hours and was pulled as soon as they heard. She added that there is a real problem with who is saying and who is supposed to be saying.



Agenda Item 9-A (continued):

President Burns stated that the official spokesman for the District was Mr. Heitzman. Director Shriner asked what does the public have if the spokesman refuses to speak.

No action was taken on this item.

B. Consider Appointment to the Water Conservation Commission:

Mr. Niizawa introduced this item.

Director Nishi made a motion to nominate Mr. Carroll Meuse to the Water Conservation Commission. President Burns seconded the motion. The motion failed.

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

Mr. Lowrey reminded the Board that there needed to be three affirmative votes for any action to be taken and an abstention was a zero vote, as it did not count as a yes or no, therefore no action was taken on this item.

C. Consider Modifications to the Water Conservation Commission Procedures:

Director Nishi suggested that Section 1A of the procedures include advertising in the Marina Gazette and public service announcements in The Herald and the Monterey County Weekly. Mr. Heitzman suggested not having specific names in case one or more of the media outlets ceased to exist.

Director Nishi suggested that Section 3Da of the procedures be the same as the Board Procedures Manual in reference to an excused absence. Mr. Heitzman suggested referencing the Board Procedures Manual's attendance requirements.

Director Shriner commented that the Commission was in the process of discussing the addition of a representative from the Ag Community which may allow the District access to some water conservation grants. She also suggested having the CSUMB representative position filled by a student. Director Shriner voiced her concern over the idea of advertising in the Marina Gazette and paying a fee when there are other methods of advertising with no cost.

Director Nishi said he would check on the cost for the Marina Gazette. Director Nishi asked for a report on the notifications to the Army and CSUMB regarding the vacancies. He also asked for documentation on where and when vacancies are advertised.

Agenda Item 9-C (continued):

President Burns suggested that vacancy be left open until someone asks to join thus saving advertising costs. He added that the Water Conservation Commission should consider holding their meetings quarterly or bi-annually.

Mr. Heitzman suggested sending this back to the Water Conservation Commission and asking them to discuss how regularly they want to meet. President Burns agreed to return this item to the Commission for further discussion.

D. Consider Adoption of Resolution No. 2012-07 to Approve the District Reorganization Plan:

Director Nishi asked what the Resolution's "Now, Therefore, Be It Resolved" item 6 meant. Mr. Heitzman answered that it gave the General Manager and/or Deputy General Manager the authority to sign any papers that may result from an approval of this item. Director Nishi questioned page 63 of the packet where it says "Failure to implement BMPs and/or alternative conservation approaches as detailed in Table 1, or Table 2, if applicable, may cause the Funding Agency, at its sole discretion, to halt disbursement of grant or loan funds, not pay any pending invoices, and pursue any other applicable legal remedy." and asked how much in grants are they talking about and how much in grants have been received. Mr. Heitzman said that the District has to have someone on staff with Water Conservation in their title to be eligible for grants. Director Nishi asked how much in grants or loans that the District has taken advantage of. Mr. Heitzman answered that he didn't think any grants or loans had been received but if they were available, the District wanted to be ready by having a conservation staff member.

Director Nishi questioned who the Project Manager reported to. Mr. Niizawa answered that the Project Manager reports to the Senior Engineer and the job description would be corrected to reflect that.

Director Nishi asked if the Water Conservation Specialist would be reviewing the irrigation plan checks. Mr. Carl Niizawa, Deputy General Manager/District Engineer, answered affirmatively. Director Nishi asked who reviewed landscape plans. Mr. Niizawa answered that the engineering department did. Mr. Brian True, Capital Projects Manager, added that the engineering department reviews the landscape and irrigation plans with the assistance of the Water Conservation Specialist.

Mr. Heitzman commented that there has been a lot of change in the State on Water Conservation and requested to pull the Water Conservation Specialist position from the reorganization until a more thorough review can be completed. Director Nishi shared his concern over the Water Conservation Specialist going to customers' homes for audits and other issues. He said that he recently read about the Monterey Peninsula Water Management District getting sued because when an employee did an audit of a customer's home they did more of an audit than they were supposed to.

Agenda Item 9-D (continued):

Mr. Heitzman commented that this position is needed but there is also a need to protect the District on entering people's homes for inspections and asked for more time to review this position.

Director Shriner commented that there was redistribution of responsibilities among some positions as noted on page 57 and asked if these positions received an increase in February 2011. Mr. Heitzman stated that all positions received an increase in February 2011. Director Shriner asked if any of the positions were management positions. Mr. Heitzman answered that the Operations and Maintenance Superintendent, Senior Engineer, and Project Manager were management positions. Director Shriner commented that during this economic crisis she could not support any pay increases. Mr. Heitzman stated that several of these positions have been filled on an interim basis and if the reorganization is not approved, staff would feel obligated to go out and fill the positions thus adding two more employees at over \$100,000 each. Director Nishi commented that it would cause the District to run less efficiently.

Director Nishi made a motion to adopt Resolution No. 2012-07 to approve the District Reorganization Plan. President Burns seconded the motion. Mr. Lowrey clarified that the motion did not include the Water Conservation Specialist position. The motion failed.

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

President Burns asked if this item could be brought back to the next meeting. Mr. Lowrey answered that it could.

- E. Consider Adoption of Resolution No. 2012-08 to Approve the Job Description and Hire of a Contract, In-House Counsel or Distribute Request for Proposals for External District Legal Counsel:

Mr. Lowrey recused himself from the meeting at 8:33 p.m.

Director Nishi asked how much money the District is expecting to save by hiring an in-house counsel. Mr. Heitzman answered that he expected the savings to be \$150,000 - \$200,000 per year over the next several years and would be more cost efficient than external District counsel.

Director Shriner asked how the salary range was determined. Mr. Heitzman answered that staff surveyed several local cities and counties. Director Shriner asked where the position would be placed on the organization chart. Mr. Heitzman answered that in-house counsel would report to the Board.

Agenda Item 9-E (continued):

Director Shriner voiced her concern over the experience and pay range that was suggested.

Director Nishi made a motion to adopt Resolution No. 2012-08 to approve the Job Description and Hire of a Contract, In-House Counsel. President Burns seconded the motion. The motion failed.

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

Mr. Lowrey rejoined the meeting at 8:39 p.m.

- F. Consider Adoption of Resolution No. 2012-09 to Direct Staff to Distribute Request for Proposals to Hire an Executive Recruiter for Recruitment of a General Manager and Contract In-House Counsel:

Mr. Heitzman introduced this item and explained that there could be a conflict if staff hires someone for the General Manager position instead of allowing a layer of transparency by having an Executive Recruiter do the recruitment.

Director Shriner asked when the last time the District updated the policies for hiring a General Manager. Mr. Heitzman said that staff is trying to create a policy with this resolution. Director Shriner clarified that there was no policy in place already.

President Burns made a motion to adopt Resolution No. 2012-09 to direct staff to distribute Request for Proposals to hire an Executive Recruiter for Recruitment of a General Manager. Director Nishi seconded the motion. The motion failed.

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

#### 10. Staff Reports:

- A. Receive a Report on Backwater Protection Policy and Sewer Back-Up:

Mr. Niizawa gave a brief explanation of the sewer back-up that occurred on September 15, 2011 at the Marina Community Partners building on 12<sup>th</sup> Street. He explained that following this incident, the District has reviewed its policy and compared it with other agencies. Mr. Niizawa recommended that staff revise the District Standard for better consistency with the state code.

Agenda Item 10-A (continued):

Director Shriner asked if the District was the only agency that differed from the state code. Mr. Niizawa answered that any agency can deviate from the code if they have a finding to do so. Director Shriner asked who follows up to see if the standard is applied. Mr. Niizawa answered that District staff does.

Director Nishi asked if there was access to the sewer lines and if the District jetted those lines. Mr. Niizawa answered that there was access and the District did jet the sewers which was what caused the incident at the Marina Community Partners building. Director Nishi asked Mr. Niizawa to clarify which lines were sewer lines, sewer mains, and laterals. Mr. Niizawa explained which lines were considered sewer mains and which were laterals and said that when these lines were put in by the Army, they did not follow standards which makes it hard to specifically call them sewer mains or laterals.

Director Nishi said that the report states the spill was not reportable because it was on a private lateral and the root intrusion was in the sewer main. He said that the spill was caused because there was no backwater or overflow device on the building. Director Nishi asked if it would be better to have an overflow device instead of a backwater device. Mr. Niizawa answered that a backwater device prevents this event from reoccurring and an overflow device allows sewer to come out of the line. Director Nishi asked if a backwater device was put in on one building, would it allow the spill to go to other buildings. Mr. Niizawa answered that there have been additional clean-outs installed below the buildings to allow jetting without any back-up. Director Nishi asked if a backwater device was installed. Mr. Niizawa answered that a single backwater device was installed in one building. Director Nishi asked if it was installed to the District standards. Mr. Niizawa answered that after the device was installed, staff went back and installed it correctly. Director Nishi commented that the District has to make sure it sets the example and installs things to its own standards.

Director Nishi stated that he would meet with Mr. Niizawa at a later time and go over the rest of his concerns.

B. Receive 4<sup>th</sup> Quarter 2011 Ord Community Quarterly Water Consumption and Sewer Flow Report:

Mr. Niizawa stated that since the publishing of the Board packet, staff has discovered that the water allocation to Seaside Highlands, as reported on page 168 of the packet, is 125 acre feet per year (afy) with a temporary additional landscape allocation of 43.5 afy until recycled water is available. Mr. Niizawa concluded that the total allocation for Seaside Highlands is 168.5 afy. He added that there was continuing discussion between District staff and the City of Seaside.

Director Nishi noted the increased usage for CSUMB on page 157 and suggested that staff contact them and inform them of their high usage.

Agenda Item 10-B (continued):

Director Shriner questioned the water allocation for the Seaside Golf Course and asked why it wasn't showing in the report. Mr. Niizawa stated that the Seaside Golf Course used to have its own water supply and the District has been providing water since 2010 as part of an agreement. He added that staff would look into the allocation.

11. Informational Items:

A. General Manager's Report:

No report.

B. Counsel's Report:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

The minutes are included in the packet.

2. Joint City-District Committee:

Director Shriner commented that Councilman Ford was absent, Councilman Brown was now the Chair and the meeting went smoothly.

3. Budget and Personnel Committee:

President Burns commented that the actions they took were in this agenda.

4. Executive Committee:

President Burns commented that the actions they took were in this agenda.

5. Community Outreach:

No comments.

6. MRWPCA Board Member:

President Burns commented that the MRWPCA has submitted for a \$150,000 grant for the Groundwater Replenishment which requires \$150,000 in matching funds from the MRWPCA.

7. FORA

No comments.

8. LAFCO Liaison:

Director Nishi commented that the January meeting was boiler-plate and the February meeting was canceled.

9. JPIA Liaison:

No comments.

10. Special Districts Association Liaison

No comments.

11. CalDesal:

President Burns commented that the next meeting is in early March.

12. Regional Desalination Reports:

No comments.

12. Director's Comments:

Director Shriner thanked Mr. James Derbin, Interim Operations and Maintenance Superintendent, and Mr. Heitzman for taking care of the people on Jean Circle and looking into their sediment problem.

Director Nishi asked for a report on the status of the Marina Teen Center; and, a Fort Ord office landscape/irrigation timetable. Director Nishi informed the Board that a lady in Hidden Hills sued Cal Am after telling them for years that her water bill was too high. He said that Cal Am told her to get a contractor to look at the problem and the contractor found the problem was on Cal Am's side. Director Nishi said that she sued Cal Am, was awarded \$28,000 and she is seeking an additional \$25,000 for damage to her oak trees.

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13. Adjournment:

The meeting was adjourned at 9:09 p.m.

APPROVED:

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Dan Burns, President

ATTEST:

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Jim Heitzman, General Manager