

A G E N D A
BIG BEAR MUNICIPAL WATER DISTRICT

BOARD OF DIRECTORS
Regular Meeting
October 18, 2012

PLACE: Big Bear Municipal Water District
40524 Lakeview Drive, Big Bear Lake, CA 92315

Next Resolution Number: 2012-15

OPEN SESSION: 1:00 P.M.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. DISCUSSION AND ACTION ON CLOSED SESSION ITEMS**
- 4. REPORTS**
 - A. General Manager
 - B. Lake Manager
 - C. Legal
 - D. Committee
 - E. Other
- 5. CONSENT CALENDAR**
 - A. Minutes of a Regular Meeting of October 4, 2012
 - B. Consider extension of Marina Point Shorezone Alteration Permit
- 6. BUSINESS**
 - A. Review and comment on Administrative Code updates, first 20 pages
- 7. PUBLIC FORUM**

(The Board will receive comments from the public on items not on the agenda; no action is permitted on these items. Time set aside not to exceed 30 minutes total by all participants)
- 8. ANNOUNCEMENTS**
- 9. DIRECTOR COMMENTS**
- 10. ADJOURNMENT**

NEXT MEETING: Open Session at 1:00 P.M.
Thursday, November 1, 2012
Big Bear Municipal Water District
40524 Lakeview Drive, Big Bear Lake, CA

PLEASE NOTE:

If you wish to address the MWD Board of Directors during discussion of an agenda item, or during the PUBLIC FORUM, please complete a Speaker Request card (blue in color) and give it to the Board Secretary. Unless a detailed presentation of an agenda item is required by the Board of Directors, it is requested that each speaker limit comments to FIVE MINUTES. All testimony given before the Board of Directors is tape recorded.

Agenda related writings or documents provided to the Board of Directors are available for public inspection at www.bbmwd.org or in the District office during business hours, 8:00 am – 4:30 pm Monday – Friday.

Big Bear Municipal Water District wishes to make all of its public meetings accessible to the public. If you need special assistance to participate in this meeting, please contact the Board Secretary. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting

***MINUTES OF A REGULAR MEETING OF
BIG BEAR MUNICIPAL WATER DISTRICT
HELD ON THURSDAY, OCTOBER 4, 2012***

CALL TO ORDER

President Eminger called the Open Session to order at 1:00 PM. Those in attendance included Director Murphy, Director Lewis, Director Suhay, Director Smith, District Counsel Keith Lemieux (via conference call), General Manager Scott Heule, and Board Secretary Vicki Sheppard.

REPORTS

Mr. Heule reported that yesterday an inspector from the Division of Safety of Dams inspected Bear Valley Dam. He explained that our Dam Keeper, Jim Weber, showed him all around, exercised the new service spillway gate #10 as well as both the 14-inch and the 24-inch sluice gates. He reported that the inspector advised that the remedial grouting at the left abutment was complete and he would be closing out that project file when he gets back to the office in Sacramento. He explained that the inspector was happy to hear that Caltrans had offered an agreement that would fund the necessary stairway and ramp access to the Dam from the abutments. Mr. Heule commented that the inspector told Mr. Weber that he was very happy with the state of the Dam and would be forwarding his written report within the next couple of weeks.

Mr. Heule reported that this morning Caltrans, via their contractor Flatiron, poured the slab at the right abutment. He added that with some left over concrete they also placed it adjacent to the control building on the Dam side. He explained that this will protect the exposed soil in that area from being eroded should the Dam overtop. He commented that they plan to pour the retaining wall adjacent to the new slab on Monday.

Mr. Heule reported that fish arrived Wednesday morning for the October Troutfest. He commented that Mike Stephenson advised that the load included a greater number of trout than in years past. He added that some of the really huge trout that typically were included in the past were replaced by a larger number of slightly smaller trout commenting that he was pleased with the mix and thought it was a very good buy. Mr. Heule reported that as of yesterday AM the event had more than 800 registrants. Alan Sharp, Big Bear Marina, reported that they may get up to 850 registrants.

Mr. Heule reported that the maintenance work to remove the 5 MPH buoys from the Lake is delayed by about two weeks this year. He explained that staff spent considerable time working at the Trout Pond and on the 100 Year Anniversary of the Dam. He added that this work as well as removal of the SS Reliefs will begin next week. He reported that the West Ramp will close for the season at the end of the day Sunday. He explained that launch ramp staffing for the balance of the season will be provided by a combination of the three ramp attendants that remain and Lake Patrol staff.

Mr. Heule reported that carping continues but is very slow. He explained that we will not get our target of 50,000 pounds this year in spite of plenty of time on the water. He reported that we believe we have made a measurable dent in the carp population adding that we are likely approaching a maintenance mode of operation for carp in the Lake.

Mr. Heule announced that Lake Manager, Mike Stephenson is in San Diego attending the CALMS Conference (CA Lake Management Society).

Director Suhay reported that on Wednesday he and Director Eminger (Facilities Committee) visited the Dam and viewed the work being done commenting that it was all very interesting.

APPROVAL OF CONSENT CALENDAR

Upon a motion by Director Murphy, seconded by Director Suhay, the following consent items were unanimously approved:

- Minutes of a Regular Meeting of September 20, 2012
- Warrant List Dated September 28, 2012 for \$ \$153,466.12
- Approval of a Special Event Permit for the Polar Plunge being held on March 9, 2013 at Swim Beach

CONSIDER APPROVAL OF CONSENT TO ASSIGNMENT OF THE LEASE DATED JUNE 15, 2011 BETWEEN BIG BEAR MARINA, LLC (ASSIGNOR) AND DISTRICT TO STEVE CURCIE AND STEVE FENGLER (ASSIGNEES)

Mr. Heule reported that the Big Bear Marina business has been sold by Big Bear Marina LLC to Steve Curcie and Steve Fengler and is currently in escrow. He added that the principals estimate that the escrow should close early in November. He reported that the Operations Committee wanted to see the assignees names to appear as they would on a driver's license and they also wanted to see the assignees signatures on an agreement to be bound by the lease. He explained that these changes were not made prior to the Agenda being posted but he arranged to have these two items addressed prior to the Board meeting and District Counsel did prepare a final version of the Consent for the Board to review at this meeting (see attached). Mr. Heule reported that this sale will retire the debt held by First Mountain Bank. Director Smith welcomed the new tenants. Mr. Steve Fengler thanked the Board and explained that Mr. Curcie wanted to attend the meeting but was not able to because his mother was experiencing some medical problems.

Director Suhay moved approval of Consent to Assignment of the lease dated June 15, 2011 between Big Bear Marina, LLC (Assignor) and District to Steve Curcie and Steve Fengler (Assignees) with the noted changes. Director Smith seconded the motion and it was unanimously approved.

PROGRESS REPORT FROM STAFF ON TROUT POND PROPERTY

Mr. Heule made a Power Point presentation on the Trout Pond (see attached). He reported that Mike Stephenson has had several conversations with Brent Tregaskis and Karl Klouzer from Bear Mountain indicating that they are ready to excavate debris from the pond if we would have it hauled. He explained that they are able to begin immediately. He stated that they could then finish the dredging next fall. He added that Mr. Stephenson is also having a conversation with David Lawrence, City of Big Bear Lake, regarding the project. Director Murphy asked if there is still water in the pond. Mr. Heule reported that there is still some water running through. Director Suhay asked if we couldn't get this excavation done all at one time rather than waiting until fall to complete it so as not to inconvenience the neighbors. Mr. Heule explained that if we leave the slide gate open until it is complete it should not be a problem. Director Smith commented that it is unusual that the gate was so small considering the amount of water that flows through.

PUBLIC FORUM

Mr. Larry Cooke, Big Bear Lake resident, stated that considering the 100 year storm potential he feels that the District should have ordered a hydrology study which would have most likely required removal of the dam. He restated that he feels this study is extremely important.

Mr. James Hart, Big Bear Lake resident (lives across from the Trout Pond) said he is in favor of development of the Trout Pond. He asked about the plumbing in the existing restroom and asked if the sewer line went under Rathbun Creek and if it is functioning. Mr. Heule stated that he thinks it does go under Rathbun Creek and he assumes it is functioning but doesn't know for sure. Director Smith explained that if the restroom is removed the line will be taken out. President Eminger responded to Mr. Cooke commenting that if the dam is taken out we could not raise fish. Director Smith reported that we are looking at fish rearing but added that sediment removal is a high priority so it doesn't flow into the Lake. Mr. Hart reported that he has been doing some sediment basin research concerning the Trout Pond explaining that the previous owners experienced loss of fish. Mr. Hart added that we should consider all options before we make any decisions commenting that the Trout Pond is an ideal spot for families to visit.

ANNOUNCEMENTS

No announcements were made

DIRECTOR COMMENTS

No comments were made

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:40 P.M.

NEXT MEETING

Open Session at 1:00 P.M.
Thursday, October 18, 2012
Big Bear Municipal Water District
40524 Lakeview Drive, Big Bear Lake, CA

Vicki Sheppard
Secretary to the Board
Big Bear Municipal Water District

(SEAL)

RECORDING REQUESTED BY AND]
WHEN RECORDED MAIL TO:]
Big Bear Municipal Water District]
Attn: General Manager]
P. O. Box 2863]
Big Bear Lake, CA 92315]

ASSIGNMENT

Big Bear Marina LLC ("Assignor") hereby assigns all right, title, and interest in and to that certain lease dated June 15, 2011, between Big Bear Municipal Water District ("District") and Assignor ("subject lease") to Steve Curcie and Steve Fengler (collectively "Assignee"), subject to the consent of Big Bear Municipal Water District.

Date: _____, 2012.

Big Bear Marina LLC

By: _____
Kris Assel

CONSENT TO ASSIGNMENT

District consents to the assignment of the subject lease by Assignor to Assignee, subject to:

- The close of escrow between Assignor and Assignees;
- Assignees' agreement to be bound by the lease;
- Payment of rents and fees owed to the District as of the date of closing; and
- Submittal by Assignees of insurance required by the lease.

Big Bear Municipal Water District

Attest:

By: _____
Scott Heule, General Manager

By: _____
Vicki Sheppard, Board Secretary

Approved as to Form:

District Counsel

ATTORNMENT

Steve Curcie and Steve Fengler agree to be bound by the terms and conditions of the subject lease as of the date of the Consent to Assignment by Big Bear Municipal Water District.

Date: _____, 2012.

Date: _____, 2012.

By: _____
Steve Curcie

By: _____
Steve Fengler

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

On _____, 2012, before me, _____, a Notary Public, personally appeared **Scott Heule**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under penalty of perjury under the laws of the state of California the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

On _____, 2012, before me, _____, a Notary Public, personally appeared **Kris Assel**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under penalty of perjury under the laws of the state of California the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

On _____, 2012, before me, _____, a Notary Public, personally appeared **Steve Curcie and Steve Fengler**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under penalty of perjury under the laws of the state of California the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

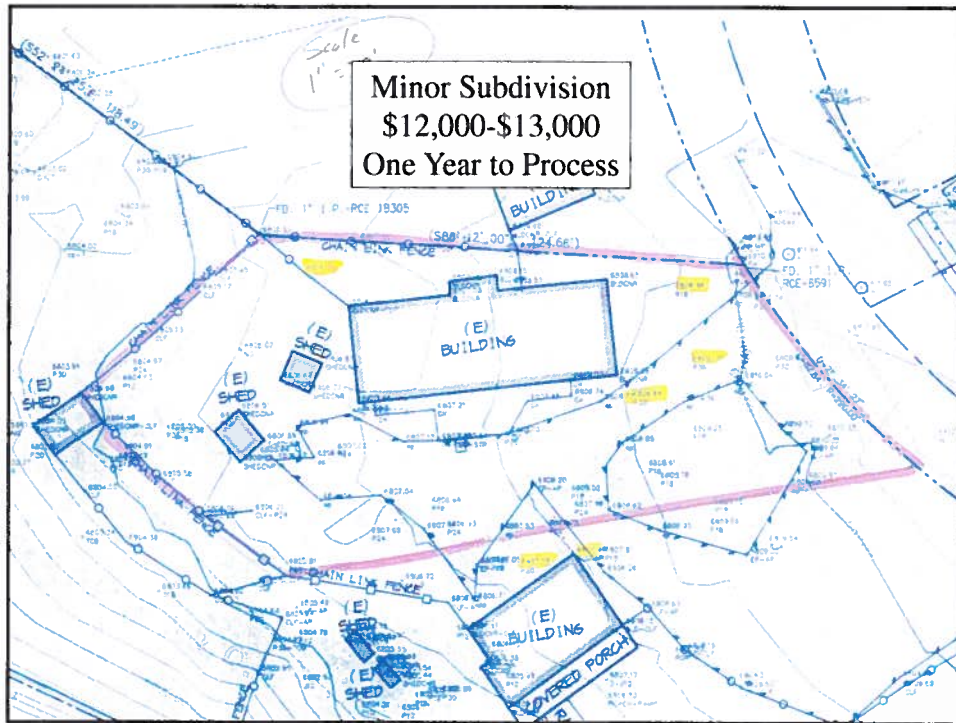
Notary Public

Trout Pond Update

Big Bear Municipal Water District
Board Meeting
October 4, 2012

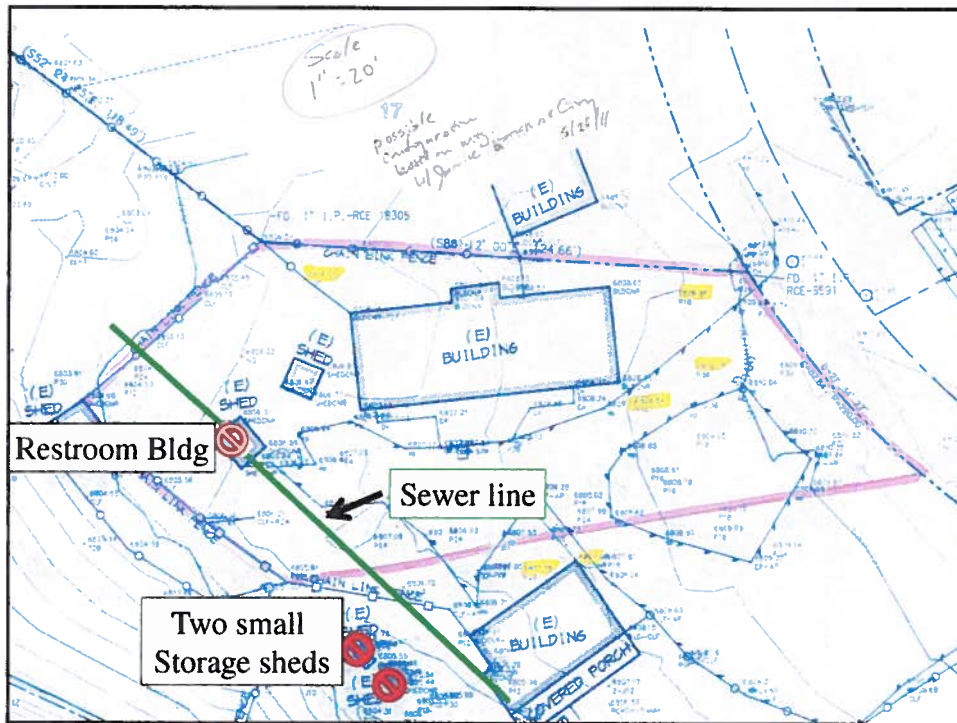
- Acquisition agreement voided
- Trout Pond specific workshops
- Army truck removed
- Motorhome removed
- Boat removed
- Research minor subdivision costs and timing

Work Completed Since Purchasing



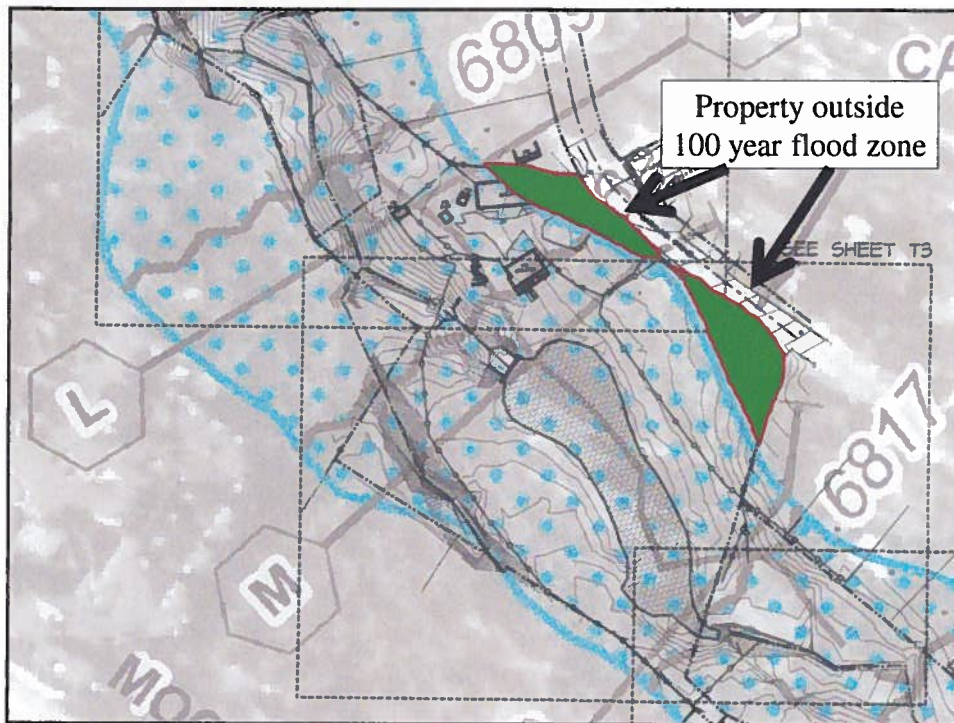
- Junk scrapped
- Fallen trees cut up and hauled away
- Loads of pine needles hauled away
- Tons of debris hauled away
- Two small storage sheds removed
- Derelict restroom building marked out for demo

Work Completed Since Purchasing (cont.)



- Non-contractor required repairs on house
- Topographic map of the property
- 100 Year flood zone map of the property

Work Completed Since Purchasing (cont.)



- Bait shack electrical removed
- Electrical exterior to the house severed
- Pond drained and drying out

Work Completed Since Purchasing (cont.)

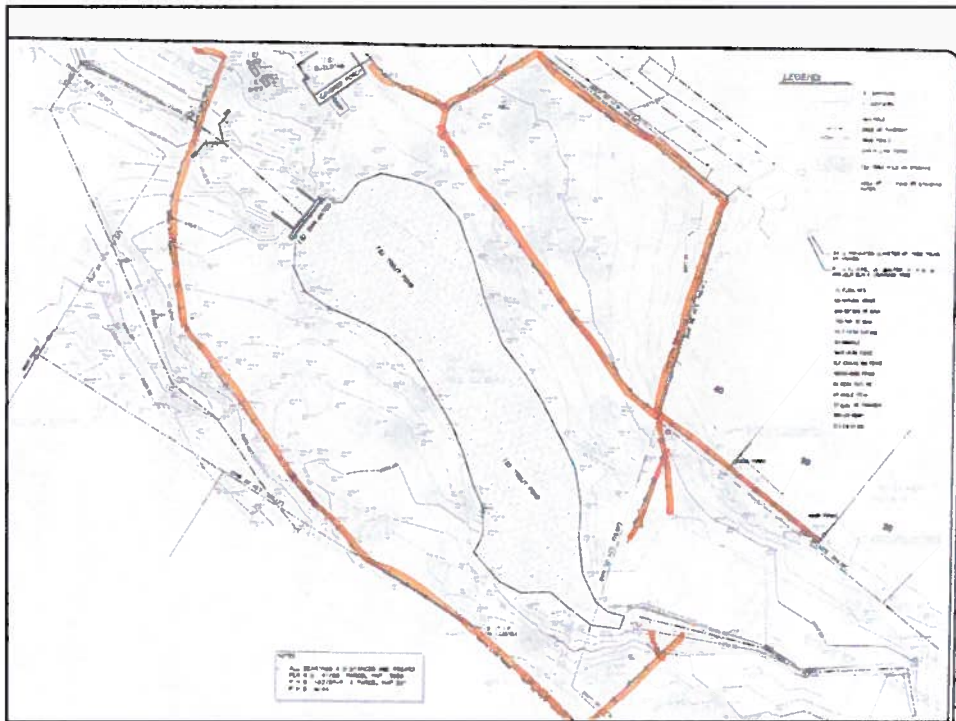






- 65 – 70 man days work by District employees
- Engineering \$6700
- Miscellaneous repairs, fixtures, dump fees and wages = about \$22,000

Costs to Date?



- Repair dam outlet works
- Replace dam bridge
- Repair erosion at dam abutments
- Harden surfaces of emergency spillways at dam abutments

Basic Work to do (cont.)



- Remove about one third to half the trees on the property
- Rebuild 2nd bathroom in house
- Rebuild basement window wells on house
- Grade for drainage in yard next to house
- Demolish and remove bait shack
- Develop a mission for the Trout Pond

Basic Work to do (cont.)

**BIG BEAR MUNICIPAL WATER DISTRICT
REPORT TO BOARD OF DIRECTORS**

MEETING DATE: *October 18, 2012*

AGENDA ITEM: *5B*

SUBJECT:

CONSIDER EXTENSION OF MARINA POINT SHOREZONE ALTERATION PERMIT

RECOMMENDATION:

The General Manager and the Lake Improvement Committee (Directors Smith & Suhay) recommend approval of the permit extension request.

DISCUSSION/FINDINGS:

The District received a request from Marina Point Development to extend their Shorezone Alteration Permit for one additional year. The existing permit, S2011-01 expires on November 30, 2012. The project has been stalled for many months and a recent grading permit approval from the County appears to have been the hold up. No changes to the project work below the high water elevation of the lake that has already been permitted by the District is being requested. The Lake Improvement Committee believes that approval of a one year extension of their permit through November 30, 2013 is a valid request and recommends that the Board approve Marina Point's request. All other conditions of the current permit would remain in force.

OTHER AGENCY INVOLVEMENT: None

FINANCING: None

Submitted by: Scott Heule, General Manager

**BIG BEAR MUNICIPAL WATER DISTRICT
SHOREZONE ALTERATION**

PERMIT NO. S2011-01 Extended Marina Point Development Associates

**Big Bear Municipal Water District (hereinafter District) hereby grants a Shorezone Alteration
Permit to Marina Point Development Associates**

Mailing Address: P.O. Box 577
City: Del Mar
Phone: 619-417-4416

State: CA
Work:

P/code: 92014
Other: FAX 858-755-5820

Property Address: 39505 North Shore Drive
City: Fawnskin

APN: 034-082-15, 17-18, 20,2
State: CA

P/code: 92133

The following Contractor will perform the work described:

Name: Bear Valley Paving
City: Big Bear Lake
Phone No: 909-866-4746
License Number: 269261
Verification Date: Nov. 21, 2011

Address: 41841 Garstin Rd.
State: CA
Cell: 909-965-8621

P/code: 92315
Fax: 909-866-8452

By:

Owner may complete the project described as:
Marina Point Dredge and Jetty Protection Project

Owner shall abide by all shorezone regulations and best management practices as set forth the most current District Resolutions. Owner shall complete the project as described in the attached Shorezone Alteration Application submitted on 09-20-2011 and Project Description dated 11-9-2011 and subject to the attached Conditions of Approval dated 11-9-2011.

FEES (payable prior to commencement of project):

1. Application:

- \$25 administrative fee (only for filing Notice of Exemption)
- \$100 ministerial project (other than head walk)
- \$250 head walk installation
- \$500 project requiring Negative Declaration under C.E.Q.A. process
- \$1,000 project requiring EIR/EIS under C.E.Q.A. process

2. Mitigation for lake bottom disturbed:

- \$200 shoreline erosion control project involving no fill other than placement of rock rip rap, installation of toe protection for a seawall, launch ramp installation and installation of steps
- \$3,000 other projects where additional mitigation may be required to reduce adverse impacts (per acre or any portion of an acre) \$ _____

**BIG BEAR MUNICIPAL WATER DISTRICT
SHOREZONE ALTERATION**

PERMIT NO. S2011-01 Extended Marina Point Development Associates

1. Shorezone Alteration Permit S2011-01 Extended is valid through November 30, 2013.
2. Owner shall notify the District five (5) days prior to commencement of the project.
3. As applicable, an executed copy of the grading permit from the County of San Bernardino, and/or executed copies from the State of California Department of Fish and Game, Corps of Engineers, Santa Ana Regional Water Quality Control Board, and any other applicable agencies' permits must be on file with the District prior to commencement of work.
4. Contractor shall obtain general liability insurance with limits of at least one-million dollars (\$1,000,000) per occurrence (\$2,000,000 aggregate, if used) for bodily injury, personal injury and property damage arising out of the activities and properties as described herein. Coverage shall include contractual liability covering the applicant's obligations. The District, its officers, employees, agents and volunteers shall be named as additional insureds. Contractor shall provide the District with a certificate of insurance and additional insured endorsement (Insurance Services Office Form CG 2026, or equivalent) before scheduled use. Any insurance, self-insurance or other coverage maintained by the Contractor shall not contribute to it. Coverage is to be placed with a carrier with an A.M. Best rating of at least A-:VII. Contractor shall insure, or be a qualified self-insured, under the applicable laws relating to workers' compensation coverage (Labor Code Section 3700), all of their employees working on or about the District's facilities. Contractor shall provide the District with a certificate of Workers' Compensation prior to commencement of work.
5. Contractor shall provide performance bond for 100% of the contract amount for the work covered under this permit prior to commencement of work.

ADDITIONAL CONDITIONS:

Should any of the terms and conditions described in this permit, or as set forth in the District's current shorezone resolution, not This permit is granted with the understanding that Owner has complied with permit requirements of all other regulatory agencies. All legal fees or filing fees incurred as a result of the project shall be borne by the Owner. This permit shall be available at the project location at all times, and Owner shall contact District for inspection when project is complete.

PERMIT ACKNOWLEDGEMENT:

_____	Date: ___/___/___
Marina Point Development Associates	
_____	Date: ___/___/___
Contractor	
_____	Date: ___/___/___
General Manager	
Big Bear Municipal Water District	

FINAL PROJECT INSPECTION BY DISTRICT

_____	Date: ___/___/___
Lake Manager	

10-18-12

Shorezone Alteration Permit No. S2011-01 Extended, Conditions of Approval
Marina Point Shorezone Alteration Application dated September 20, 2011

1. The applicant shall submit current bathymetry mapping prior to initiating any dredging activities. This mapping shall be submitted to the District on paper and in a geo-referenced format compatible with the Districts' electronic mapping software for review and approval prior to initiating any dredging activities.
2. The applicant shall provide bathymetry mapping to document the as built conditions of all new dredge/fill areas extending a minimum of 200 feet from the nearest point above the OHWM. This information shall be submitted to the District on paper and in a geo-referenced format compatible with the Districts' electronic mapping software within 30 days of completing any dredging activities for District review and approval.
3. The applicant shall not perform any work between December 1 and March 31 of any year in compliance with eagle habitat restrictions, unless otherwise authorized by the appropriate agency.
4. The applicant shall install silt curtains of sufficient length to extend at least two feet deeper than the water depth along their proposed alignment. Prior to dredging the owner shall document this condition has been met to the satisfaction of the District.
5. The applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) to the District for review and approval prior to initiating any disturbance of the lakebed below the OHWM. At a minimum this SWPPP shall identify all best management practices that will be implemented for all activities that directly affect lakebed below the ordinary OHWM and those construction activities that could indirectly affect the quality of water in the Lake. The SWPPP shall also include measures to address the accidental release of any hazardous or toxic material (such as petroleum product spills) that could enter into the Lake. The applicant shall demonstrate that all materials required to implement the SWPPP are in place before initiating construction activities that could degrade water quality of the Lake.
6. The applicant shall survey, file and record with the County of San Bernardino property lines on top of the marina jetties that accurately reflect actual post project private and public boundaries.
7. The applicant shall provide accommodation for the owners of Docks 727,728 and 729 (APN's 0304-151-34, -47 and -48) to access the lake during the course of construction.
8. Nothing contained in this permit shall relieve the Permittee from obtaining permits and entitlements from other governmental agencies. Permittee shall provide District with copies of such other permits as are required for the work prior to the commencement of the work.
9. The applicant shall apply for the necessary permits from the appropriate agencies to allow future maintenance dredging tributary to all dredged areas identified in the current shorezone alteration application.

**BIG BEAR MUNICIPAL WATER DISTRICT
REPORT TO BOARD OF DIRECTORS**

MEETING DATE: *October 18, 2012*

AGENDA ITEM: *6A*

SUBJECT:

REVIEW AND COMMENT ON ADMINISTRATIVE CODE UPDATES, FIRST 20 PAGES

RECOMMENDATION:

The General Manager and the Administrative Committee (Directors Smith & Eminger) recommend reviewing and commenting on the first 20 pages of the draft Administrative Code.

DISCUSSION/FINDINGS:

The District's Administrative Code has not been updated for several years. Over this time period several policy changes have been made by the Board that should be incorporated into a single document instead of individual resolutions. Additionally, the language used in the current Administrative Code is more complex than it needs to be and contains confusing and unnecessary legal language. The Administrative Committee is in the process of working with District Counsel to make the revisions and updates. The Committee intends to review about one third of the document at a time in Committee and then add the section to the Board agenda for review and comment by all Directors one piece at a time. After the Administrative Committee and subsequently the full Board has reviewed and commented on the entire document, formal action to adopt the new Administrative Code will be taken at a Board meeting probably in December.

OTHER AGENCY INVOLVEMENT: None

FINANCING: None

Submitted by: Scott Heule, General Manager

DRAFT

REVISION # 5
Dated: 10/10/12

e to Scott Heule

**BIG BEAR MUNICIPAL WATER DISTRICT
ADMINISTRATIVE CODE**

CHAPTER 1. GENERAL PROVISIONS

Section 1.101 Purpose.

This Resolution provides the members of the Board and the District's staff with a statement of instructions and policy to implement the Municipal Water District Law of 1911. This Resolution may be referred to as the District's "Administrative Code".

Section 1.102 Mission and Goals.

The mission of the District is to stabilize the level of Big Bear Lake for recreation and wildlife.

Section 1.103 Scope.

This Code consists of the regulatory, penal and administrative laws of general application of Big Bear Municipal Water District, codified pursuant to the authority of the Municipal Water District Law of 1911 and Title 5, Division 1, Part 1, Chapter 1, Article 1 of the Government Code.

Section 1.104 Effect of Code on Past Actions and Obligations.

The adoption of this Code or the repeal of a resolution by this Code shall not affect:

- (a) The prosecution for violations of resolutions committed prior to the effective date of this Code;
- (b) Any fee or penalty due and unpaid under such resolutions;
- (c) The validity of a bond required to be posted, filed, or deposited pursuant to any resolution;
- (d) Vested rights and obligations pertaining to such resolutions; or
- (e) Deposits or other matters of record referring to resolutions and not included within this Code.

Section 1.105 Maintenance of Code.

(a) At least three certified copies of this Code, shall be maintained on file in the District offices as the official copies of this Code. Additional copies of this Code shall be distributed as directed by the General Manager.

(b) Each resolution making a change in this Code shall be filed by the Secretary in books for such purpose, properly indexed for ready reference.

(c) At least quarterly, the Secretary shall reproduce and distribute loose-leaf pages of this Code in which changes have been made with a notation as to the resolution number and date on which such change is adopted.

Section 1.106 Definitions.

The following terms are defined for the purposes of this Resolution:

- (a) "District" refers to the Big Bear Municipal Water District.
- (b) "Board" refers to the Board of Directors of the District.
- (c) "President" refers to the President of the Board.
- (d) "Vice President" refers to the Vice President of the Board.
- (e) "Secretary" refers to the Secretary of the Board.
- (f) "Treasurer" refers to the Treasurer of the Board.
- (g) "General Manager" refers to the Chief Executive Officer of the District.
- (h) "Employee" refers to a District employee.
- (i) "Principal Act" refers to the Municipal Water District Law of 1911
- (j) "Engineer" refers to the District Engineer

Section 1.107 Official Seal of Authority.

The following design is hereby determined to be, and it is hereby adopted, as and for the official seal of the District:

The seal is circular in form and has engraved on the outer edge of the face with the words: "BIG BEAR MUNICIPAL WATER DISTRICT" and within the circle, the words: "INCORPORATED JANUARY 31, 1964, CALIFORNIA," as shown.

Section 1.108¹ Administrative Hearings.

The following governs administrative hearings.

(a) Materials received by the agency from a person who requests an administrative hearing or materials agency staff desires to submit to the tribunal shall be filed with the ~~clerk~~secretary. The ~~clerk~~secretary shall distribute copies of the materials to the parties before the proceedings. Except for agency briefs, the materials shall not be distributed to the tribunal except during the hearing.

(b) Members of the tribunal shall avoid private, oral communications with any person who seeks or may seek an administrative review of an agency decision. When such communications occur, despite the member's best efforts to avoid them, the member shall announce the occurrence of such communication and, depending on the communications, may be asked to refrain from taking part in the proceedings.

(c) At the hearing, the ~~agency-District~~ counsel shall advise the tribunal and an attorney from ~~agency-District~~ counsel's office may represent agency staff if

(1) There are no communications between ~~agency-District~~ counsel and the staff attorney on the subject matter of the appeal outside the presence of opposing counsel until a decision is announced by the tribunal. ~~Provided, after a decision has been rendered, agency counsel may inform the attorney for the prevailing party to prepare a draft decision. The draft decision shall be transmitted to both attorneys before submitting it to the tribunal.~~

(2) A person shall not advise the members of the tribunal in an administrative hearing in any of the following circumstances:

(a) The person has served as investigator, prosecutor, or advocate in the proceeding or its pre-adjudicative stage.

(b) The person is subject to the authority, direction, or discretion of a person who has served as investigator, prosecutor, or advocate in the proceeding or its pre-adjudicative stage.

~~(c)~~ A person may serve as an advisor at successive stages of an adjudicative proceeding.

(d) Provided, after a decision has been rendered, District Counsel may inform the attorney for the prevailing party to prepare a draft decision. The draft decision shall be transmitted to both attorneys before submitting it to the tribunal.

¹ Amended by Res. No. 2009-05 on April 16, 2009.

Section 7.2011.109 Regular Holidays.

(a) The offices of the District shall normally be closed on the following holidays:

January 1	New Year's Day
3rd Monday in January	Martin Luther King Day
February 12	Lincoln's Birthday
3rd Monday in February	President's Day
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
November 11	Veterans' Day
The Thursday in November designated as Thanksgiving Day	Thanksgiving
Friday following Thanksgiving	Thanksgiving Friday
December 25	Christmas
December 26	Day After Christmas

(b) Any day designated as a paid holiday by the Board of Directors, or any day declared a paid holiday for all public employees by the Governor or the President of the United States is a District holiday.

(c) All full-time employees who are regularly scheduled to work forty (40) hours per week shall be eligible for holiday compensation. Seasonal employees who work a total of 72 hours in any two-week payroll period shall be eligible for holiday compensation when the holiday falls within that period. All others, including temporary employees, are not eligible for holiday compensation, regardless of the number of hours worked.

(d) Any full-time employee who is required by the District to work on a holiday shall receive compensatory time off at the normal hourly rate.

(e) Any full-time employee who is on vacation or leave of absence for illness when a holiday occurs will not be charged for that day.

(f) Seasonal employees who work on a holiday shall be compensated at the rate of two times the normal rate of pay for the first eight (8) hours worked.

(g) Employees are eligible for holiday pay if he/she is in paid status on the work day before and the work day after the holiday. Employees on unpaid status for any period of a

work day immediately before or after a holiday, forfeit full holiday pay for the applicable holiday(s).

Section 7-2021.110 Regular Holidays that Occur on a Weekend.

Any regular holiday that occurs on Sunday will be observed on the following Monday.

Any holiday occurring on Saturday will be observed on the preceding Friday.

Section 7-2031.111 Floating Holidays.

A floating holiday is one during which the offices remain open for business but which is broadly considered as a holiday. ~~Veterans' Day, November 11~~ Lincoln's Birthday, February 12, will be considered a floating holiday. Employees of the District shall be entitled to a day's absence with pay for each floating holiday worked. A floating holiday may be taken off at such time as approved by each employee's supervisor but must be taken within the calendar year in which it occurs.

CHAPTER 2. BOARD OF DIRECTORS
ARTICLE 1 - ELECTION, APPOINTMENT AND OATHS

Section 2.101 General.

The Board shall establish policies and determine whether the General Manager is implementing policies. The Board is not responsible for the day-to-day management or operations.

Section 2.102 Relationship Among Directors.

A quorum of the Board shall not discuss the business of the District directly, seriatim or through an intermediary except at a public meeting. A quorum of the Board may discuss the time, place and agenda for a meeting at any time. Less than a quorum of the Board (but not a committee) may discuss District business at any time.

Section 2.103 Relationship with Officers and Employees.

(a) The Board and individual Directors may question the General Manager with respect to the development and implementation of District policy. The Board, but not the individual Directors, may direct the General Manager with respect to the development and implementation of District policy.

(b) The Board and individual Directors are discouraged from dealing directly with any employee. Such contact shall be reported by the Director to the Board.

Section 2.104 Election.

(a) Members of the Board shall be elected to office in accordance with the provisions of the principal act.

(b) Directors shall be elected on the following schedule: with terms commencing at the time stated and every fourth year thereafter:

Director representing:	Division 1 - January 2011
	Division 2 - January 2011
	Division 3 - January 2011

Division 4 - January 2013

Division 5 - January 2013

Section 2.105 **Unscheduled Vacancies.**

(a) The office of director may become vacant before the end of the term because of death, resignation or other event causing vacancy. A written resignation is irrevocable and effective when filed with the Secretary. An oral resignation is irrevocable and effective when accepted by the Board.

(b) A notice of intention to fill the vacancy by appointment shall be posted by the Secretary immediately when an unscheduled vacancy on the Board occurs. At least ten days after the notice is posted and within 60 days after the effective date of the vacancy, the remaining Directors may fill such vacancy by appointment or by calling an election. The Board of Supervisors may fill the vacancy if the Board fails to act within sixty days of the effective date of the vacancy.

(c) If a vacancy is not filled by appointment, an election shall be held at the next regular election date at least 114 days after the effective date of the vacancy.

(d) A person appointed or elected to fill an unexpired term shall hold office until the next regular district election held at least 114 days after the effective date of the vacancy

Section 2.106 **Oath of Office.**

Persons elected to the Board shall take the oath of office in the manner and at the time prescribed for county officers. Persons appointed to the Board shall take the oath of office prior to assuming office. The Secretary shall administer the oath.

ARTICLE 2 - ORGANIZATION AND BOARD OFFICERS

Section 2.201 Divisions.

The District is divided into five (5) divisions as shown on the Official Map of Division Boundaries on file in the District offices. Each division is represented by one Director.

Section 2.202 Officers of the Board.

(a) The President and Vice President shall be ~~selected~~appointed by the Board from its members at the first meeting in the month of January of every year.

(b) The ~~Office~~ of the President shall be rotated from division to division annually on a numerical basis. If a Director declines the office, or has served less than one year, the Director serving the next numerical division shall be President.

(c) The ~~Office~~ of Vice President shall be rotated from division to division annually on a numerical basis to the Director whose division is scheduled as the following year's President. If the Director declines the office, or has served less than one year, the Director serving the next numerical division shall be Vice President.

(d) The District's Administrative Secretary shall also serve as Secretary to the Board, and the District's General Manager shall also serve as ~~Board~~-Treasurer and Deputy Secretary when the Secretary is absent.

Section 2.203 Powers and Duties of Board Officers.

Certain duties are ~~hereby~~ delegated to Board officers beyond those provided for by statute:

(a) The President serves as presiding officer.

(b) The Vice President serves as Parliamentarian and as presiding officer in the absence of the President.

(c) The Secretary is responsible for the accuracy and availability of the minutes of Board meetings and the Official Record of ~~all~~ ordinances, resolutions and orders passed or adopted by the Board. The Secretary shall certify to the passage and adoption of ~~all~~ ordinances, resolutions and orders of the Board, to the filing of ~~all~~ documents filed with, or by order of, the Board, to the official status, capacity and signature of all officers and employees of

the District, and to all-matters appearing of record in the files and records of the District and of its Board or of any office or officer of the District.

(d) The Treasurer is responsible for receiving and depositing all-monies of the District, the certification that checks presented for Board approval in payment of obligations of the District are correct and supporting documents available, and the investment of District funds.

Sec. 2.204 Committee Structure.

(a) At the first board meeting each year, the President shall announce the standing committee assignments. A *standing committee* shall be comprised of two directors and formed to discuss assigned matters. As nearly as practicable, each director shall participate as equally as possible in the committees.

(b) As much as practicable, committees shall review and make recommendations on matters to appear on a board agenda. No item shall be placed on an agenda at the request of one director. Such requests shall be directed to the appropriate committee for review. Any committee decision not to place an item on a Board agenda can be overruled if three directors make the request.

ARTICLE 3 - MEETINGS AND MINUTES

Section 2.301 General.

(a) ~~All m~~Meetings of the Board and any advisory bodies shall be open to the public and all persons shall be permitted to attend. No action shall be taken by secret ballot at such meetings.

(b) ~~The following terms are defined for the purposes of used in this article have the same meaning as the Ralph M. Brown Act.:~~

~~————— *Advisory body* means a decision making or advisory body created by formal action of the Board. An *ad hoc* committee composed solely of two or less uncompensated members is an advisory body only if the committee has continuing jurisdiction or meets pursuant to a schedule fixed by the Board.~~

~~————— *Meeting* includes any congregation of a quorum of the Board or advisory body at the same time and place to hear, discuss or deliberate on any ruling within the jurisdiction of the District; and any use of direct communication, personal intermediaries or technological devices by a quorum of the Board or an advisory body to develop a collective concurrence to action by the Board or advisory body.~~

~~————— *Meeting* does not include: individual contacts between members and any other person; attendance at a conference or similar gathering open to the public involving discussions of issues of interest to the public generally by public agencies, specifically, if members do not discuss District business; attendance at open and publicized meetings addressing topics of community concern by someone not associated with the District, if members do not discuss District business; or attendance at social or ceremonial events, if members do not discuss District business.~~

~~————— *Member* means a Director or a member of an advisory body.~~

(c) ~~All m~~Meetings of the Board and all meetings of advisory bodies shall be held within the District, except: to comply with State or Federal law or court order; to inspect real property or personal property which cannot be moved; to meet with another public agency at the other agency on multi-agency matters; to discuss legislative or regulatory matters with State or Federal officials; to discuss matters relating to a District facility in the facility; and to consult with legal counsel at counsel's office if so doing will result in a reduction in legal fees associated with the meeting.

- (d) Secretary shall provide each member a copy of these regulations.

Section 2.302 Regular and Special Meetings.

(a) The Board shall hold regular meetings on the first and third Thursday of each month at the hour of 1:00 o'clock p.m. at the District's headquarters located at 40524 Lakeview Drive, Big Bear Lake, California.

(b) Special meetings of the Board may be called by the President or three Directors by delivering written notice to each Director and to each local newspaper of general circulation, radio or television station requesting notice in writing within the prior twelve months. The notice shall be delivered at least 24 hours before the time of each meeting. The notice may be waived by a Director who files a written waiver of notice with the Secretary or who is actually present at the meeting when it convenes.

(c) The Board may hold an emergency meeting, but not a closed session, without 24 hour notice in the case of a work stoppage, crippling disaster or other activity severely impairing public health or safety and requiring prompt action due to the disruption or threatened disruption of public facilities. Each newspaper, radio or television station requesting notice of special meetings shall be notified by the Secretary by telephone at least one-hour prior to an emergency meeting. If telephone service is not available, the newspapers, radio or television stations shall be notified of the meeting, the purposes of the meeting and action taken as soon after the meeting as possible.

(d) Each advisory body may establish a time and place of regular meetings and may call special meetings in the same manner as the Board.

Section 2.303 Adjournment.

(a) A regular, adjourned regular, special or adjourned special meeting may be adjourned to a time and place specified in the order of adjournment.

(b) If a quorum is not present for a regular or adjourned regular meeting, the Secretary or deputy Secretary may declare the meeting adjourned to a stated time and place and cause a written notice of such adjournment to be given in the same manner as provided for a special meeting. When a regular or adjourned regular meeting is adjourned, the resulting adjourned meeting is a regular meeting for all purposes.

(c) A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of adjournment. When an order of adjournment fails to state when the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

Section 2.304 Continuance of Hearings.

A hearing held, or noticed to be held at a meeting may be continued or recontinued to a subsequent meeting in the same manner and to the same extent as the adjournment of meetings. If the hearing is continued to a time less than 24 hours after the time specified in the order, a notice of continuance of hearing shall be posted immediately following the meeting at which the order of continuance was made.

Section 2.305 Minutes of Board Meetings.

(a) Meetings, except closed sessions, shall be reported in written minutes.

(b) The minutes of the emergency meeting showing persons notified or attempted to be notified, the roll call vote and action taken shall be posted for at least 10 days as soon after the meeting as possible.

(c) The written minutes of meetings need not be a verbatim transcription but shall reflect:

- (1) official actions taken by the Board;
- (2) disposition of items appearing on the agenda;
- (3) statements requested by Directors to be included in such minutes when relating to reasons for voting;
- (4) matters requested by a Director to be included as an agenda item and which item was not placed on the agenda; and
- (5) the number and title of ordinances and resolutions.

(d) The written minutes are not official minutes until approved by the Board. Upon approval, the minutes will be signed by the President, and attested by the Secretary and the Seal of the District affixed.

(e) If meetings are recorded on audio tape, the tape shall be available for public inspection, on a tape player provided by the District, until the minutes are approved and the tape is erased.

(f) Any person attending an open meeting of the Board may record the proceeding on audio or video media unless the Board finds the recording cannot continue without noise, illumination or obstruction of view constituting a persistent disruption of proceedings.

Section 2.306 Rules of Conduct.

(a) The affirmative vote of at least three directors is necessary for the Board to take action. The Board shall take action by motion, resolution or ordinance. Motions and resolutions may be adopted on voice vote; roll call shall be taken if requested by any Director. Ordinances shall be adopted on roll call vote.

(b) The District may use video teleconferencing to receive public comment or testimony and for deliberations of the Board. If video teleconferencing is used, the agenda shall be posted at all video teleconference locations and reasonable rules shall be adopted to protect the statutory and constitutional rights of the parties and the public appearing before the Board.

(c) Upon the request of at least two members, meetings shall be conducted in accordance with the latest edition of Robert's Rules of Order insofar as such rules are compatible with the Municipal Water District Law of 1911 and other laws of the State of California. Advisory bodies shall adopt rules of order appropriate to their work.

(d) If any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the Board may order the meeting room cleared and continue in closed session. Only matters appearing on the agency agenda may be considered in such a session. The Board may establish a procedure for readmitting individuals not responsible for willfully disturbing the orderly conduct of the meeting.

(e) The Board shall not prohibit public criticism of the policies, procedures, programs or services of the district or of the acts or decisions of the Board. However, no privilege or protection is hereby conferred for expression beyond that otherwise provided by law.

Section 2.307 Agenda.

(a) At least seventy-two (72) hours before a *regular* meeting, or at least twenty-four (24) hours prior to a *special* meeting, the Secretary shall post an agenda containing a brief,

general description of each item of business to be transacted or discussed at the meeting, including the items to be discussed in closed session. The posting shall be freely accessible to the public.

(b) The agenda for all meetings shall include the opportunity for the public to address the Board prior to taking action on any matter. The agenda for regular and adjourned regular meetings shall include the opportunity for the public to address the Board on matters within the jurisdiction of the District but not on the agenda.

(c) No action shall be taken on matters not shown on the posted agenda, except members may briefly respond to: statements made or questions posed during public comment; request for clarification; provide a reference to staff or other resources for factual information; request staff to report back to the Board at a subsequent meeting or direct staff to place a matter of business on a future agenda.

(d) Prior to discussion of any matter on the agenda, the Board may add matters to the agenda upon a majority finding an emergency exists or upon at least a two-thirds vote finding there is a need to take immediate action and the need for action came to the attention of the District subsequent to the posting of the agenda. If only three directors are present, the finding of the need for action shall be by unanimous vote.

(e) Meetings to consider a new or increased ~~general tax or~~ assessment shall be preceded by at least forty-five (45) days' notice as specified by law.

Section 2.308 Interruption.

The Board may order the meeting room cleared and continue in closed session if a meeting is willfully interrupted, the orderly conduct of the meeting infeasible and order cannot be restored by the removal of individuals interrupting the meeting. Only matters appearing on the agenda may be considered in such a closed session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend the session. The Board may establish a procedure for readmitting individuals not responsible for willfully disturbing the meeting.

Section 2.309 Closed Sessions.

(a) The Board may conduct a closed session to:

- (1) Consider the appointment, promotion or job performance of an employee or officer;
- (2) Consider charges levied against an employee as a part of disciplinary proceedings unless the employee requests a public hearing.
- (3) Establish the District's position for employee negotiations;
- (4) Consider pending or potential claims or litigation;
- (5) Consider property acquisition or disposition; or
- (6) Conduct business when public session is not possible due to interruption.

(b) The agenda shall state the purpose of the closed session unless the purpose of the closed session is to:

- (1) Consider charges levied against an employee in which case, the identity of the employee shall not be disclosed unless already publicly known or requested by the employee;
- (2) Discuss pending or potential claims or litigation and counsel announces disclosure of the identity of the claimant or litigant would prejudice the District; or
- (3) Consider property acquisition when counsel announces disclosure of the identity of specific property would prejudice the District.

(c) If possible, the Board shall avoid taking action in closed session. Action may be taken in closed session when necessary to avoid prejudice to the District. When the potential for prejudice does not exist, action taken in closed session shall be publicly announced at the same meeting as the closed session. If the action was taken by roll call vote, the vote shall be announced.

(d) When closed session held at the end of a meeting will result in a decision authorizing expenditures, the action shall be deferred until the next regular meeting and considered as a part of the regular agenda, unless the matter involves:

- (1) Litigation with court imposed deadlines before the next regular meeting;
- (2) Appointment, removal or dismissal of District officers or employees; or
- (3) Response to emergency conditions.

(e) Counsel shall prepare a confidential memorandum stating the purpose of the closed session and action taken. This memorandum shall be filed with the General Manager in confidence.

ARTICLE 4 - COMPENSATION AND EXPENSES

Section 2.401 Compensation.

In accordance with Section 71255 of the Water Code, each Director shall be compensated in the amount established by Ordinance No. 39 for each day's attendance at meetings of the Board or for each day's service rendered as a Director by request of the Board not to exceed six days in any calendar month. A Director shall not be compensated for more than one per diem per day even if more than one meeting is attended in one day. At least annually, the Board shall determine the meetings for which directors shall be compensated. Directors shall be compensated only for meetings approved by the Board.

Section 2.402 Expenses.

(a) If previously approved by the Board, a Director shall receive reasonable and necessary reimbursement for travel, meals, lodging, registration and similar expenses incurred on District business. The rate for reimbursement shall not exceed the rate published by the IRS for deduction from taxes. ~~However, if the expenses are incurred in connection with a trade conference, the reimbursement rates shall not exceed the posted rates for the conference and if the posted rates are not available, the reimbursement rate shall be comparable to the posted rates.~~ Directors shall submit expense reports within fifteen days of the activity for which reimbursement is requested.

(b) ~~Directors shall be authorized in advance to incur expenses for District purposes and shall submit a written request for reimbursement.~~ During September of each year, the General Manager shall prepare a list of amounts paid during the prior fiscal year to reimburse a director or employee for individual expenses of \$100.00 or more. To determine the value of an item, the total charges for the item for the day shall be considered. For example, several transportation bills, each less than \$100.00, but totaling more than \$100.00, requires a report. During October of each year, the list shall be reviewed by each person receiving expense reimbursement. The General Manager shall consider suggested corrections and post the final list on the District's bulletin Board by November.

(c) The District shall ~~fund the expenditures~~ pay for the attendance of up to two Directors at any one seminar, conference or other similar meeting or event, unless otherwise approved by the Board of Directors. Following an election, any incumbent choosing not to seek

another term or who is defeated in the election, shall not be eligible for seminar attendance during the remaining months in office. The maximum fiscal-year expenditure per Director shall be set each year in the annual budget. First choice for seminar attendance shall be determined by the committee description most closely related to the seminar subject matter as determined by the President. Should a committee member be unable, or not wish, to attend a seminar, the option to attend shall then be extended first to the committee alternate.

CHAPTER 3. DISTRICT OFFICERS

ARTICLE 1 - GENERAL MANAGER

Section 3.101 General Manager.

The General Manager shall be appointed by the Board as the chief administrative officer, and shall be responsible directly to the Board. ~~He~~The General Manager shall have full charge and control of the planning, design, construction, operation and maintenance of ~~all~~ District facilities and the administration of the business affairs of the District within the program and policies established by the Board, as outlined in the job description approved by the Board.

Section 3.102 Administration of Business Affairs of the District.

The General Manager shall have full power and authority to administer the business affairs of the District within the program and policies established by the Board, including: purchasing; customer service ~~(billing and collecting)~~ ~~accounting~~; employing, promoting, transferring and discharging ~~all~~ employees and assistants and prescribing the duties of employees and assistants and in fixing their compensation in accordance with the policies and schedules approved by the Board.

Section 3.103 Personnel Rules & Regulations.

The General Manager shall submit recommended personnel rules and regulations, including salary recommendations, from time to time to the Board for approval. Such recommendations may be in the form of a Memorandum of Understanding or Policy Memorandum. Such recommendations, when approved, shall supersede this Code.

Section 3.104 Emergency Powers.

If an emergency arises which would ordinarily be brought to the attention of the Board but insufficient time exists within which to give notice as required by law, the General Manager is authorized, in his discretion, to take such emergency action as he deems appropriate and reasonable.

Section 3.105 Collection of Delinquent Accounts.

The General Manager ~~is authorized to~~ may engage a collection agency to collect all accounts delinquent over three months where ~~it is evident that the debtor is no longer a customer and District~~ collection efforts have proven unsuccessful.

ARTICLE 2 - OTHER OFFICERS

Section 3.201 District Counsel.

(a) An attorney shall be appointed by the Board to act part-time as General Counsel of the District. The District Counsel is directly accountable to the Board. District Counsel shall provide legal advice and services as requested by the Board and shall provide legal advice to the General Manager and other officers of the District. District Counsel represents the District. District Counsel shall not represent individual directors, officers or employees of the District unless authorized in writing by the Board. District Counsel will recommend appointment of special counsel as required. The compensation of District Counsel and any Special Counsel will be set by the Board.

(b) Bond Counsel or special counsel shall be appointed by the Board and provide legal advice and service on the authorization, issuance and sale of bonds or other special matters as requested by the Board. The compensation of the Bond Counsel will be set by the Board.

(c) District Counsel shall report possible violations of District policy and state or federal law to the General Manager. District Counsel shall report possible violations of District policy not corrected by the General Manager, General Manager's possible violations of state or federal penal law, and violations of policy or law by a director to the Board, ~~and District Counsel shall report violations of state or federal penal law to the District Attorney or United States Attorney, as the case may be, when instructed by the Board, or if the Board fails to act, as the District Counsel deems appropriate.~~

Section 3.202 Auditor.

An independent auditor shall be appointed by the Board to annually review the financial records of the District.

Section 3.203 Engineer.

Consulting Engineers shall be appointed by the Board to assist the District on an as-needed basis.

Section 3.204² Park Rangers.

(a) The District shall employ park rangers in accordance with Water Code section 71661. The primary function of these park rangers will be to protect the properties of the District and to protect persons on District property.

(b) Park rangers shall be recruited and trained in accordance with criteria established by the Commission on Peace Office Standards and Training ("POST"). Park rangers shall be finger-printed, have background checks, undergo a physical exam and psychological testing, and completed field training before being sworn.

(c) The General Manager shall present persons to be hired as park rangers to the board for appointment. The appointment shall be by board action memorialized in the minutes.

² Added Sec. 3.204 by Res. No. 2012-03 on April 19, 2012.