

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
MOULTON NIGUEL WATER DISTRICT**

APRIL 21, 2011

A Regular Meeting of the Board of Directors of the Moulton Niguel Water District was held at the District office, 27500 La Paz Road, Laguna Niguel, California, at 5:30 p.m. on Thursday, April 21, 2011. There were present and participating:

DIRECTORS

LARRY MCKENNEY	President
SCOTT COLTON	Director
RICHARD S. FIORE	Director
DON FROELICH	Vice President
GARY R. KURTZ	Director
LARRY R. LIZOTTE	Director
BRIAN PROBOLSKY	Vice President

Also present and participating were:

STAFF MEMBERS, LEGAL COUNSEL

ROBERT C. GUMERMAN	General Manager
CHARLES J. ROY	Director of Customer Service
MATT COLLINGS	Director of Engineering & Operations
PAT GIANNONE	Bowie, Arneson, Wiles & Giannone
NANCY DESAI	MNWD
LESLIE GRAY	Board Secretary
KELLY WINSOR	MNWD
AMBER CUTLER	MNWD
ROBYN EPPSTEIN	MNWD

PUBLIC MEMBERS

KAREN LANGER	Resident
JODY KROENERT	MNWD
LARRY RANKIN	Del Prado HOA Board of Directors
RON BEAUFORT	Resident
SUSAN HINMAN	MWDOC Board Member
PAT KEY	Resident
DAVE KEY	Resident
MICHAEL KOGUS	Resident

Absent was:

DAVID D. CAIN
FRANI BAILEY

Director of Finance/Treasurer
Recording Secretary

President Larry McKenney presided and Leslie Gray recorded the minutes of the meeting. President McKenney led the Pledge of Allegiance. He acknowledged the members of the audience and thanked them for attending the meeting.

ACTION ITEMS

CONSENT CALENDAR ITEMS

- The Board approved Consent Calendar Items 12 through 15 as presented.

Item 11 – Receive and File Monthly Operational Status Reports

- The Board approved Consent Calendar Item 11 as presented.

ENGINEERING & OPERATIONS MATTERS

Sheep Hills Reservoir Recoating, Contract 2008.013 – Construction Contract

Reimbursement

- The Board awarded the contract for the Sheep Hills Reservoir Recoating, Contract 2008.013, to Advanced Industrial Services for an amount of \$385,800 and approved an expense authorization in the amount of \$480,000, to be financed from Fund 7, Replacement & Refurbishment Fund.

Plant 3A ETM Refurbishment, Contract 2010.084 – Design-build Contract Award

- The Board awarded the design-build contract for the Plant 3A ETM Refurbishment to Kennedy Pipeline for an amount of \$59,750 and increased the project budget and expense authorization from \$100,000 to \$164,000, to be financed from Fund 7, Replacement & Refurbishment Fund.

Crown Valley Parkway Valve Replacement, Contract 2010.019 – Construction

Contract Award

- The Board awarded the contract for the Crown Valley Parkway Valve Replacement to Paulus Engineering for an amount of \$544,850 and increased the project budget and expense authorization to \$600,000, to be financed from Fund 7, Replacement & Refurbishment Fund.

LEGAL MATTERS

Resolution to Adopt Water Budget Based Rate Structure (WBBRS) and Resulting Water Service Rate Increases

- The Board adopted the Resolution to Adopt Water Budget Based Rate Structure (WBBRS) and Resulting Water Service Rate Increases.

Resolution to Adopt Water Budget Based Rate Structure (WBBRS) Variance Terms for Rules and Regulations

- The Board adopted the Resolution to Adopt Water Budget Based Rate Structure (WBBRS) Variance Terms for Rules and Regulations.

Establishment of Conservation Fund for Certain Water Budget Based Rate Structure (WBBRS) Revenues

- The Board adopted the Resolution to Establish the Water Conservation Fund and Application of Water Budget Based Rate Structure (WBBRS) Revenues Deposited Therein.

Repeal of Water Supply Response (WSR) Level 2 – Water Alert Condition Under Water Conservation Program

- The Board adopted the Resolution to end the Water Supply Response (WSR) Level 2 – Water Alert Condition under Water Conservation Program.

Claim of Dean, Personal Injuries from Automobile Accident

- The Board rejected the claim of Dean and authorized staff to send a Notice of Rejection on the ACWA/JPIA approved form.

MINUTE APPROVAL

President McKenney reported that the Board did not receive the minutes of the Closed Session of the Special Board Meeting of February 25, 2011. He commented that unless the Board members had questions or comments on the other sets of minutes he would entertain a motion to approve all four sets of minutes.

APPROVAL OF MINUTES OF SPECIAL BOARD OF DIRECTORS MEETING OF
FEBRUARY 25, 2011 (ETHICS TRAINING)

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE SPECIAL BOARD OF DIRECTORS MEETING OF FEBRUARY 25, 2011 (ETHICS TRAINING) AS PRESENTED.

APPROVAL OF MINUTES OF JOINT MEETING OF COMMUNITY
RELATIONS/PERSONNEL & SALARY BOARD OF DIRECTORS DATED
MARCH 9, 2011

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE JOINT MEETING OF COMMUNITY RELATIONS/PERSONNEL & SALARY BOARD OF DIRECTORS DATED MARCH 9, 2011 AS PRESENTED.

APPROVAL OF MINUTES OF REGULAR BOARD OF DIRECTORS MEETING OF
MARCH 17, 2011

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE REGULAR BOARD OF DIRECTORS MEETING OF MARCH 17, 2011 AS PRESENTED.

APPROVAL OF MINUTES OF SPECIAL BOARD OF DIRECTORS MEETING
DATED MARCH 18, 2011 (TOUR OF UPPER CHIQUITA RESERVOIR)

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS APPROVED THE MINUTES OF THE SPECIAL BOARD OF DIRECTORS MEETING OF MARCH 18, 2011 (TOUR OF UPPER CHIQUITA RESERVOIR) AS PRESENTED BY THE FOLLOWING VOTE: AYES: DIRECTORS LIZOTTE, KURTZ, FROELICH, COLTON, FIORE, AND PROBOLSKY; NOES: NONE; ABSTAIN: DIRECTOR MCKENNEY.

PUBLIC COMMENTS

President McKenney opened the Public Comments portion of the meeting and invited Mrs. Susan Hinman to address the Board. Mrs. Hinman reported that she visited

Moulton Elementary School to observe the water education program presentation to the K-3 children. She commented that the teacher hired by the Discovery Center did an excellent job and the children were engrossed and involved in the presentation. She encouraged the Board members to attend a presentation. President McKenney commented that Mrs. Hinman is one of the Directors elected to the Board of Directors of the Municipal Water District of Orange County (MWDOC) and represents a division of that Board that encompasses MNWD and several other South County agencies.

Mrs. Hinman reported that three of the members of the MNWD Citizens' Advisory Committee attended the three-day Colorado River Tour, which visited the Yuma Desalter and other sites. She reported that last Wednesday the MWDOC Board of Directors decided to move forward with the agreement between MWDOC and its 28 member agencies, and the signing will take place on June 1, 2011. Mrs. Hinman reported that 21 of the 28 agencies have executed the agreement. She reported that an Elected Agencies Forum has been scheduled for April 28, 2011 and encouraged representatives from MNWD to attend the Forum.

Mrs. Hinman presented the Board with a poster commemorating MWDOC's 60th Anniversary that shows all of the logos of the member agencies of MWDOC and commented that MWDOC looks forward to working closely with the District in the future.

President McKenney reported that he received a letter from MWDOC regarding the Elected Agencies Forum on April 28, 2011 asking for representatives from all of the agencies to attend. He asked Director Froelich, the District's main liaison to MWDOC, if he was available to attend the Forum and suggested that he and Director Froelich attend if possible. Director Froelich reported that he is not available and Director Fiore commented that he is interested in attending. President McKenney suggested that he and Director Fiore attend the Forum and Director Fiore concurred.

President McKenney invited Ms. Pat Key to address the Board. Ms. Key requested that the attachments to the meeting agenda be posted online. President McKenney thanked Ms. Key for her comment and reported that staff is working on a

different system to produce the agendas electronically and post significant attachments on the website in the near future.

President McKenney invited Mr. Michael Kogus to address the Board. Mr. Kogus reported that the last time he addressed the Board he requested a copy of the study on which the new rate structure was based and was told that he would have to pay \$.05 per page to get a copy of the study. He commented that it would have been helpful if the study had been put on the website prior to the Board voting on the WBBRS. Mr. Kogus asked why the water usage sign outside of the building has decreased from 15% to 12% and requested that the sign indicate that the goal of conserving 20% should be achieved by 2020. President McKenney clarified that the sign outside of the building is a different concept than the 20% by 2020 goal. He explained that the 20% by 2020 goal that the District must meet for conservation is usage compared to a baseline and is different than the sign, which compares the usage each month to the previous year established by Water Conservation Level No. 2. President McKenney commented that the Board is interested in assuring that the public understands that even though the rainfall has been favorable this year and the conservation efforts have been successful there are still water issues in the state and it is important to keep conserving.

President McKenney asked if there were any more public comments. Hearing none he closed the Public Comments portion of the meeting.

Director Probolsky arrived at 5:40 p.m.

PRESIDENT'S REPORT

President McKenney reported that he attended a WACO meeting on April 1, 2011 and heard a presentation from the Executive Director of ACWA on statewide matters of importance. He reported that the next WACO meeting on May 6, 2011 will focus on the California Forward proposal for reorganization of state government. President McKenney reported that he attended the initial meeting of the South Orange County Watershed Management Executive Committee, which is the body of representatives from water agencies and cities that will meet to help direct the County's work on the Integrated

Regional Water Management Plan and how Proposition 84 money and other state grants will be used.

President McKenney reported that the Southern California Water Committee Legislative Task Force is meeting every two weeks and is following a number of bills, some of which relate to the Delta, the Peripheral Canal, or alternative conveyance. He reported that the Board of Trustees of the Southern California Water Committee met last week to hear a presentation from the Deputy Director of the Bay Delta Conservation Plan and the Deputy Secretary for Resources. President McKenney reported that three weeks ago the Governor declared that the drought is over and the State Water Project pumps were turned off, allowing hundreds of thousands of acre-feet of water to flow to the ocean, because the system does not have the interim capacity storage.

President McKenney reported that he attended two meetings this month with Dr. Gumerman and an ad hoc steering committee consisting of himself and the two Vice Presidents of the Board to review with Dr. Gumerman the big issues pending for the next year and provide guidance to him regarding how things could be agendized and the priority of things that need to be brought up in the next couple of months so that he can more efficiently apply staff time to the issues.

BOARD/COMMITTEE OR OTHER REPORTS

President McKenney inquired if any members of the Board had any Committee or other Reports. Director Froelich reported that he attended the Joint Planning Committee meeting of the MWDOC Board and the OCWD Board at which the California Forward Initiative and the fact that one of the key objectives of the group is to take the property taxes away from the special districts was discussed. He reported that at its March 31, 2011 meeting the Orange County Water District Board of Directors authorized an increase in the capacity of the Groundwater Recovery System (GRS) from 70 mgd to 100 mgd.

Director Kurtz reported that a test case is underway at the desalination facility in Dana Point and he and Mr. Matt Collings would update the Board on this next month. He reported that the desalination facility received environmental approval and is being

studied by California and other states as well. Director Fiore reported that he and Director Probolsky attended the ISDOC meeting on March 31, 2011. He reported that Joan Finnegan, the President of ISDOC, reported that ISDOC is currently reviewing its bylaws for the election procedures for LAFCO's representatives and alternative representatives.

Director Fiore reported that the LAFCO representative reported that there would be no increase in the budget for special districts and that LAFCO is currently looking at the unincorporated areas of Orange County for purposes of consolidating them. He reported that an interesting program was presented on political blogging and social media. President McKenney commented that last month he attended a conference on employment law and there was a seminar on social media and the implications for officials and agencies.

GENERAL MANAGER'S REPORT

SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA)

IRWD Biosolids Update

Dr. Gumerman reported that SOCWA has crafted a draft agreement with IRWD on the Biosolids project that will go before a special meeting of SOCWA's Engineering Committee on May 5, 2011. He reported that the agreement will be considered by IRWD's Board on May 9, 2011 and he understands that in mid-May Mr. Tom Rosales, General Manager of SOCWA, will have a special SOCWA Board meeting to consider the agreement, after which the agreement will be sent to SOCWA's member agencies for approval. President McKenney commented that he is trying to resolve a schedule conflict on May 5, 2011 which would preclude his attendance at the Special Board Meeting on that date. He asked that the Board members hold the May 5th date for now.

Director Probolsky commented that he is not convinced that IRWD's Biosolids project is a great project for SOCWA to be part of. He commented that one of the arguments for the project is that there is not a local option; however, he has talked to the County, which has tremendous permitted capacity in the landfill that is not being used for biosolids, and the issues are about the percentage of the mix and not about accepting it. Director Probolsky commented that the County is open to working towards accepting

more biosolids and he would like to make sure that SOCWA is not being myopic about this agreement and is open to exploring other options before the agreement comes before the Board. Further discussion ensued and Dr. Gumerman commented that he would stay in contact with Mr. Rosales to make sure he looks into this.

PC 15 Sludge Force Main Update

Dr. Gumerman reported that the environmental work for the PC 15 Sludge Force Main in Lower Aliso Canyon is underway. He reported that the SWRCB rejected a petition by SOCWA and South Coast Water District to re-hear the issue related to the fine SCWD received for discharge of effluent brine out of the South Coast groundwater demineralization plant. He reported that SOCWA drafted a letter to the SWRCB asking for further consideration, and after reviewing it with President McKenney he signed the letter on behalf of MNWD along with 12 other South County water agencies and the cities of Mission Viejo, Dana Point, and Oceanside, and Cal Desal.

Plant 3A Effluent Transmission Main (ETM) Tour

Dr. Gumerman reported that the tour of the Plant 3A ETM has been scheduled for Friday, June 10, 2011.

Water Awareness Day at Upper Oso Reservoir – May 14, 2011

Dr. Gumerman reported that the District would participate with Santa Margarita Water District in Water Awareness Day on May 14, 2011 at the Upper Oso Reservoir. He reported that everyone is invited to attend the event.

Agreement Between MWDOC and the South County Agencies

Dr. Gumerman reported that 21 of MWDOC's member agencies have executed the agreement.

Water Supply Allocation/Usage Update

Dr. Gumerman reported that the District is 7.2% below last year's water usage. He reported that there is no longer an allocation from MWDOC or MET because both agencies eliminated it effective immediately. Had it been in effect, the District would be 13% below its allocation. Dr. Gumerman reported that as of this date rainfall in Orange County is 183% of normal; however, since the District has no capacity in the

groundwater basin and does not capture any rainwater, it received no benefit from the rainfall. He reported that Lake Powell is at 53% of full capacity, Lake Mead is at 43% of full capacity, and Lakes Shasta and Oroville are both 80% of full capacity; however, the issue with the Northern California reservoirs is getting the water through the Delta, which is restricted by regulatory considerations.

CONSENT ITEMS

President McKenney asked if there were any items on the Consent Calendar that the Directors would like to pull for further discussion and Director Probolsky requested that Item 11 be pulled.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR LIZOTTE AND SECONDED BY DIRECTOR FIORE, THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY APPROVED CONSENT ITEMS 12 THROUGH 15 AS PRESENTED, WHICH ITEMS ARE INCORPORATED HEREIN BY THIS REFERENCE.

Consent Calendar Item 11 – Monthly Operational Status Reports

Director Probolsky reported that in talking to two students who went through the District's education program, which is primarily delivered through its agreement with MWDOC, he was surprised to find that they did not recall any information about who actually supplies them with water, and there was no mention of MNWD in the program. President McKenney commented that Director Hinman reported earlier that she had visited one of the elementary schools while the educational program was going on and that MNWD's logo and identification were prominently displayed. Mrs. Hinman confirmed that the instructor told the students that their water comes from MNWD and that MWDOC tries to stress with the instructors that they need to focus on the retail water agencies.

Director Probolsky noted that the number of website hits has changed very little year-over-year in a month where the Board is leading up to a vote on the WBBRS and members of the public are in attendance, which perhaps indicates that there is not that much interest or concern in what the Board is discussing tonight.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR PROBOLSKY AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY APPROVED CONSENT ITEM 11 AS PRESENTED, WHICH ITEM IS INCORPORATED HEREIN BY THIS REFERENCE.

DISCUSSION ITEMS

ENGINEERING & OPERATIONS MATTERS

Sheep Hills Reservoir Recoating, Contract 2008.013 – Construction Contract

Reimbursement

Dr. Gumerman reported that as discussed at the Engineering & Operations Board meeting on Monday the Sheep Hills Reservoir was built in 1990 and this will be the first recoating of the 3.3 mg reservoir. He reported that normally the reservoirs are recoated during the winter months when the demands are lowest; however, with the Upper Chiquita Reservoir soon to be online and the IRWD Interconnection available, the District has the opportunity to take the reservoir offline during the summer when dehumidification of the reservoir is not required. He reported that eliminating dehumidification will save the District over \$100,000 on this project.

Dr. Gumerman recommended that the Board award the contract for the Sheep Hills Reservoir recoating to Advanced Industrial Services for an amount of \$385,000 and approve an expense authorization in the amount of \$480,000. The project will be financed from Fund 7, Replacement and Refurbishment Fund.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR PROBOLSKY, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY AWARDED THE CONTRACT FOR THE SHEEP HILLS RESERVOIR RECOATING, CONTRACT 2008.013 TO ADVANCED INDUSTRIAL SERVICES, LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FOR AN AMOUNT OF \$385,800, CONTINGENT UPON COMPLIANCE WITH THE CONTRACT DOCUMENTS, AND APPROVED AN EXPENSE AUTHORIZATION IN THE AMOUNT OF \$480,000, TO BE FINANCED FROM FUND 7, THE REPLACEMENT & REFURBISHMENT FUND.

Plant 3A Effluent Transmission Main Refurbishment, Contract 2010.084 – Design-Build Contract Award

Dr. Gumerman reported that this project was also discussed at the Engineering Board meeting on Monday. He reported that this project is for construction services to repair the Plant 3A ETM at the location of the temporary bypass that has been operational since the line failed in December 2010.

Dr. Gumerman reported that staff recommends that the Board award the design-build contract to Kennedy Pipeline, Inc., in the amount of \$59,750, and increase the project budget and expense authorization from \$100,000 to \$164,000, to be financed from Fund 7, Replacement and Refurbishment Fund. He reported that the majority of the cost of the project will be refunded under a FEMA reimbursement, and Santa Margarita Water District, who owns 50% of the line, will pay 50% of the cost remaining after the FEMA reimbursement. The eventual out-of-pocket cost will be approximately \$5,000.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR PROBOLSKY, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY AWARDED THE DESIGN-BUILD CONTRACT FOR THE PLANT 3A ETM REFURBISHMENT, CONTRACT 2010.084, TO KENNEDY PIPELINE, INC., LOWEST RESPONSIVE AND RESONSIBLE BIDDER, FOR AN AMOUNT OF \$59,750, CONTINGENT UPON COMPLIANCE WITH THE CONTRACT DOCUMENTS, AND INCREASED THE PROJECT BUDGET AND EXPENSE AUTHORIZATION FROM \$100,000 TO \$164,000, TO BE FINANCED FROM FUND 7, REPLACEMENT AND REFURBISHMENT FUND.

Crown Valley Parkway Valve Replacement, Contract 2010.019 – Construction Contract Award

Dr. Gumerman reported that this project was discussed at the Engineering Board meeting on Monday. He reported this project is the second of two major valve replacement projects. The project is for the replacement of valves along the 450-zone pipeline within Crown Valley Parkway, from Cabot Road to Niguel Road. Dr. Gumerman recommended that the Board award the contract to Paulus Engineering, lowest responsive and responsible bidder, for an amount of \$544,850 and increase the

project budget and expense authorization to \$660,000, to be financed from Fund 7, Replacement and Refurbishment Fund.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY AWARDED THE CONTRACT FOR THE CROWN VALLEY PARKWAY VALVE REPLACEMENT, CONTRACT 2010.019, TO PAULUS ENGINEERING, LOWEST RESPONSIVE AND RESONSIBLE BIDDER, FOR AN AMOUNT OF \$544,850, CONTINGENT UPON COMPLIANCE WITH THE CONTRACT DOCUMENTS, AND INCREASED THE PROJECT BUDGET AND EXPENSE AUTHORIZATION TO \$660,000, TO BE FINANCED FROM FUND 7, REPLACEMENT AND REFURBISHMENT FUND.

LEGAL MATTERS

President McKenney reported that Items 19, 20, and 21 are related and explained the three items. He reported that the Board needs to act on each item individually; however, he wanted to announce all three of them because the discussions are interrelated and at the conclusion of the discussion the Board can vote on each of them.

Resolution to Adopt Water Budget Based Rate Structure (WBBRS) and Resulting Water Service Rate Increases

Ms. Pat Giannone reported that the Directors all have copies of the Resolutions and the policies containing the revisions discussed at the Finance Board meeting. President McKenney asked Dr. Gumerman to make his introductory remarks prior to the members of the public commenting.

Dr. Gumerman reported that staff has been working on the WBBRS since August 2009. He enumerated the reasons for changing to a water budget based rate structure instead of the ascending tiered rate structure the District currently uses, including the fact that the District's customers still need to use water wisely, the cost of water service is increasing, the WBBRS is a better approach designed to keep rates low for efficient users and allow equitable allocation of fixed and variable costs, and the WBBRS is designed to be revenue neutral for the District as a whole, with the exception of the penalty revenue which will be put into a water conservation fund. He explained that the WBBRS takes

into consideration pools and seasonal variations, provides the customers with more water when the weather is hot, and allows for variances based on the number of people in the home, medical needs, and livestock, and will allow the elimination of the three days per week watering schedule.

Dr. Gumerman reported that 65 people attended the Public Hearing on February 23, 2011, many of whom spoke, and the District received 45 letters from customers. The key concerns were the prior rate increases, the presumption that the WBBRS was a “big brother” approach, revenue neutrality, the variance policy, the Water Conservation Fund Policy, and the accuracy of irrigated area measurements. Dr. Gumerman explained that following the Public Hearing the Board directed staff to verify the factual accuracy of the Proposition 218 Notice and revenue neutrality statement, the accuracy of irrigated area measurements, and the accuracy of the website calculator. He reported that these matters were discussed in detail at the March 9, 2011 Community Relations Board meeting and staff verified the accuracy of the Proposition 218 Notice with Legal Counsel, revised the portion of the website calculator related to the calculation of irrigated acreage, and verified that what would be generated by the new rate structure would be equivalent to the revenue from the current rate structure as stated in the ten-year cash flow forecast.

Dr. Gumerman reported that the Board asked staff to bring back recommendations for additional workshops, which was done on March 9, 2011, and the Board decided that it would be more appropriate to work with any customers that wanted to talk with staff on an individual or group basis. He reported that the Board directed staff not to schedule any additional workshops prior to the Board meeting tonight. Dr. Gumerman discussed the monthly allocations and explained how they would be derived. He reported that the Board directed staff to draft a Variance Policy and a policy for use of the Conservation Fund revenue, both of which will be addressed tonight.

President McKenney commented that the District has been working on the WBBRS for a long time, and held a Public Hearing two months ago at which the Board received comments from approximately 30 speakers and received approximately 45

letters from customers. He reiterated that the Board and staff have addressed the questions and concerns that were raised at the Public Hearing, and in many cases adjustments have been made based on those concerns. President McKenney reported that the WBBRS has been on the agenda for discussion at every Board and committee meeting the District has had for the past two months, and a handful of people have attended those meetings. In addition, staff has had one-on-one meetings with several other customers.

President McKenney invited Ms. Pat Key to address the Board. Ms. Key thanked everyone at the District who has worked on the WBBRS. She commented that there are now five tiers and asked how many tiers there would be in the WBBRS. Dr. Gumerman reported that there would be five tiers in the WBBRS. She commented that she does not feel the revenue collected from Tiers 4 and 5 is fair and President McKenney explained that the whole purpose of Tiers 4 and 5 is for customers to stay out of them, and the District's goal is to help its customers never be in Tiers 4 and 5. He explained that the revenue to meet the legitimate operating costs of the District has to come from the tiers from which the District expects to get revenue, and the approach is to avoid having revenue come from Tiers 4 and 5. He explained that the revenue from Tiers 4 and 5 will be put into a separate fund to help people get out of those tiers. Further discussion ensued.

Mr. Dave Key commented that the revenue neutral portrayal is disingenuous and the Board is ignoring the 15 to one ratio of negative comments and what people want. President McKenney thanked Mr. Key for his remarks and commented that the Board and staff have gone to great effort to evaluate and respond to the concerns that have been raised in addition to the foundational work that has been done on the WBBRS the past two years. He explained that the Board is not saying that it knows that the ratepayers will pay more by implementing the WBBRS; rather, it is entirely within the control of each ratepayer to use water efficiently or not, and if everyone uses water efficiently the District will make the same amount of money that the District needs to pay its fixed and variable costs and everyone will be happy. Further discussion ensued.

President McKenney invited Mr. Ronald Beauford to address the Board. Mr. Beauford commented that he is disappointed in what was said about additional outreach. He commented that he received a letter from Mr. Roy to which he responded by email and never heard any more about it. He commented that the people on the edge of Tier 2 have the opportunity to fall back into Tier 1 and get a better rate; however, because he only uses 4 billing units per month he does not have an opportunity to get a better rate and pays the same rate as someone using 18 billing units. He proposed using a multiple tier rate and a six month rolling average so that people who reduce their billing units would get a better rate.

Mrs. Karen Langer commented that in February the District produced a brochure explaining the WBBRS and she distributed copies to the residents in her homeowners' association and not one person contacted her. President McKenney commented that the District has done what the Board thinks is a respectable amount of outreach on the WBBRS and has gone far beyond the legal minimums required for notice.

Mr. Larry Rankin, with the Del Prado Homeowners' Association, commented that his association pays the water bill for all of the units and he has been working closely with Mr. Roy and Mr. Gregg Hooper over the last two years and believes the WBBRS is a good system. He commented that his issue is that over the last two years there has been a commodity increase and an increase in sewer connection charges and meter charges for the 1-1/2" and 2" meters.

President McKenney invited Mr. Michael Kogus to address the Board. Mr. Kogus commented that he doesn't see how people will save money with the new rate structure and wondered why people who conserve don't get a discount. President McKenney thanked Mr. Kogus for his comments. He asked if any other members of the public wished to address the Board. Hearing none, he asked if any of the Directors wanted to speak on the matter. Director Kurtz requested that the Board take a five-minute break. The Board took a five-minute break and continued the discussion on the WBBRS.

President McKenney reported that he would now move into the Board discussion and reminded the Board that they would be discussing Agenda items 19, 20, 21, and that

separate actions would need to be taken on each item. Director Kurtz commented that he was prepared to move the staff's recommendation to adopt the WBBRS and resulting water service rate increases and Director Colton indicated he would second the motion if a discussion ensued.

Director Lizotte commented that he would be willing to support the WBBRS if the Board modified the 16.2% increase to a 6% increase on June 1, 2011 and a 6% increase each year thereafter for the duration of the cash flow report. President McKenney commented that even with the 16.2% increase this year staff is projecting additional rate increases in the cash flow in the future because the District is still catching up for the ten years or more that the District did not do small incremental rate increases. He commented that he would not support changing the 16.2% increase effective in June that the Board already approved.

Director Fiore asked Ms. Giannone if it was a fair statement to state that modifying the rate increase is not a matter before the Board as an agenda item to consider. Ms. Giannone reported that there is not a problem with a comment made with respect to that because the Board is discussing rates; however, the Board would not take any action on that item which would impact the WBBRS.

President McKenney asked if the Board members had any comments on the redlined version of the Resolution or if any of the comments previously made were not adequately addressed in the redlined version. Director Fiore commented that Section 6 states that the Resolution is effective upon adoption and the Board was discussing that the WBBRS would be effective July 1, 2011. Ms. Giannone explained that Section 6 states that the adoption of the Resolution and the approval of the rate increase set forth therein are effective on this date, and Section 2 discusses when the WBBRS will commence.

Director Froelich commented that the ten-year cash flow is a presentation of a scenario for financial management of the District which has not been adopted or proposed for adoption, and is part of the rate study in which the District has been involved. He commented it is not a foregone conclusion that the District would increase rates 6% a year. Director Colton commented that he and Mr. Roy meet with a ratepayer

to explain the WBBRS and Mr. Roy explained to the ratepayer what his bill would be upon implementation of the WBBRS. He commented that the WBBRS will work if the customers make it work and he is in favor of implementing it. Director Froelich commented that he believes implementing the WBBRS is the right thing to do.

Director Kurtz commented that the WBBRS would provide each customer with a budget for his or her water and the customer will be able to control how much water he/she uses. He commented that he supports the WBBRS because it provides local control and because water is more expensive now and the District needs the 16.2% rate increase. Director Fiore expressed his appreciation for all of the residents who attended tonight's meeting and the Public Hearing and provided their input to the Board. He commented that over the last several years the Board and staff have devoted an extraordinary amount of time studying and evaluating the WBBRS, and he believes that the Board in good faith evaluated the WBBRS and is now satisfied that it is in the best interests of the District for the Board to adopt it.

Director Probolsky reported that the comment he has heard the most is that the customers don't care what the price for water is; they want the structure to remain the same. He commented that he believes the WBBRS makes sense; however the fact that a lot of people don't want it concerns him and he is also concerned about the timing of implementing the WBBRS and is not completely there yet.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR COLTON, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVED RESOLUTION 11-08 ENTITLED "RESOLUTION OF THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT APPROVING WATER BUDGET-BASED RATE STRUCTURE AND RESULTING INCREASES TO CERTAIN WATER SERVICE RATE COMPONENTS AND CHARGES AND ADOPTING REVISIONS TO THE SCHEDULE OF WATER RATES AND CHARGES AS SET FORTH IN EXHIBIT B TO THE RULES AND REGULATIONS OF MNWD FOR WATER AND SEWER SERVICE" BY THE FOLLOWING VOTE: AYES: DIRECTORS KURTZ, FROELICH, MCKENNEY, COLTON, FIORE; NOES: DIRECTORS LIZOTTE AND PROBOLSKY; ABSTAIN: NONE.

Resolution to Adopt Water Budget Based Rate Structure (WBBRS) Variance Terms for Rules and Regulations

President McKenney reported that the Board members were given a redlined version of the Resolution that was revised based on the discussion at the Finance Board meeting. Director Probolsky asked if it would be inconsistent for him to vote in favor of Items 20 and 21 even though he voted against Item 19 and Ms. Giannone reported it would not.

Ms. Giannone reported that there are some additional minor revisions to the fourth “Whereas” clause in the Resolution adopting the Variance Terms where it discusses increases to water rates and charges to conform the language to the version included in the rate Resolution the Board adopted. She noted that where Tiers 4 and 5 are referred to in the Variance Procedures the word “inefficient” should be struck and replaced with “excessive/wasteful” or completely eliminated. President McKenney suggested that it be eliminated and that Tiers 4 and 5 be referred to and the Board concurred.

Director Probolsky asked if Items 20 and 21 could be brought back before the Board for revision if the Board chooses to do so and Ms. Giannone reported that they could.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR MCKENNEY, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTED RESOLUTION 11-09 ENTITLED “RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVING WATER BUDGET BASED RATE STRUCTURE (WBBRS) VARIANCE TERMS AND PROCEDURES FOR THE RULES AND REGULATIONS FOR WATER AND SEWER SERVICE” WITH ADDITIONAL AMENDMENTS NOTED BY LEGAL COUNSEL BY THE FOLLOWING VOTE: AYES: DIRECTORS KURTZ, FROELICH, MCKENNEY, COLTON, FROELICH, PROBOLSKY; NOES: NONE; ABSTAIN: DIRECTOR LIZOTTE.

Establishment of Conservation Fund for Certain Water Budget Based Rate Structure
(WBBRS) Revenues

President McKenney noted that the Board members received a redlined version of the Resolution establishing a Conservation Fund for certain WBBRS revenues and asked if there were any additional changes. Ms. Giannone noted that in the second “Whereas” clause the word “Excess” should be “Excessive.”

Director Colton commented that he thought that Tiers 1 and 2 leveled the field and that Tiers 3-5 were the tiers going into the Water Conservation Fund. Dr. Gumerman commented that he is not sure this was clearly presented by staff; however, he verified with Mr. Cain that only the revenue from Tiers 4 and 5 would go into the Water Conservation Fund. President McKenney commented that he recalls a discussion prior to Director Colton joining the Board that the theory is that the District would recover all of its costs in Tiers 1 and 2 but that the rate model was based on achieving a ratio of the fixed costs out of Tiers 1, 2, and part of Tier 3. Mr. Tom Ash explained that in order for the District to become revenue neutral some of the revenue in Tier 3 goes into achieving that and further discussion ensued.

Director Probolsky commented that Attachment 1 to the Resolution and the second “Whereas” clause of the Resolution should be revised to state that revenues from Tiers 4 and 5 in excess of the cost of Tier 2 water will be deposited in the Water Conservation Fund. Ms. Giannone reported that she would revise the Resolution and Attachment 1 and Director Probolsky commented that he would rather have a formula and an actual number than a description.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR MCKENNEY, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTED RESOLUTION 11-10 ENTITLED “RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ESTABLISHING A CONSERVATION FUND FOR CERTAIN WBBRS REVENUES” AS AMENDED BY STAFF AND LEGAL COUNSEL BY THE FOLLOWING VOTE: AYES: DIRECTORS KURTZ, FROELICH, MCKENNEY, COLTON, FROELICH, PROBOLSKY; NOES: NONE; ABSTAIN: DIRECTOR LIZOTTE.

Repeal of Water Supply Response (WSR) Level 2 – Water Alert Condition Under Water Conservation Program

President McKenney commented that the Governor has declared that the drought is over, the snowpack is above normal, the reservoirs are filling, MET and MWDOC have removed the allocation rates, and by implementing the WBBRS the District has indicated that it will tell its customers how to conserve based on a price signal and not by telling them on what day of the week they can water. He commented that considering all of these things staff recommends that the Board adopt a Resolution ending WSR Level 2.

Director Fiore commented that a “Whereas” clause should be added to the Resolution stating that the purpose of the Resolution is to withdraw the Level 2 water alert. Ms. Giannone reported that it would not be a legal requirement that the action be in the “Whereas” clause but she would add it if the Board prefers.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR LIZOTTE AND SECONDED BY DIRECTOR FROELICH, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY ADOPTED RESOLUTION 11-11 ENTITLED “RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ENDING THE WATER SUPPLY RESPONSE (WSR) LEVEL 2 – WATER ALERT CONDITION UNDER WATER CONSERVATION PROGRAM” AS AMENDED.

Claim of Dean, Personal Injuries from Automobile Accident

Ms. Giannone reported that the District received a claim for personal injury damage resulting from an automobile accident caused by a waterline break on Niguel Road that displaced a manhole cover, resulting in claimant’s auto hitting the open manhole. She reported that the claimant’s representatives are in discussion with ACWA/JPIA and the liability is established; it is a question of the damages at this point. Ms. Giannone reported that the property portion of the claim has been paid by ACWA/JPIA.

Ms. Giannone recommended that the Board reject the claim of Dean and authorize staff to send a Notice of Rejection on the ACWA/JPIA approved form.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FIORE, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY REJECTED THE CLAIM OF DEAN AND AUTHORIZED STAFF TO SEND A NOTICE OF REJECTION ON THE ACWA/JPIA APPROVED FORM.

Closed Sessions Pursuant to Government Code Section 54956.9(b)(1), Section 54956.9(c), and Section 54956.9(a)

President McKenney reported that pursuant to Government Code Section 54956.9(b)(1), Section 54956.9(c), and Section 54956.9(a) the Board would hold Closed Sessions to discuss three matters of anticipated litigation.

The Board adjourned to Closed Session at 8:20 p.m.

The Closed Sessions were adjourned at 9:15 p.m. and the open session of the Board was reconvened. Ms. Giannone reported that with regard to the Closed Session regarding the Claim of Shapell Industries, Inc., she has the following reportable action: the Board approved a motion to reject the claim of Shapell Industries, Inc., and to direct staff to work with ACWA/JPIA to send the appropriate Notice of Rejection with input from insurance counsel.

LATE ITEMS

There were no late items to come before the Board.

ADJOURNMENT

Thereafter, the regular meeting of the Board of Directors of the Moulton Niguel Water District was adjourned at 9:16 p.m.

Respectfully submitted,

Frani Bailey

Recording Secretary