

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

JULY 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, July 21, 2011. There were present and participating:

DIRECTORS

LARRY MCKENNEY	President
SCOTT COLTON	Director
RICHARD S. FIORE	Director
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
DAVID D. CAIN	Director of Finance/Treasurer
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
FRANI BAILEY	Recording Secretary

DISTRICT CONSULTANTS

TERRY HACKELMAN	NexLevel
GARY FOX	Oracle
BRUCE ELLIOTT	SIRE
KIMO LOOK	Project Partners

PUBLIC MEMBERS

KEVIN HUNT	MWDOC
BO GUTIERREZ	OCEA

Absent was:

DON FROELICH

Vice President

President Larry McKenney presided and Frani Bailey recorded the minutes of the meeting. President McKenney led the Pledge of Allegiance.

ACTION ITEMS

CONSENT CALENDAR ITEMS

- The Board approved Consent Calendar Items 12 through 20, 22, and 23 as presented.

Item 16 – Plant 3A ETM Relocation, Contract 2009.039

- The Board increased the expense authorization for the project from \$125,000 to \$380,000.

Item 17 – Baker Water Treatment Plant, Contract 2006.071 – Design Variance

Approval

- The Board increased the expense authorization for the project from \$5,600,000 to \$5,810,000 and authorized staff to approve the design variance as negotiated by the Project Committee.

Item 18 – Recycled Water System Capacity Analysis, Contract 2009.098 – Design Variance Approval

- The Board increased the project budget and expense authorization for the project from \$75,000 to \$100,000 and authorized staff to execute the contract with the design variance with TetraTech for \$9,200 and the Professional Services Agreement with HDR Engineering for a not-to-exceed fee of \$9,900.

Item 19 – Annual Contracts, Professional Service Agreements, Amendments, and Purchase Orders for Fiscal Year 2011/2012

- The Board authorized the General Manager to execute the necessary documents as follows:
- Execute a contract amendment with Sunset Landscape Maintenance, Inc., through Fiscal Year 2011-2012 for an amount not-to-exceed \$248,752.

- Execute a contract amendment with Great Scott Tree Service, Inc., through Fiscal Year 2011-2012 for an amount not-to-exceed \$91,257.
- Approve the expense authorization to Orange County Pest Control for Fiscal Year 2011-2012 for an amount not-to-exceed \$50,400.
- Execute a Professional Services Agreement with TW Niemann, Inc., through Fiscal Year 2011-2012 for an amount not-to-exceed \$130,220.
- Execute a Professional Services Agreement with ECIS through Fiscal Year 2011-2012 for an amount not-to-exceed \$140,000.

Item 21 – Board Ratifies the O&M and Capital Projects for the Joint Powers

Authorities

- The Board ratified the O&M and Capital Projects for SOCWA in the amount of \$12,471,724; SJBA in the amount of \$97,431.25; and SCWD-JRWSS in the amount of \$3,334,654.

Item 22 – Collection of Acreage Assessment (Standby Charge)

- The Board directed staff to discontinue the collection of acreage assessment (standby charges).

Item 23 – Resolution Approving Appropriations Limit for Fiscal Year 2011-2012

- The Board adopted Resolution 11-___ entitled “Resolution of the Board of Directors of Moulton Niguel Water District approving its Appropriations Limit for Fiscal Year 2011-2012 and finding compliance with Article XIII B of the Constitution of the State of California.”

ENGINEERING & OPERATIONS MATTERS

Contract Services for Professional Engineering Support – Professional Services

Agreement Approval

- The Board authorized the General Manager to execute a Professional Services Agreement with Project Partners, Inc., for a not-to-exceed fee of \$150,000 for Fiscal Year 2011-2012, to be financed from the Operations & Maintenance Budget.

FINANCE & INFORMATION TECHNOLOGY MATTERS

Enterprise Resource Planning (ERP) Vendor Selection, Project No. 2010.033

- The Board awarded a contract to Denovo for a not-to-exceed amount of \$1,866,883, authorized the General Manager to execute all necessary documents on behalf of the District, and authorized a project expenditure of \$1,866,883.
- The Board authorized a project expenditure of \$26,125 to AMX for first year maintenance.
- The Board approved a second contract amendment of \$285,200 to the contract dated April 30, 2010 with NexLevel for a not-to-exceed amount of \$566,000 for Phase 5 – Implementation Support Service, authorized a project expenditure of \$566,000, and authorized the General Manager to execute all necessary documents on behalf of the District.

District Technology Enhancement – SIRE Technologies Contract Terms, Project Timeline, and Deliverables

- The Board awarded a contract to SIRE Technologies for a not-to-exceed amount of \$123,108, authorized the General Manager to execute all necessary documents on behalf of the District, and authorized a total project expenditure of \$133,108.

LEGAL MATTERS

Public Hearing on Proposed Sewer Service Rate Increase set by South Coast Water District for Laguna Sur/Monarch Point Reorganization Area

- The Board conducted the Public Hearing on Proposed Sewer Service Rate Increase set by South Coast Water District for Laguna Sur/Monarch Point Reorganization Area.
- The Board conducted the second reading of Ordinance No. 11-01.
- The Board adopted Ordinance No. 11-01 as presented and directed implementing revisions to the District Rules and Regulations for sewer service by staff and legal counsel.

Public Hearing and Annual Adoption of Resolution for Collection of Sewer Service Charges for Laguna Sur/Monarch Point Reorganization Area on Property Tax Bill

- The Board conducted a Public Hearing on Fiscal Year 2011-2012 Report for the Laguna Sur/Monarch Point Reorganization Area Tax Roll Collection Process.
- The Board adopted Resolution No. 11-__ entitled “Resolution of the Board of Directors of Moulton Niguel Water District Setting 2011-12 Sewer Service Rates and Charges for Specified Parcels (Laguna Sur/Monarch Point Property) to be Collected Via Property Tax Statements on the 2011-12 Tax Roll, Directing Filing of Written Report with Secretary and Calling a Hearing Thereon.”

Agreement with Orange County Flood Control District, Santa Margarita Water District for Relocation of 3A Effluent Transmission Main (Trabuco Creek Area, San Juan Capistrano)

- The Board approved and authorized the execution of the 3A ETM Relocation Agreement with OCFCD and SMWD in substantially the form presented, subject to non-substantive changes.

Revised Water Budget Based Rate Structure (WBBRS) Conservation Fund

- The Board adopted Resolution No. 11-__ entitled “Resolution of the Board of Directors of Moulton Niguel Water District revising the designation of the “Conservation Fund” to “Water Efficiency Fund.”

MINUTE APPROVAL

APPROVAL OF MINUTES OF SPECIAL MEETING OF JUNE 10, 2011 (TOUR OF 3A ETM)

President McKenney reported that he would entertain a motion to approve the minutes of the Special Meeting of June 10, 2011 (Tour of 3A ETM). He asked if any of the Board members had comments on the minutes and there were none.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR LIZOTTE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS UNANIMOUSLY APPROVED THE MINUTES OF THE SPECIAL MEETING OF JUNE 10, 2011 (TOUR OF 3A ETM) AS PRESENTED.

APPROVAL OF MINUTES OF REGULAR BOARD OF DIRECTORS MEETING

DATED JUNE 16, 2011

Director McKenney reported that he would entertain a motion to approve the minutes of the Regular Board meeting of June 16, 2011. He asked if any of the Board members had comments on the minutes and there were none.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR LIZOTTE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS APPROVED THE MINUTES OF THE REGULAR BOARD OF DIRECTORS MEETING OF JUNE 16, 2011 AS PRESENTED.

PUBLIC COMMENTS

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

PRESIDENT'S REPORT

President McKenney reported that he attended a meeting of the Water Advisory Committee of Orange County (WACO) on July 8, 2011 at which the Chairman of the Board of Supervisors, Bill Campbell talked about what is important to him in terms of water, i.e., Prado Dam, the flood control basin, and other water storage issues and Mr. Joe Grindstaff, the Executive Director of the Delta Stewardship Council, spoke about the Delta planning process. President McKenney reported that at the next WACO meeting on August 5, 2011, Paul Cook, the Acting General Manager of IRWD, will speak on water reliability planning and IRWD's groundwater banking project on the Kern River.

President McKenney reported that the Delta planning process will be the subject of discussion at the Southern California Water Committee Board of Trustees meeting next Thursday, which he will be attending. He reported that the keynote speaker will be Bill Eisenberg, the Chairman of the Delta Stewardship Council.

President McKenney reported that during the last two years the South County Agencies have had discussions with MWDOC, and during the course of those discussions the elected officials and General Managers of the six water districts and the cities met to discuss the issues. He commented that a byproduct of those discussions was the suggestion that it would be good for the elected officials and General Managers of the South County Agencies and cities to continue to meet to discuss what is important for South County water, what their vision for the future is, etc. President McKenney reported that it was suggested that MNWD take the lead on this and he indicated that it would. He reported that MNWD will be issuing an invitation to the South County Agencies and cities to meet in the near future.

BOARD/COMMITTEE OR OTHER REPORTS

President McKenney inquired if any members of the Board had any Committee or other Reports. There were none.

GENERAL MANAGER'S REPORT

South Orange County Wastewater Authority (SOCWA) Update

Dr. Gumerman reported that Project Committee 25, the SOCWA/IRWD project for the treatment of biosolids is dead, and it is now a matter of determining the costs incurred. He reported that Mr. Tom Rosales indicated that there is \$80,000 in fees that SOCWA incurred directly for consultants and legal fees, as well as Black & Veatch's redesign of the IRWD facility. Dr. Gumerman commented that he does not know exactly how much these costs are and asked Director Lizotte if he had any information. Director Lizotte reported that Mr. Rosales indicated that the cost would be half of the \$500,000 originally discussed, of which MNWD is responsible for 46%. Dr. Gumerman commented that the reduction in cost is because Black & Veatch will not have to do a lot redesigning to get the project back to a workable project.

Dr. Gumerman reported that he suggested that SOCWA should have some type of agreement or understanding with SMWD so that the participating agencies know what the process is and what progress is being made.

Dr. Gumerman reported that there was an article in the Orange County Register on Saturday about the McCarr property next door to the treatment plant in Dana Point. He explained that the property is a former mobile home park that McCarr owned and SOCWA filed a lawsuit to compel the developer to pay for a portion of the covering of the aeration basins or to make whoever buys the houses specifically aware of the fact that there is a wastewater treatment plant next door. Dr. Gumerman reported that the 4th District Court of Appeals denied SOCWA's request.

Update on WBBRS Implementation

Dr. Gumerman reported that the District has done internal audits on two complete billing cycles to see which ratepayers would fall within Tiers 4 and 5 under the WBBRS, and approximately 9% of the District's customers fell into these tiers. He reported that these customers received a letter and those that did not respond received a second letter and a phone call, and will receive an actual bill next month. Dr. Gumerman reported that the staff is hopeful that the outreach efforts will reduce the number of customers in Tiers 4 and 5; however, it is not unexpected that many customers will fall into the penalty tiers. A discussion ensued and Dr. Gumerman answered the Board members' questions.

Update on OCWD/MWDOC Consolidation Efforts

Dr. Gumerman reported that last month he discussed with the Board the proposed consolidation of OCWD/MWDOC promoted by OCWD. He reported that last Friday he met with Mr. Mike Marcus, the General Manager of OCWD, who was directed by his Board to meet with some of the key South County agencies. Mr. Marcus explained why OCWD is promoting the consolidation and the efficiencies OCWD has looked at, and reported that OCWD is hiring a consultant to verify the numbers. Dr. Gumerman reported that Mr. Kevin Hunt, General Manager of MWDOC, was at a meeting yesterday where the proposed consolidation was discussed and has offered to update the Board.

Mr. Hunt reported that last night at the OCWD meeting the staff gave a presentation regarding its meetings with the South County agencies and indicated that the three agencies with whom they met are supportive of continuing the study. He reported that OCWD's staff commented on all of the concerns he had raised in a prior meeting.

Mr. Hunt reported that at the end of the meeting OCWD disbanded its ad hoc committee and agreed that all of the work done in the future will be done jointly by OCWD and MWDOC in the joint workshop established and that the study OCWD is proposing on the efficiencies will be deferred until it is discussed in public with MWDOC's Board to get MWDOC's input.

Mr. Hunt reported that at the request of the Boards of OCWD and MWDOC he met with Mr. Marcus and Mr. Kennedy, the Assistant General Manager of OCWD, the day before the meeting at which time he presented to them an outline of how MWDOC would approach the efficiencies. He commented that he is hopeful that the final result will be a more efficient operation of both districts, and if consolidation is the way to go it will be worked out in an open, public process over the next six months to a year. Dr. Gumerman commented that he made it clear to Mr. Marcus that MNWD has not taken a position and that MNWD's concern is what kind of efficiencies might be found in this proposed effort.

Meeting with El Toro Water District Regarding Recycled Water Connection

Dr. Gumerman reported that President McKenney, Director Fiore, Director Froelich and he met with two Directors from ETWD and ETWD's General Manager, Bob Hill. He reported that the group decided to continue the meetings with the South County Agencies to discuss any water issues of common interest to the South County Agencies. He reported that MNWD volunteered to host the meetings and is proposing to have the first one in late August in the MNWD Board Room.

Dr. Gumerman reported that the group discussed ETWD's desire to obtain recycled water from MNWD, which will require some capital improvements to MNWD's system, who would pay, what the cost of the recycled water would be, etc. He reported that \$4 million of the Proposition 50 money that was earmarked for a project with MNWD, SCWD, and the City of San Juan Capistrano has been secured for the recycled water project with ETWD. A discussion ensued and Dr. Gumerman answered the Board members' questions.

Upper Chiquita Reservoir

Dr. Gumerman reported that SMWD began filling the Upper Chiquita Reservoir on Monday and the reservoir should be online within four months. Director Fiore asked if all of the related facilities and roadways have been completed and Mr. Matt Collings reported that there is some site work, such as hydro-seeding and finishing touches remaining to be completed, and most of the pump station is functional.

CONSENT ITEMS

President McKenney reported that Item 24 on the Consent Calendar will be taken off of the Consent Calendar because it is a duplicate of Item 31. He reported that in addition he would pull Items 21 and 22 off the Consent Calendar for discussion in accordance with the discussion at the Finance & IT Board meeting yesterday. President McKenney asked if there were any other items the Directors would like to pull off the Consent Calendar and there were none. He reported that he would entertain a motion to approve the balance of the Consent Calendar.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FIORE, THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT APPROVED CONSENT ITEMS 12 THROUGH 20 AND ITEM 23 AS PRESENTED, WHICH ITEMS ARE INCORPORATED HEREIN BY THIS REFERENCE.

Consent Calendar Item 17 – Baker Water Treatment Plant, Contract 2006.071 – Design Variance Approval

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FIORE, THE BOARD OF DIRECTORS OF THE MOULTON NIGUEL WATER DISTRICT APPROVED CONSENT ITEM 17 AS PRESENTED, WHICH ITEM IS INCORPORATED HEREIN BY THIS REFERENCE, BY THE FOLLOWING VOTE: AYES: DIRECTORS KURTZ, LIZOTTE, FROELICH, COLTON, AND FIORE; NOES: NONE; ABSTAIN: MCKENNEY.

Consent Calendar Item 21 – Board of Directors Ratifies the O&M and Capital Projects for the Joint Powers Authorities as Follows: SOCWA in the Amount of \$12,471,724; SJBA in the Amount of \$97,431.25; and SCWD-JRWSS in the Amount of \$3,334,654

President McKenney reported that this item was deferred from the Finance & IT Board meeting yesterday. He explained that the District has three shared budgets with SOCWA, SJBA, and the SCWD JRWSS for projects in which it is involved. President McKenney reported that the Board would like to hear from its representatives to each of the agencies that ratification of the budget is what they recommend and see if there are any questions. He noted that with regard to the SJBA budget, the SJBA approved a budget that included MNWD's proposed share of \$97,431.25; however, at the meeting at which the budget was adopted the amount was reduced by \$7,000 because contributions to another project were not used. He recommended that the Board ratify the SJBA budget.

Director Lizotte reported that at the SOCWA Board meeting the Board adopted the budget and he would recommend ratifying it. Dr. Gumerman explained that with regard to the SCWD JRWSS budget, the pipeline is operated by SCWD under a contract with the member agencies, and the SCWD Board acts as the Board for the agency. Staff meets three or four times a year to review budget and related items, and he and Mr. Matt Collings attend the meetings. Dr. Gumerman reported that the biggest component of the budget this year is the capital budget, of which the District's share is \$2.9 million. He explained that over \$2 million of that is the relocation of the pipeline in the area of the extension of Lake Forest Drive and State Route 133, the Laguna Canyon Freeway. Dr. Gumerman recommended that the Board ratify the SCWD JRWSS budget.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR LIZOTTE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVED CONSENT CALENDAR ITEM 21 AS PRESENTED, WHICH ITEM IS INCORPORATED HEREIN BY THIS REFERENCE.

Consent Calendar Item 22 – Board of Directors Directs Staff to Either Discontinue the Collection of Acreage Assessment (Standby Charges) or the Board of Directors will Adopt Twelve Individual Resolutions for Each Improvement District entitled “Resolution of the Board of Directors of Moulton Niguel Water District Establishing Standby Charges for Fiscal Year 2011/2012.”

President McKenney reported that he pulled this item off the Consent Calendar because it is phrased in the alternative. He suggested that the Board direct staff to discontinue the collection of acreage assessments for standby charges in accordance with the recommendation.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR MCKENNEY AND SECONDED BY DIRECTOR COLTON, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVED CONSENT ITEM 22 AS AMENDED, WHICH ITEM IS INCORPORATED HEREIN BY THIS REFERENCE.

ENGINEERING & OPERATIONS MATTERS

Contract Services for Professional Engineering Support – Professional Service Agreement Approval

President McKenney reported that staff is requesting approval for the addition of a contract engineer to assist the Engineering and Operations Department with the execution of the Capital Improvement Program. Dr. Gumerman reported that staff believes that at some point in the future the District will need a permanent employee for the additional work required, and in the meantime staff wants to hire a contract employee through Project Partners to work nearly full time for one year for a not-to-exceed fee of \$150,000. President McKenney noted that Mr. Kimo Look, the CEO of Project Partners, is in attendance to answer any questions the Board members might have.

President McKenney commented that a question was previously raised about employee status and Ms. Pat Giannone reported that she and Mr. Look had an extensive discussion this week about how the consulting contract is structured and how the position is paid. She reported that the contract engineer is an employee of Project Partners, who pays all of the benefits, and the billing to the District is done on an hourly basis, similar

to attorney services. Ms. Giannone reported that the work is very specifically set under the consulting contract and Project Partners will work with staff to establish that whoever the engineer is will go to Project Partners for vacation requests, sick time, etc., so that the employee is clearly under the control of his/her employer, Project Partners, and not the District. She commented that she is very comfortable that Project Partners has handled everything appropriately, and it has successfully provided this service for many large agencies.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR MCKENNEY, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT AUTHORIZED THE GENERAL MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH PROJECT PARTNERS, INC., FOR A NOT-TO-EXCEED FEE OF \$150,000 FOR FISCAL YEAR 2011-2012. THIS PROJECT WILL BE FINANCED FROM THE OPERATIONS AND MAINTENANCE BUDGET.

Director Probolsky arrived at 6:05 p.m.

FINANCE & INFORMATION TECHNOLOGY MATTERS

Enterprise Resource Planning (ERP) Vendor Selection, Project No. 2010.033

President McKenney reported that this item was discussed at the Finance & IT Board meeting yesterday. He suggested that the last part of Item C to authorize the General Manager to execute all necessary documents on behalf of the District be considered as Item D, which would apply to A, B, and C.

Dr. Gumerman reported that yesterday there was a discussion on some of the wording of the contracts and Mr. Cain and Ms. Giannone felt that the changes suggested by the Board were not significant enough to do red-lined versions. Ms. Giannone commented that there was a question about the use of the term "employee" in the Conflict of Interest section because the obvious meaning on its face is they are employees of the consultant. She commented that she does not think that word is intended to mean employment; it is intended to be a Webster's Dictionary meaning of "to make use of or use" a third party to solicit, and she does not think it is an issue. Ms. Giannone reported that the intent is to have the vendor certify that it did not employ a third party to solicit or procure the contract or pay any monies, including monies to the District. President

McKenney commented that there were a number of items, some of which were technical and some of which were style changes, and what Ms. Giannone is indicating is that Dr. Gumerman, staff, and Ms. Giannone determined that they could be addressed as non-substantive adjustments to be made. Dr. Gumerman commented that this is correct.

Dr. Gumerman commented that the recommended action under Item A is to include all of the same hold-backs as discussed yesterday. Director Fiore commented that yesterday there was concern expressed about Item C and suggested that it be separated out.

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 A CONTRACT TO DENOVO FOR A NOT-TO-EXCEED AMOUNT OF \$1,866,883 (LICENSING, FIRST YEAR MAINTENANCE IMPLEMENTATION, TRAINING, AND TRAVEL); AUTHORIZED THE GENERAL MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE DISTRICT; AND AUTHORIZED A PROJECT EXPENDITURE OF \$1,866,883 (LICENSING/MAINTENANCE & IMPLEMENTATION).

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR PROBOLSKY, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY AUTHORIZED A PROJECT EXPENDITURE OF \$26,125 TO AMX FOR FIRST YEAR MAINTENANCE.

President McKenney reported that Item C is a recommended action to approve the second contract amendment of \$285,200 to the contract dated April 30, 2010 with NexLevel. Director Fiore commented that yesterday Director Probolsky raised the question of the necessity of approving the amendment. He asked that staff tell the Board what the compelling reason is to approve the amendment now as opposed to waiting a year to address it.

Dr. Gumerman commented that one reason is because approving the amendment puts together the whole package so the Board has the big picture of the total cost. Another reason is that the Board has the option of canceling the contract at any time and would not be giving carte blanche approval to NexLevel; therefore, staff feels there is no

reason for the Board not to approve the contract amendment. He commented that the amendment does not have to be approved, as there is money in the current contract through June.

Director Probolsky commented that approving the amendment and canceling the contract are two different actions and he doesn't anticipate a scenario where the District would cancel the contract. He commented that the work that NexLevel is doing is different than the work Denovo is doing and it is clear where Denovo will have its deliverables and at-risk portions of the contract; however, it is not clear with NexLevel and he thinks it would be a good check and balance for the contract to come back to the Board in April. A lengthy discussion ensued.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR COLTON AND SECONDED BY DIRECTOR LIZOTTE, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVED A SECOND CONTRACT AMENDMENT OF \$285,200 TO THE CONTRACT DATED APRIL 30, 2010 WITH NEXLEVEL FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$566,000 FOR PHASE 5 – IMPLEMENTATION SUPPORT SERVICES, AUTHORIZED A PROJECT EXPENDITURE OF \$566,000, AND AUTHORIZED THE GENERAL MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE DISTRICT BY THE FOLLOWING VOTE: AYES: DIRECTORS KURTZ, LIZOTTE, MCKENNEY, COLTON, AND FIORE; NOES: DIRECTOR PROBOLSKY; ABSTAIN: NONE.

District Technology Enhancement – SIRE Technologies Contract Terms, Project Timeline, and Deliverables

President McKenney reported that this item was discussed at the Finance & IT Board meeting yesterday. Dr. Gumerman reported that this item includes the software, licensing, and implementation, but does not include the hardware, computers, LED monitors, or the lighting enhancements to the Board Room. He reported this project is in the approved budget under Fund 7, Refurbishment and Replacement.

Director Colton asked what the lighting enhancement entails and Dr. Gumerman explained that the fluorescent lights in the Board Room are not designed to be dimmed and staff would like to replace them with more appropriate energy efficient lighting that

can be dimmed. Director Probolsky noted that Board Room lighting is not part of SIRE's contract and the estimated cost of \$20,000 is within the General Manager's authority.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY AWARDED A CONTRACT TO SIRE TECHNOLOGIES FOR A NOT-TO-EXCEED AMOUNT OF \$123,108 (LICENSING, IMPLEMENTATION, TRAINING, TRAVEL, AND ANNUAL MAINTENANCE), AUTHORIZED THE GENERAL MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE DISTRICT, AND AUTHORIZED A TOTAL PROJECT EXPENDITURE OF \$133,108.

LEGAL MATTERS

Public Hearing on Proposed Sewer Service Rate Increase set by South Coast Water District for Laguna Sur/Monarch Point Reorganization Area

Adoption of Ordinance No. 11-01 "Ordinance of Rules and Regulations of the Board of Directors of Moulton Niguel Water District Adopting Certain Revisions to the Sewer Usage Rate Components, Charges in the Schedule of Rates and Charges as Set Forth in Exhibit B to the Rules and Regulations of Moulton Niguel Water District for Water, Sewer and Recycled Water Service for: Laguna Sur/Monarch Point LAFCO-R096-05"

President McKenney reported that this item is for the Board to conduct a Public Hearing on the proposed sewer service rate increase set by South Coast Water District for Laguna Sur/Monarch Point Reorganization Area.

THEREAFTER, PRESIDENT MCKENNEY OPENED THE PUBLIC HEARING ON THE PROPOSED INCREASED SEWER RATE COMPONENTS TO RECEIVE ALL PUBLIC TESTIMONY AND WRITTEN COMMENTS. HEARING NO PUBLIC TESTIMONY, PRESIDENT MCKENNEY ASKED IF THE DISTRICT RECEIVED ANY WRITTEN PROTESTS. THERE WERE NONE, AND PRESIDENT MCKENNEY CLOSED THE PUBLIC HEARING.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT CONDUCTED THE SECOND READING OF PROPOSED ORDINANCE 11-01.

Ms. Giannone noted for the record that the South Coast Water District Board approved lower rates, which is the difference between the Ordinance and the rates in the first reading and the final reading and adoption. She reported that Attachment 1 that marked the changes, which were just for FY 2011-2012, was included in the Agenda for the Board's information.

THEREAFTER, PRESIDENT MCKENNEY RECITED THE COMPLETE TITLE OF THE ORDINANCE, TO WIT: "ORDINANCE NO. 11-01: "ORDINANCE OF RULES AND REGULATIONS OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT ADOPTING CERTAIN REVISIONS TO THE SEWER USAGE RATE COMPONENTS, CHARGES IN THE SCHEDULE OF RATES AND CHARGES AS SET FORTH IN EXHIBIT "B" TO THE RULES AND REGULATIONS OF MOULTON NIGUEL WATER DISTRICT FOR WATER, SEWER AND RECYCLED WATER SERVICE FOR: (LAGUNA SUR/MONARCH POINT LAFCOR-R096-05)."

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR COLTON, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY WAIVED THE READING OF THE COMPLETE TEXT OF ORDINANCE NO. 11-01.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR COLTON, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY ADOPTED ORDINANCE NO. 11-01 AS PRESENTED AND DIRECTED IMPLEMENTING REVISIONS TO THE DISTRICT RULES AND REGULATIONS FOR SEWER SERVICE BY STAFF AND LEGAL COUNSEL.

Public Hearing and Annual Adoption of Resolution for Collection of Sewer Service Charges for Laguna Sur/Monarch Point Reorganization Area on Property Tax Bill

President McKenney reported that this item is a Public Hearing and annual adoption of the Resolution for collection of sewer service charges for Laguna Sur/Monarch Point Reorganization Area on the property tax bill.

THEREAFTER, PRESIDENT MCKENNEY OPENED THE PUBLIC HEARING ON FISCAL YEAR 2011-2012 REPORT FOR THE LAGUNA SUR/MONARCH POINT REORGANIZATION AREA TAX ROLL COLLECTION PROCESS TO RECEIVE ALL PUBLIC TESTIMONY AND WRITTEN COMMENTS. HEARING NO PUBLIC TESTIMONY, PRESIDENT MCKENNEY ASKED IF THE DISTRICT RECEIVED ANY WRITTEN PROTESTS. THERE WERE NONE, AND PRESIDENT MCKENNEY CLOSED THE PUBLIC HEARING.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR FIORE AND SECONDED BY DIRECTOR KURTZ, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY ADOPTED RESOLUTION 11-___ ENTITLED "RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT SETTING 2011-2012 SEWER SERVICE CHARGES FOR SPECIFIED PARCELS (LAGUNA SUR/MONARCH POINT PROPERTY) TO BE COLLECTED VIA PROPERTY TAX STATEMENTS ON THE 2011-2012 TAX ROLL, DIRECTING FILING OF WRITTEN REPORT WITH SECRETARY AND CALLING A HEARING THEREON."

Agreement with Orange County Flood Control District, Santa Margarita Water District for Relocation of 3A Effluent Transmission Main (Trabuco Creek Area, San Juan Capistrano)

Director Probolsky disclosed to the Board and the District that he is an employee of the County of Orange and receives salary from the County for his employment and would abstain from participating in the decision regarding this contract. President McKenney reported that this item is for the relocation of the 3A Effluent Transmission Main.

Ms. Giannone reported that this item was discussed at the Engineering & Operations Board meeting on Monday. She reported that the agreement is very similar to the agreement for the last ETM relocation that was done. She reported that the question that was asked about the indemnity has been addressed.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR MCKENNEY, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT APPROVED AND AUTHORIZED THE EXECUTION OF THE 3A ETM RELOCATION AGREEMENT WITH OCFCD AND SMWD IN SUBSTANTIALLY THE FORM PRESENT, SUBJECT TO NON-SUBSTANTIVE CHANGES, BY THE FOLLOWING VOTE: AYES: DIRECTORS KURTZ, LIZOTTE, MCKENNEY, COLTON, AND FIORE; NOES: NONE; ABSTAIN: DIRECTOR PROBOLSKY.

Revised Water Budget Based Rate Structure (WBBRS) Conservation Fund

President McKenney reported that this item was discussed at the Finance & IT Board meeting and the recommended action is to rename the fund and, pursuant to the discussion at the Finance & IT Board meeting, move forward with re-designating the name of the fund but not transfer the funds as recommended.

THEREAFTER, UPON A MOTION DULY MADE BY DIRECTOR KURTZ AND SECONDED BY DIRECTOR FIORE, THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT UNANIMOUSLY ADOPTED RESOLUTION 11-___ ENTITLED “RESOLUTION OF THE BOARD OF DIRECTORS OF MOULTON NIGUEL WATER DISTRICT REVISING THE DESIGNATION OF THE “CONSERVATION FUND” TO “WATER EFFICIENCY FUND.”

Ms. Giannone reported that the revision has been made to the Resolution in the agenda and it is ready for execution.

Late Items

President McKenney asked if there were any late items to come before the Board. There were none.

Closed Session Pursuant to Government Code Section 54956.9(b)(1) and (c)

Ms. Giannone reported that pursuant to Government Code Section 54956.9(b)(1) and (c), a Closed Session would be conducted to confer regarding the existing *Claim of Glaser* (previously rejected by the District on May 19, 2011) and authorization for response claim and litigation: CLAIM OF OLD SAN JUAN ROAD HOMEOWNERS ASSOCIATION, presented to the District on June 13, 2011;

CLAIM FOR IDEMNITY OF CITY OF SAN JUAN CAPISTRANO, presented to the District on June 10, 2011.

Closed Session Pursuant to Government Code Section 54956.9(b)(1)

Ms. Giannone reported that there is nothing to be discussed under this item.

Closed Session Pursuant to Government Code Section 54956.9(a)

Ms. Giannone reported that pursuant to Government Code Section 54956.9(a), a Closed Session will be conducted to conference on *Charles Roy vs. Moulton Niguel Water District, et al., CASE NO. 00448266*.

The Board adjourned to Closed Session at 6:45 p.m.

The Closed Sessions were adjourned at 7:11 p.m. and the open session of the Board was reconvened. President McKenney reported that **[insert action from Kelly Winsor]**.

ADJOURNMENT

Thereafter, the Regular Meeting of the Board of Directors of the Moulton Niguel Water District was adjourned at 7:13 p.m.

Respectfully submitted,

Frani Bailey
Recording Secretary