

RESOLUTION NO 2004-06
ADOPTING CODE OF CONDUCT

COASTSIDE COUNTY WATER DISTRICT

WHEREAS, the Coastside County Water District needs the support of the community it serves in order to be effective; and

WHEREAS, the Board of Directors of the Coastside County Water District believes that public officials should be dedicated to the highest ideals of integrity and accountability to continue to earn the trust, confidence and support of the public they serve; and

WHEREAS, the adoption and adherence to written guidelines regarding the conduct of public officials provide a sound foundation on which to build public trust and confidence; and

WHEREAS, in January of 2004, the Association of California Water Agencies published a draft set of guidelines for conduct of public officials designed to be a resource for standards of accountability and to serve as a tool for use in preparing and/or updating written policies and procedures for conduct of public officials; and

WHEREAS, the Board of Directors has determined that the District should adopt guidelines for conduct based on the ACWA model guidelines.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Coastside County Water District that the Code of Conduct set forth below is hereby adopted for District Board Members and officials.

“Code Of Conduct Of The Coastside County Water District

I. Purpose and Scope.

The policy of the Coastside County Water District is to maintain the highest ethical standards for its Board members. The proper operation of the District requires decisions and policy to be made within the proper channels of governmental structure, that public office not be used for personal gain, and that board members remain objective and responsive to the needs of the public they serve. Accordingly, it is the policy of the District that Board members and District employees will maintain the highest standard of personal honesty and fairness in carrying out their duties. This policy sets forth the basic ethical standards to be followed by the Board of Directors of the Coastside County Water District. The objectives of this policy are to (1) provide guidance for dealing with ethical issues, (2) heighten awareness of ethics and values as critical elements in Board members' conduct, and (3) improve ethical decision-making and values-based management.

II. Responsibilities of Public Office.

Board members are obligated to uphold the Constitution of the United States and the Constitution of the State of California. Board members will comply with applicable laws regulating their conduct, including conflict of interest, financial disclosure and open government laws. Board members will strive to work in cooperation with other public officials unless prohibited from so doing by law or officially-recognized confidentiality of their work. (Government Code Section 1360; Article 20, Section 3 of the California Constitution.)

III. Fair and Equal Treatment.

Board members, in the performance of their official duties and responsibilities, will not discriminate against or harass any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, gender, sexual orientation, medical condition or disability. A Board member will not grant any special consideration, treatment or advantage to any person or group beyond that which is available to every other person or group in similar circumstances. (See, e.g., Article 1, Section 31 of the California Constitution; Age Discrimination in Employment Act of 1967 (29 U.S.C., Section 621-634); Americans with Disabilities Act of 1990 (42 U.S.C., Section 12101 et. Seq.); Fair Employment and Housing Act (Government Code, Section 12900 et. Seq.); Rehabilitation Act of 1973 (29 U.S.C., Section 701 et. Seq.); Title VII of the Civil Rights Act of 1964 (42 U.S.C., Section 2000e et. Seq.); Labor Code Section 1102.)

IV. Proper Use and Safeguarding of District Property and Resources.

Except as specifically authorized, a Board member will not use or permit the use of District-owned vehicles, equipment, telephones, materials or property for personal benefit or profit. A Board member will not ask or require a District employee to perform services for the personal benefit or profit of a Board member or employee. Each Board member must protect and properly use any District asset within his or her control, including information recorded on paper or in electronic form. Board members will safeguard District property, equipment, moneys and assets against unauthorized use or removal, as well as from loss due to criminal act or breach of trust. (Article 16, Section 6 of the California Constitution, Government Code Section 8314; Penal Code Section 424; see *People v. Battin* (1978) 77 Cal.App.3d 635.)

V. Use of Confidential Information.

- a. A Director is not authorized, without approval of the Board of Directors, to disclose information that qualifies as confidential information under applicable provisions of law to a person not authorized to receive it, that (1) has been received for, or during, a

closed session meeting of the Board, (2) is protected from disclosure under the attorney/client or other evidentiary privilege, or (3) is not required to be disclosed under the California Public Records Act.

- b. This section does not prohibit any of the following: (1) making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the alleged illegality of an action taken by the District, an elected official or employee, (2) expressing an opinion concerning the propriety or legality of actions taken by the District in closed session, including disclosure of the nature and extent of the allegedly illegal action, or (3) disclosing information acquired by being present in a closed session that is not confidential information. Prior to disclosing confidential information pursuant to (1) or (2), above, however, a Board member will first bring the matter to the attention of either the President of the Board or the full Board, to provide the Board an opportunity to cure an alleged violation.
- c. A Director who willfully and knowingly discloses for pecuniary gain confidential information received by him or her in the course of his or her official duties may be guilty of a misdemeanor under Government Code Section 1098. (Government Code section 54963).

VI. Conflict Of Interest.

- a. Board member will not have a financial interest in a contract with the District, or be a purchaser at a sale by the District or a vendor at a purchase made by the District, unless the Board member's participation is authorized under Government Code Sections 1091 or 1091.5, or other provisions of law. A Board member will not participate in the discussion, deliberation or vote on a matter before the Board of Directors, or in any way attempt to use his or her official position to influence a decision of the Board, if he or she has a prohibited interest with respect to the matter, as defined in the Political Reform Act, Government Code Sections 81000, and following, relating to conflicts of interest. Generally, a Director has a financial interest in a matter if it is reasonably foreseeable that the Board decision would have a material financial effect (as defined by Fair Political Practices Commission (FPPC) regulations) that is distinguishable from the effect on the public generally on (a) a business entity in which the Director has a direct or indirect investment in the amount specified in FPPC regulations;

(b) real property in which the Director has a direct or indirect investment interest, with a worth in the amount specified in FPPC regulations; (c) a source of income of the Director in the amount specified in FPPC regulations, within 12 months before the Board decision; (d) a source of gifts to the Director in an amount specified in FPPC regulations within 12 months before the Board decision; or (e) a business entity in which the Director holds a position as a director, trustee, officer, partner, manager or employee. An "indirect interest" means any investment or interest owned by the spouse or dependent child of the Director, by an agent on behalf of the Director, or by a business entity or trust in which the Director, or the Director's spouse, dependent child or agent, owns directly, indirectly or beneficially a 10 percent interest or greater. An elected official will not except honoraria, or gifts that exceed the limitations specified in the Fair Political Practices Act or FPPC regulations. Board members will report all gifts, campaign contributions, income and financial information as required under the District's Conflict of Interest Code and the provisions of the Fair Political Practices Act and FPPC regulations. (Government Code Sections 87100 and following.)

- b. If a member of the Board believes that he or she may be disqualified from participation in the discussion, deliberations or vote on a particular matter due to a conflict of interest, the following procedure will be followed: (a) if the Director becomes aware of the potential conflict of interest before the Board meeting at which the matter will be discussed or acted on, the Director will notify the District's General Manager and the District's legal counsel of the potential conflict of interest, so that a determination can be made whether it is a disqualifying conflict of interest; (b) if it is not possible for the Director to discuss the potential conflict with the General Manager and the District's legal counsel before the meeting, or if the Director does not become aware of the potential conflict until during the meeting, the Director will immediately disclose the potential conflict during the Board meeting, so that there can be a determination whether it is a disqualifying conflict of interest; and (c) upon a determination that there is a disqualifying conflict of interest, the Director (1) will not participate in the discussion, deliberation or vote on the matter for which a conflict of interest exists, which will be so noted in the Board minutes, and (2) leave the room until after the discussion, vote and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters. The Director may speak on an uncontested matter during the time the general public speaks on the issue.

- c. A Board member will not recommend the employment of a relative by the District. A Board member will not recommend the employment of a relative to any person known by the Board member to be bidding for or negotiating a contract with the District.
- d. A Board member who knowingly asks for, accepts or agrees to receive any gift, reward or promise thereof for doing an official act, except as may be authorized by law, may be guilty of a misdemeanor under Penal Code Section 70. (Government Code Sections 1090 and following, 81000 and following, and 87105; Penal Code Sections 68 and 70.)

VII. Soliciting Political Contributions.

Board members are prohibited from soliciting political funds or contributions at District facilities, or from District employees. A Board member will not accept, solicit or direct a political contribution from (a) District employees, officers, consultants or contractors, or (b) vendors or consultants who have a material financial interest in a contract or other matter while that contract or other matter is pending before the District. A Director will not use the District's seal, trademark, stationery or other indicia of the District's identity, or facsimile thereof, in any solicitation for political contributions contrary to state or federal law. (Government Code Section 3205.)

VIII. Incompatible Offices.

Any Board member appointed or elected to a public office of another public entity, the duties of which may require action contradictory or inconsistent with the interests of the first entity (as determined under applicable law), will resign from the former office. (See, generally, 73 Cal.Op.Atty. Gen. 357 (1990). See also Government Code Section 53227, under which an employee of a special district may not be sworn into office as an elected or appointed member of the Board of the same special district unless he or she resigns as an employee.)

IX. Board Member – General Manager Relationship.

- a. The Board sets the policy for the District. The District's General Manager (a) has full charge and control of the construction, maintenance and operation of the water system and other facilities of the District, (b) has full power and authority to employ and discharge employees and assistants, consistent with District policy and other provisions of law, (c) prescribes the duties of employees and assistants, consistent with District policy, and (d) fixes and alters the compensation of employees and assistants, subject to approval by the Board. The Board will has appointed the General Manager to perform the duties of an appointed Financial

Officer/Treasurer (except for conducting an annual audit of the District's books, records and financial affairs, which is conducted by an independent auditor appointed by the District). The General Manager will install and maintain a system of accounting that will completely and at all times show the financial condition of the District in accordance with generally accepted accounting principles and legal requirements. The Board will retain and periodically review the work of an auditor as an independent contractor of the District who will report to the Board, to conduct an annual audit of the District's books, records and financial affairs.

- b. The District's General Manager serves at the pleasure of the Board. The Board will provide policy direction and instructions to the General Manager on matters within the authority of the Board by majority vote of the Board during duly-convened Board and Board committee meetings. Members of the Board will deal with matters within the authority of the General Manager through the General Manager, and not through other District employees. Members of the Board will refrain from making requests directly to District employees (rather than to the General Manager) to undertake analyses, perform other work assignments or change the priority of work assignments. Members of the Board may request non-confidential, factual information regarding District operations from District employees. (Water Code Sections 30580 through 30582).

X. Improper Activities and Reporting of Such Activities; Protection of "Whistleblowers".

- a. The General Manager has primary responsibility for (1) ensuring compliance with the District's Personnel Manual, and ensuring that District employees do not engage in improper activities, (2) investigating allegations of improper activities, and (3) taking appropriate corrective and disciplinary actions. The Board has a duty to ensure that the General Manager is operating the District according to law and the policies approved by the Board. Board members are encouraged to fulfill their obligation to the public and the District by disclosing to the General Manager to the extent not expressly prohibited by law, improper activities within their knowledge. Board members will not interfere with the General Manager's responsibilities in identifying, investigating and correcting improper activities, unless the Board determines that the General Manager is not properly carrying out these responsibilities.

- b. A Board member will not directly or indirectly use or attempt to use the authority or influence of his or her position for the purpose of intimidating, threatening, coercing, commanding or influencing any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the General Manager or the Board any information that, if true, would constitute: a work-related violation by a Board member or District employee of any law or regulation, gross waste of District funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a District official or employee, use of a District office or position or of District resources for personal gain, or a conflict of interest of a District Board member or District employee.
- c. A Board member will not use or threaten to use any official authority or influence to effect any action as a reprisal against a District Board member or District employee who reports or otherwise brings to the attention of the General Manager any information regarding the subjects described in this section. (Labor Code Section 1102.5 and following; Government Code Sections 53298 and 53298.5.)

XI. Compliance With The Brown Act.

- a. The members of the Board of Directors, and persons elected but who have not yet assumed office as members of the Board, will fully comply with the provisions of the State's open meeting law for public agencies (the Brown Act). (Government Code Sections 54950 and following, and 54952.1 and 54959.)

XII. Directors' Compensation and Expense Reimbursement.

The members of the Board of Directors will fully comply with the provisions of the Board's "Policy on Directors' Compensation and Expense Reimbursement" as set forth in this section.

- a. Compensation for Attendance at Conferences and Meetings. Each member of the Board is authorized to receive compensation in the amount of One Hundred Dollars (\$100.00) per meeting for attendance at regular or special meetings of the Board and for other service rendered as a director at the request of the Board, subject to a maximum of \$100 per day and \$400 per calendar month. Attendance at meetings of (a) the Association of California Water Agencies/Joint Powers Insurance Authority Board; (b) the San Mateo County Chapter of the California Special Districts Association; and (c) the San Mateo City-County Association of Governments and committees thereof, by the member of this Board

appointed as a representative to such organizations (or his or her alternate) is service rendered at the request of the Board and shall be compensated. All activities other than meetings of the Board, the ACWA/JPIA Board, the San Mateo County Chapter of CSDA, or the CCAG must be approved by the Board in advance and compensation specifically authorized, in order to be considered service rendered at the request of the Board, except for emergency meetings as defined below. Attendance at meetings of special or standing committees of the Board does not constitute service rendered at the request of the Board and is not compensable unless the Board specifically directs otherwise in advance of a particular committee meeting.. Such compensation will be provided in addition to any reasonable and necessary reimbursement for meals, lodging and travel expenses incurred in attending any conference, meeting or approved event. Compensation will be paid only if the Board member submits a written form that sets forth the date, location and District purpose of the meeting for which compensation is requested. Each member of the Board shall be reimbursed for travel, lodging and meal expenses incurred in the performance of service rendered at the request of the Board, other than attending meetings of the Board. All activities for which expense reimbursement is sought must be approved in advance by the Board, except for categories (a) through (c), above, and emergency meetings. Reimbursement is contingent upon submission of appropriate documentation to the General Manager, and shall furthermore be in accordance with the guidelines set forth herein.

b. Directors' Expenses.

i. General Principles. Each member of the Board of Directors is encouraged to participate in those outside activities and organizations that in the judgment of the Board further the interests of the District. Expenses incurred by Board members in connection with such activities are reimbursable, where authorized in advance or subsequently ratified by the Board. The following rules apply:

1. All expenses must be reasonable and necessary, and Directors are encouraged to exercise prudence in all expenditures.
2. This policy is intended to result in no personal gain or loss to a Director.

3. Reimbursement will be made only for expenses that qualify as reimbursable expenses under an Internal Revenue Service Accountable Plan.
4. The most-economical mode and class of transportation reasonably consistent with scheduling requirements will be used. In the event a more-expensive class of transportation is used, the reimbursable amount will be limited to the cost of the most-economical class of transportation available. The method of transportation to activities within 100 miles of the District office shall be by automobile. Reimbursement for use of personal vehicles will be at the applicable IRS-approved rate.
5. Expenditures for food and lodging will be moderate and reasonable. An IRS Accountable Plan allows payment of fixed amounts to cover the daily cost of meals and lodging (depending on the city in which the meeting is held) as an alternative to reimbursing for the actual amount of the expenditure.
6. Upon incurring these expenses, Directors may submit a request for reimbursement, accompanied by evidence of payment of such expenses or receipts for all amounts, consistent with the requirements of an IRS Accountable Plan.
7. All requests for reimbursement will be submitted to the District's Board (or its designee) within a time period specified by the Board after the expenses were incurred or expenditures made. Requests for reimbursement will be submitted, where possible, on forms provided by the District, and will (1) state the District-related purpose for the expenditure, and (2) be accompanied by receipts evidencing each expense or other documentation deemed satisfactory by the Board or its designee, consistent with the requirements of an IRS Accountable Plan. Expenditures that are improper or otherwise not properly accounted for, or not consistent with the prohibition against gifts of public funds set forth in the California Constitution, will not be reimbursed or accepted by the District. Where such improper expenses have been paid by the District, they will

be promptly refunded to the District or deducted from monies otherwise due a Director.

8. To implement the reporting requirements of Government Code Section 53065.5, the District will prepare a list of the amount and purpose of each expense reimbursement made to each Director for the preceding fiscal year, which will be available to the public.
 9. Officials will be reimbursed for actual telephone and fax expenses incurred on district business. Telephone bills should identify which calls were made on district business. For cellular calls, when the district official has a particular number of minutes included in the official's plan, the official can identify the percentage of calls made on public business.
 10. Long-term parking should be used for travel exceeding 24-hours.
- ii. Emergency Provisions. Notwithstanding the foregoing rules, if an emergency arises and a Board member is required to incur travel, lodging or other expenses to engage in District business, a Board member may incur such expenses upon the approval of the President of the Board or, if the President is unavailable, the Vice President. Such approval will be subject to the ratification of the full Board at the next regularly scheduled Board meeting. An "emergency" shall constitute a meeting, hearing, event or function (1) at which a Board member's attendance or participation is deemed essential to further the interests of the District, and (2) which takes place prior to the next regularly scheduled Board meeting.
 - iii. Travel / Transportation Expenses. The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Directors will be reimbursed for expenses, incurred in traveling to and from conferences, meetings and other events that are attended on behalf of the District in their capacity as Directors. Travel expenses will include round-trip airfare, actual reasonable expenses for ground transportation to and from airports and hotels, car rental,

and or mileage reimbursement (at the maximum allowable per mile rate established from time to time by the IRS) for use by Directors of privately-owned vehicles in the conduct of District business.

- iv. Overnight Accommodations. No reimbursement claim or request for overnight accommodations will be approved for expenses incurred within the District's service area, except upon approval of the Board. Reasonable accommodation expenses (or at the daily rate as specified pursuant to an IRS Accountable Plan) will be reimbursed only for authorized personnel, and such expenses will not be reimbursed for guests or family members of the authorized personnel. Where reasonably possible, accommodations will be obtained in proximity to the conference or meeting site.
- v. Meal Expenses. Directors will be entitled to receive reimbursement for the reasonable cost of meals, including tips, or at the daily rate as specified pursuant to an IRS Accountable Plan.
- vi. Use of District Credit Cards. While it is discouraged, if a Board authorizes Board members to be supplied with a credit card issued in the District's name, it is to be used only for District business. Credit card expenses must be reasonable and necessary to the furtherance of District business. Each credit card statement will be periodically reviewed by the Board or its designee. (Water Code Sections 20200 and following; Government Code Section 53065.5.)
- vii. Telephone/Fax/Cellular. Officials will be reimbursed for actual telephone and fax expenses incurred on city/county/district business. Telephone bills should identify which calls were made on city/county/district business. For cellular calls when the official has a particular number of minutes included in the official's plan, the official can identify the percentage of calls made on public business.
- viii. Airport Parking. Long-term parking should be used for travel exceeding 24-hours.
- ix. Reports to Governing Board. At the following district governing body meeting, each official shall briefly report

on meetings attended at District expense. If multiple officials attended, a joint report may be made.

- x. In connection with all issues arising out of compensation and expenses, it is appropriate that elected directors pose this series of questions.
- Does the law allow me to use public resources in this manner?
 - How does this particular expenditure benefit the public's interest as opposed to my own personal interest?
 - Is my motivation for an expense a desire to personally curry favor with the would-be beneficiary of an expense?
 - How would I feel if a particular expenditure were reported in the local newspaper? How about a political hit piece?
 - How would my next-door neighbor feel about my spending his or her tax dollars this way? Would he or she feel resentful?
 - Am I making a spending decision out of a sense of reward or entitlement?

Questions Source: Institute of Local Self Government

XIII. Changes In Compensation.

Changes in the compensation of Board members will require the approval of the Board during an open meeting of the Board held at least 60 days prior to the effective date of the change. (Water Code Sections 20200 and following.)

XIV. Candidate's Statement.

Board member will not include false or misleading information in a candidate's statement for a general District election filed pursuant to Section 13307 of the Elections Code. (Elections Code Section 13313.)

XV. Violation of Ethics Policy.

A perceived violation of this policy by a Board member should be referred to the President of the Board or the full Board of Directors for investigation, and consideration of any appropriate action warranted. A violation of this policy may be addressed by the use of such remedies as are available by law to the District, including but not limited to: (a) adoption of a resolution expressing disapproval of the conduct of the Board member who has violated this policy, (b) injunctive

relief, or (c) referral of the violation to the District Attorney and/or the Grand Jury.”

BE IT RESOLVED FURTHER that General Manager is directed to incorporate the Code of Conduct into the District’s Policies and Procedures Manual.


BE IT RESOLVED FURTHER that Resolution Nos. 813 and 860, pertaining to Board member compensation and expense reimbursement, are hereby repealed.

PASSED AND ADOPTED this 13th day of April, 2004, by the following votes of the Board of Directors:

AYES:

NOES:

ABSENT:



John Muller
President, Board of Directors
Coastside County Water District

ATTEST:



Secretary of the Board of Directors