

## Marina Coast Water District

District Office  
11 Reservation Road  
Marina, California

Regular Board Meeting  
June 12, 2012  
6:30 p.m.

### Minutes

#### 1. Call to Order:

President Burns called the meeting to order at 6:30 p.m. on June 12, 2012.

#### 2. Roll Call:

##### Board Members Present:

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

##### Board Members Absent:

None

##### Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Carl Niizawa, Deputy General Manager/District Engineer  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
Brian True, Capital Projects Manager  
James Derbin, Operations and Maintenance Superintendent  
Paul Lord, Water Conservation Specialist  
Patrick Breen, Project Manager  
Sean Knight, Assistant Engineer  
Paula Riso, Executive Assistant/Board Clerk

##### Audience Members:

Andy Sterbenz  
Richard Green  
Mark Duplissie  
Joe Correa  
Jose Rodriguez  
Rene Magdaleno

Sara Rubin  
Alberto Villa  
Kuei Villa  
Augie Dent  
Andy Leif  
Allison Imamura

Joe Pineda  
Daniel Jackson  
Warren Foster  
Hebard Olsen  
Mike Tate

The Board entered into closed session at 6:30 p.m.

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
- B. Pursuant to Government Code Section 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b)  
One Case
- C. Pursuant to Government Code Section 54959.9  
Conference with Legal Counsel – Anticipated Litigation  
Potential Initiation of Litigation (c)  
One Case
- D. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
Employee Organization: Marina Coast Water District Employees Association
- E. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
Employee Organization: Teamsters Local 890

The Board ended closed session at 6:53 p.m.

President Burns reconvened the meeting to open session at 7:00 p.m.

4. Possible Action on Closed Session Items:

Mr. Lowrey reported the following:

- 3-A1-3 – the Board of Directors conferred with Legal Counsel, no action was taken.
- 3-B – 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 conferred with the Labor Negotiator, no action was taken.
- 3-E – the Board conferred with the Labor Negotiator, no action was taken.

5. Pledge of Allegiance

President Burns led everyone present in the pledge of allegiance.

6. Oral Communications:

Mr. Hebard Olsen, Marina resident, commented that the District's practice to procure vendor services within the District area was laudable and suggested that a citizens group help iron out any issues that may come up between the District and area service providers.

7. Consider Adoption of Resolution No. 2012-31 in Recognition of Mr. Joe Correa, Operations and Maintenance Supervisor, for 20 Years of Service to the Marina Coast Water District:

Vice President Gustafson made a motion to adopt Resolution No. 2012-31 recognizing Mr. Joe Correa, Operations and Maintenance Supervisor, for 20 years of service to the Marina Coast Water District and awarding him a plaque and gift certificate. Director Nishi seconded the motion. The motion was passed.

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

Mr. Jim Heitzman, General Manager, read the narration and presented Mr. Correa with a plaque and gift certificate.

8. Consent Calendar:

Director Nishi requested to pull agenda items 8-E and 8-H from the Consent Calendar. Director Shriner requested to pull agenda item 8-B, 8-E, 8-F, and 8-G from the Consent Calendar.

Agenda Item 8 (continued):

Vice President Gustafson made a motion to approve the Consent Calendar consisting of:

- A) Adopt Resolution No. 2012-32 Ordering an Election, Requesting County Elections to Conduct the Election, and Requesting Consolidation of the Election Set for November 6, 2012
- C) Adopt Resolution No. 2012-34 to Approve a Professional Services Agreement with Mr. Ron Allen to Provide Consultant Services for the Water education Program

Director Shriner seconded the motion. The motion was passed.

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

- B. Adopt Resolution No. 2012-33 to Retain Ms. Jeanine DeBacker as Personnel Attorney with the Firm of McPharlin Sprinkles and Thomas LLP:

Director Shriner inquired why Noland, Hamerly, Ettienne & Hoss was not recommended. Mr. Lowrey commented that it was beneficial to have the current arrangement with Ms. DeBacker because when there are issues, it can be awkward to have one firm handle both items.

Vice President Gustafson made a motion to adopt Resolution No. 2012-33 to retain Ms. Jeanine DeBacker as personnel attorney with the firm of McPharlin Sprinkles and Thomas LLP. Director Lee seconded the motion. The motion was passed.

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

- D. Adopt Resolution No. 2012-35 to Approve a Professional Services Agreement with Monterey Bay Technologies to Provide Information Technology Support Services for FY 2012-2013:

Vice President Gustafson made a motion to adopt Resolution No. 2012-35 approving a Professional Services Agreement with Monterey Bay Technologies to provide Information Technology Support Services for FY 2012-2013. Director Shriner seconded the motion. The motion was passed.

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

- E. Adopt Resolution No. 2012-36 to Approve a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for Engineering Services Related to Phase I of the East Garrison Lift Station Improvements Project:

Director Nishi asked if this item was the report he had asked for. Mr. Carl Niizawa, Deputy General Manager/District Engineer, answered that it was. He explained that when the District took over the facility in 2001, it was considered existing infrastructure and was included in the MCWD Master Planning efforts. Director Nishi stated that he did not think it was appropriate to ask the ratepayers to pay for it. Director Shriner inquired if this project was in addition to the Capital Improvements Projects or a part of it. Mr. Niizawa answered that it was a part of it.

Vice President Gustafson made a motion to adopt Resolution No. 2012-36 approving a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for Engineering Services Related to Phase I of the East Garrison Lift Station Improvements Project. Director Lee seconded the motion. The motion failed.

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

- F. Approve District Membership with the Alliance for Water Efficiency:

Director Shriner asked if the Water Conservation Commission had a chance to review this organization. Mr. James Derbin, Operations and Maintenance Superintendent, answered that the Water Conservation Commission did not look at this organization but the Executive Committee did discuss it. Director Shriner suggested that there be more research on which organizations the District wants to be a part of.

Director Nishi made a motion to approve District membership with the Alliance for Water Efficiency. Vice President Gustafson seconded the motion. The motion was passed.

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

- G. Approve the Expenditures for the Month of May 2012:

Director Shriner inquired on check number 53953 for Evans Group International and asked what work product was received for the cost of \$14,000.46. Mr. Heitzman answered that Mr. Evans was a consultant the District hired to be part of the District's team when dealing with the Public Utilities Commission and strategy meetings. He said that staff could get more detail and provide it to Director Shriner. Director Shriner asked for clarification on check numbers 53959, 53961, 53983, and 54136. Ms. Kelly Cadiente, Director of Administrative Services, provided clarification to Director Shriner.

Agenda Item 8-G (continued):

Vice President Gustafson made a motion to approve the expenditures for the month of May 2012. Director Lee seconded the motion. The motion was passed.

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

H. Approve the Draft Minutes of the Regular Board Meeting of May 8, 2012:

Director Nishi asked that page 7 of the minutes under item D, show the questions Mr. Moore asked. Vice President Gustafson added that Mr. Moore also made a statement about the District's reserves. Director Shriner stated that it was more appropriate to clarify the facts rather than select out the individual. Director Nishi said that he wanted the minutes to show what occurred. The revised minutes will be brought back to the next meeting for consideration.

9. Action Items:

President Burns noted that agenda items 8-E and 8-F need to be moved to the beginning of the Action Items.

E. Consider Adoption of Resolution No. 2012-42 to Initiate CEQA Studies and LAFCO Application for the Annexation of CEMEX Property into the Marina Coast Water District:

Director Shriner asked if CEMEX was currently using water and noted that she was informed that they had a private well. She asked what the volume and depth of the well was, and the condition. Mr. Heitzman answered that the Monterey County Water Resources Agency (MCWRA) would have that information. Mr. Lowrey added that that kind of information might be found in the environmental study. Mr. Heitzman said that he thought CEMEX used a boiler to clean the sand but didn't really know any details. Director Shriner asked if there was an address for the property. Mr. Lowrey answered that the 1996 Annexation Agreement had an APN and legal description for the property. Director Shriner stated that she had looked up information on the property and talked to the MCWRA and they sent her a map and told her there was a well under the trees. She said she then contacted the Environmental Health and they only had well reports for SeaMist Farms which hadn't been updated since 1991. Director Shriner voiced her concern over spending the funds for a CEQA study without more information. Mr. Heitzman commented that CEMEX is limited to 500 acre-feet of water per year. Mr. Lowrey stated that it was approved by the MCWRA in the 1996 Agreement and the water use should be monitored by MCWRA. He added that if the property was annexed, the District would have more information because they wouldn't have to rely on getting reports from another agency.

Agenda Item 9-E (continued):

Director Shriner asked what state agency takes reports for private wells. Mr. Lowrey answered that it was the Water Resources Control Board.

Vice President Gustafson made a motion to adopt Resolution No. 2012-42 to initiate CEQA studies and LAFCO application for the annexation of CEMEX property into the Marina Coast Water District. Director Lee seconded the motion. The motion was passed.

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

F. Consider Adoption of Resolution No. 2012-43 to Approve a Professional Services Agreement with Denise Duffy & Associates for Environmental Services Related to the CEQA Studies and LAFCO Application for the Annexation of CEMEX Property into the Marina Coast Water District:

Director Shriner noted the contract was for \$68,000 and questioned where the funds would come from. Mr. Niizawa answered that it would come from the engineering consultant budget. Director Shriner asked what cost center. Ms. Cadiente answered that it would be from the Marina Water cost center. Director Shriner commented that the cost for annexation would come from the Marina Water cost center. Mr. Lowrey explained that the main purpose of the 1996 Annexation Agreement and Groundwater Mitigation Framework for Marina Area Lands was to mitigate the effects of seawater intrusion and to protect the aquifers. Mr. Lowrey commented that it was in the interests of the District to have the annexation occur to enhance the protection and the control of operation of the groundwater aquifers.

Vice President Gustafson made a motion to adopt Resolution No. 2012-43 approving a Professional Services Agreement with Denise Duffy & Associates for environmental services related to the CEQA studies and LAFCO application for the annexation of CEMEX property into the Marina Coast Water District. Director Lee seconded the motion. The motion was passed.

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

A. Consider Adoption of Resolution No. 2012-37 to Approve the Central Marina Portion of the Budget for FY 2012-2013:

Ms. Cadiente briefly explained the changes made to the budget since the Board last reviewed it. Director Shriner asked for clarification on the CEMEX costs in the staff report. Ms. Cadiente said that it was a typo and should have been \$68,000 not \$86,000.

Agenda Item 9-A (continued):

Vice President Gustafson made a motion to adopt Resolution No. 2012-37 approving the Central Marina Portion of the Budget for FY 2012-2013. Director Lee seconded the motion. The motion was passed.

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

- B. Consider Adoption of Resolution Nos. 2012-38 (Ord Community Compensation Plan), and 2012-39 (Capital Elements of Ord Community Plan), to Adopt the Ord Community Portion of the Budget for FY 2012-2013:

Mr. Niizawa commented that this item would have to be heard at another time as FORA did not consider it at their last meeting. Mr. Heitzman stated that the item would have to be pulled from the agenda. Director Nishi commented that in the agreement with FORA, section 7.21 states that they have 90 days to respond after receiving the proposed budget. He asked if that meant the District could approve the budget after June 15<sup>th</sup> since FORA received the proposed budget on March 15<sup>th</sup>. Mr. Lowrey answered that if the District does not receive any detailed objections with proposed changes within 90 days of presenting FORA with the proposed budget, it is deemed adopted. Director Nishi clarified that the District could approve the Ord Community budget on the Monday following the 15<sup>th</sup>. Mr. Lowrey answered affirmatively.

- C. Consider Adoption of Resolution No. 2012-40 to Approve a Request for Proposals for a 5-Year Financial Plan and Rate Study:

Ms. Cadiente introduced this item.

Director Nishi commented that he would like the rate study reflect land use jurisdictions/entities that have water or wastewater only. Ms. Cadiente commented that Section IV. Study Requirements, item 4, will address that issue as well as private fire service and the difference between local users and outside jurisdictions. Director Nishi questioned if an entity is not in the District and wants water service, i.e. BLM, are they paying their fair share. Ms. Cadiente answered that the issue would be looked at under item 4. Director Nishi commented that master meters have been a sensitive subject and suggested that the rate study look at the District's tier structure and possible multiples for each tier when used in master meters. Director Nishi asked why the rate study was for 5 years. Mr. Heitzman answered that it is standard practice to do a 5-year rate study.



Agenda Item 9-C (continued):

Director Nishi made a motion to adopt Resolution No. 2012-40 approving a Request for Proposals for a 5-Year Financial Plan and Rate Study. Vice President Gustafson seconded the motion. The motion was passed.

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

D. Consider Variance Request Regarding Metering for the University Village Apartments Development and if the Variance Request is Approved Adopt Resolution No. 2012-41:

Mr. Niizawa introduced this item. He explained that the District Code requires all new development to have individual meters for each unit and that they be placed at the edge of the property. Mr. Niizawa stated the developer wants to use a master meter for each building with a central boiler unit that would take the place of individual water heaters and the developer would then sub-meter and individually bill the tenants for their water use.

Vice President Gustafson asked what would happen if the owner did not pay their water bill. Mr. Heitzman answered that the District would have to go to each tenant and see if they would pay for the water bill. Ms. Cadiente clarified that the District is required to go to each individual user and request that they make payment going forward. She said that if they agree to do that, they would have to accept the bill for the master meter and somehow collect fees to pay the bill.

Mr. Andy Leif, South County Housing, stated that the University Village Apartments project finally received funding to move forward. He said that they are working with staff to meet the District's conservation goals as well as their own energy efficient goals. Mr. Leif commented that to address Vice President Gustafson's concern, they would be willing to put down a deposit to meet a few months of water bills.

Mr. Augie Dent, South County Housing Project Manager, gave a brief background of the project and explained some possible benefits to the District.

Director Shriner asked how much more it would cost to do the project by the District's code. Mr. Leif answered that it would be approximately \$900,000. Director Shriner asked what it would take to change the District's ordinance to be more up-to-date with new technologies such as central boilers and automated meter reading, and how expensive it would be to change the ordinance. Mr. Lowrey answered that changing the ordinance would have to be done by Brown Act process and there would be a cost to preparing the ordinance but it wouldn't be exorbitant. Mr. Niizawa commented that staff has checked with other agencies and there is no simple answer.

Agenda Item 9-D (continued):

Mr. Niizawa added that there could be plumbing and metering issues in the future if the property is sold and made into individual units. He said there would have to be an agreement to address those issues and any other similar variances would have to have an agreement too.

Director Shriner asked if there were enough findings to support a variance. Mr. Lowrey answered that with the agreement and other information provided there was enough to support the variance but it was a Board decision.

Director Nishi asked what the rationale was for having meters located at the edge of the property. Mr. Heitzman answered that it was ease of access in case the District needed to repair, replace or maintain the meter, and the employees wouldn't have to enter personal property. Director Nishi asked if the meters were located on the property next to each building, would easements for the District complicate the issue. Mr. Brian True, Capital Projects Manager, commented that the current proposal on the development does include a utility easement with pipelines the developer will construct and transfer to MCWD. Director Nishi asked if it was possible to have a bank of meters next to each building that would limit the amount of piping needed and provide the District with easements to those lines and meters. He added that if the buildings are sold in the future, the re-plumbing costs would be tremendous. Director Nishi asked what part of the infrastructure the District is responsible for. Mr. True answered that it was everything in the public right-of-way up to the meter. There was discussion on pipelines layout.

Mr. Dent explained that each building would be master metered and from that master meter, some of the water would be routed to the central boiler for heating and cold water would run through a sub-meter to each unit. He said that hot water from the central boiler would run through another sub-meter to each unit. Mr. Dent said that by having each unit with two sub-meters, one for hot and one for cold water, they could keep track of how much water each unit is using.

Mr. Leif commented that the project/development will be regulated by the State of California, Tax Credit Allocation Committee, and the State of California Department of Housing and Community Development for 55 years. He said that South County Housing agreed with staff that each unit must be sub-metered if there is a central boiler system and they are trying to meet water conservation and green building regulations.

Mr. Heitzman advised the Board that there are other similar variance requests that will be coming in the near future and they are not all for not-for-profit agencies.

Mr. Dent stated that in addition, the agreement would be recorded on the property and would put any future owner on notice that any conversion of the use of the property would be required to re-plumb the buildings to the District standard.

Agenda Item 9-D (continued):

Director Shriner asked if they could write into the agreement that if the development is sold, as long as it stays non-profit the variance would stand, but if it is sold to a for-profit developer, it must be brought to code.

President Burns asked for clarification of what the Board is considering and asked if it was a two-step process with consideration of the variance first and the findings second. Mr. Heitzman stated that if the Board accepted staff recommendation, no findings needed to be made.

Vice President Gustafson made a motion to deny the variance. Director Lee seconded the motion.

Director Shriner clarified that if she was voting no she was actually voting yes to the variance. The Board asked for clarification from Mr. Lowrey. Mr. Lowrey asked Vice President Gustafson to restate his motion. Vice President Gustafson stated that he made a motion to decline the variance. Mr. Lowrey clarified that Vice President Gustafson made a motion to support the staff recommendation to deny the variance. He stated that if a Board member voted "yes" they were voting to deny the variance and it would not go through. Mr. Lowrey said that if they voted "no" on the motion to deny the variance, then they would need to consider the variance with the findings. President Burns asked if Director Lee's second still stood. Director Lee answered affirmatively and asked if they could restart the voting.

The motion to deny the variance was passed.

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

G. Consider Adoption of Resolution No. 2012-44 to Approve Professional Services Agreement for Wastewater Engineering Services with Wood Rogers for Design of the Reservation Road Siphon Remediation Project:

Mr. Niizawa introduced this item.

Director Shriner asked if this project was included in the CIP. Mr. Niizawa answered that it was included in the CIP and 2012-2013 Budget.

Director Nishi inquired on the size of the sewer main. Mr. Sean Knight, Assistant Engineer, answered that it was an 8" force main. There was discussion on the layout of the sewer mains.

Agenda Item 9-G (continued):

Director Nishi asked what the \$120,000 cost is for. Mr. Knight answered that it was for design of the force main. Director Nishi asked what the cost for construction would be. Mr. Knight answered that it could be in the \$500,000 range. Director Nishi asked what would be done with the existing 12" line. Mr. Knight answered that it would be left in place for the time being and capped as required by the County Health Department. He said that it could be utilized at a later time or left in place. Vice President Gustafson stated that it could be used as a sleeve. Director Nishi asked about the concerns of no redundancy. Mr. Knight answered that the concerns about no redundancy was in the fact that it was a siphon and now it has been turned into a force main as opposed to an inverted siphon.

Vice President Gustafson made a motion to adopt Resolution No. 2012-44 approving a Professional Services Agreement for Wastewater Engineering Services with Wood Rogers for design of the Reservation Road Siphon Remediation Project. President Burns seconded the motion. The motion was passed.

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

H. Consider Adoption of Resolution No. 2012-45 to Amend the MCWD Board Procedures Manual Regarding US Army and CSUMB Positions on the Water Conservation Commission:

Mr. True introduced this item and noted several options for the Board to select from.

Director Shriner asked if the Water Conservation Commission was a legislative body or part of the Board's legislative body. Mr. Lowrey answered that anytime the Board creates a committee it is considered a legislative body under the Brown Act. Director Shriner asked if that pertained to the other committees, such as Joint City District and Budget and Personnel. Mr. Lowrey answered that even though they are committees that make recommendations to the Board they were considered subsidiary legislative bodies and would be subject to the same rules.

Director Nishi said that they should eliminate the Army and CSUMB positions and when they decide what they want to do, they can always be added back later.

President Burns stated that either seven or nine positions are too many especially when they are only making recommendations. He said that sometimes it seems to him that they meet only to meet and not with a particular goal in mind. President Burns commented that he is okay with not filling the two vacancies and if two more vacancies come up, he is okay with not filling those either. He said that it should be pared down and added that they should only meet every other month or once a quarter.

Agenda Item 9-H (continued):

Director Shriner said that she remembered the Commission discussing leaving the positions open for high school or CSUMB students because it would be educational for them and they could bring forward some new ideas.

Director Nishi commented that the problem with not eliminating the positions is that it makes it harder to get a quorum.

Director Nishi made a motion to adopt Resolution No. 2012-45 with Option 1 to amend the MCWD Board Procedures Manual by eliminating the US Army and CSUMB positions entirely from the Water Conservation Commission thereby reducing the number of Commissioners from nine to seven. Vice President Gustafson seconded the motion. The motion was passed.

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

10. Informational Items:

A. General Manager's Report:

No report.

B. Counsel's Report:

Mr. Lowrey reminded the Board that the Brown Act applies to all committees in the same way it applies to the Board. He added that there can be no emails between other committee members that would make a quorum of that committee and there can be no discussion on non-agenda items. Mr. Lowrey emphasized that comments can be made under the public comment period, but no discussion can be made.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

President Burns commented that the minutes were in the packet.

2. Joint City-District Committee:

Vice President Gustafson commented that the meeting was boiler-plate.

3. Budget and Personnel Committee:

President Burns commented that the minutes were in the packet. Director Nishi commented that one person can't approve the minutes.

4. Executive Committee:

Director Nishi commented that the minutes were in the packet. Director Nishi stated that he had the same comment.

5. Community Outreach:

Vice President Gustafson said the District had a booth at the Festival of the Winds and there was good attendance. He added that the District is attending all the events they can and the newsletter will be coming out soon. Vice President Gustafson commented that he has given several speeches at other city councils regarding what really happened with the water situation.

6. MRWPCA Board Member:

Director Nishi stated that there was a meeting on May 24<sup>th</sup> and he reported to Lou Calcagno the fact that one Board member does not live in his district. He said Mr. Calcagno commented that he had just found out so they just looked the other way for that meeting. Director Nishi stated that on June 11<sup>th</sup> they had a budget workshop and that Board member was still participating. He said that after roll call he brought it to the attention to the full Board that there was a sitting director who was not a resident of his entity. Director Nishi stated that the MRWPCA legal counsel said that a director has to live in his entity in order to represent it. Director Nishi said he contacted MCWD legal counsel who was going to find out if it was allowed. Mr. Lowrey said that he had not yet heard from MRWPCA legal counsel on what the residential requirements were for the MRWPCA Board.

Director Nishi noted that another issue came up when MRWPCA legal counsel ruled that MCWD could not participate in closed session because MCWD made 69 comments at the PUC pre-hearing. He said that MRWPCA did not like what MCWD wrote so they were going to exclude MCWD from closed session.

7. FORA

Vice President Gustafson commented that the District's budget proposal was not discussed at the meeting.

8. LAFCO Liaison:

Director Nishi said the meeting was boiler-plate.

9. JPIA Liaison:

Director Shriner commented that the Health Benefits Authority received the 75% concurrence it needed to combine with JPIA.

10. Special Districts Association Liaison

Vice President Gustafson commented that the next meeting was in July.

11. CalDesal:

President Burns stated that they had a meeting at the ACWA Conference in Monterey and they are looking to get a grant to help with the expenses of developing the regulations with the State Water Resources Control Board.

12. Regional Desalination Reports:

Mr. Heitzman commented that the project was ongoing.

11. Director's Comments:


Director Shriner thanked staff for the budget answers and for the maps for the consideration for the CEMEX item.

Vice President Gustafson thanked staff for the engineering report and he can see the recent changes and it was full of good information.


12. Adjournment:

The meeting was adjourned at 8:54 p.m.

APPROVED:

  
\_\_\_\_\_  
Dan Burns, President

ATTEST:

  
\_\_\_\_\_  
Jim Heitzman, General Manager