

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
January 28, 2004  
7:00 p.m.

**Minutes**

1. Call to Order/Roll Call:

President Scholl called the meeting to order at 7:00 p.m. on January 28, 2004.

Board Members Present:

Charles Scholl – President  
Ron Russo – Vice-President  
Tom Moore  
David Brown  
Ken Nishi

Board Members Absent:

None.

Staff Members Present:

Mike Armstrong, General Manager  
Lloyd Lowrey, Legal Counsel  
Suresh Prasad, Director of Finance  
Jade Sullivan, Capital Projects Manager  
Rich Youngblood, Conservation Coordinator  
Connie Chavoya, Management Services Administrator  
Paula Carina, Executive Assistant/Clerk to the Board

Audience:

Sherrie Payne  
Bob Schaffer  
Evelina Adlawan  
Jim Dowless  
Tony Kelsey  
Lester Lee  
Paula Pelot  
Gary Bryant  
Chris Fitz

Mike Owens  
Thomas Barkhurst  
Tim Buhl  
Monique Farques  
Barbara Montanti  
Pete Koehn  
Leon Heller  
Mike Johnston, Teamsters Local 890  
Steve Pietrowski, CalPERs Representative

Jose Rodrigues  
Grace Silva-Santella  
Bill Ingram  
Vern Davenport  
John Sanders  
Dan O'Brien  
Patti Bradshaw

2. Oral Communications:

None.

3. Recognitions:

A. Consider Adoption of Resolution No. 2004-05 in Recognition and Appreciation of Director Kenneth K. Nishi:

President Scholl stated that Director Nishi contacted him on Saturday, January 24, 2004 and requested not to proceed with this item.

B. Consider Adoption of Resolution No. 2004-06 in Recognition and Appreciation of Leo Laska, Fort Ord Capital Projects Director:

Mr. Armstrong read the narration on this item and stated that Mr. Laska was unable to attend the meeting.

On motion by Director Moore, seconded by Vice-President Russo; the Board adopt Resolution No. 2004-06 in recognition and appreciation of Leo Laska. The motion was passed.

Director Moore	-	Yes	Vice-President Russo	-	Yes
Director Nishi	-	Yes	President Scholl	-	Yes
Director Brown	-	Yes			

4. Action Item:

A. Consider Adoption of Resolution No. 2004-07 to Approve Adoption of Final Resolution with the California Public Employees Retirement System:

Ms. Chavoya introduced this item and Mr. Steve Pietrowski, a representative for the California Public Employees Retirement System (CalPERS). Mr. Pietrowski explained he was present to answer questions regarding CalPERS. Director Moore asked if it was Ms. Chavoya's belief that on January 7<sup>th</sup> the Board was to pay the EPMC (Employer Paid Member Contribution). Mr. Pietrowski explained the EPMC. Ms. Chavoya stated it was understood the District was considering paying the employees share. Director Moore said the information provided in the packet did not mention the District paying the employees share. President Scholl stated there was confusion on the issue. Mr. Prasad presented a spreadsheet that included both staff and Director Moore's information. Discussion followed.

Action Item 4-A (continued):

Mr. Mike Johnston, Teamsters Local 890, commented that he believed the intention was clear on January 7, 2004 and that the employees believed the District was to pay all the contributions to CalPERS when they voted on joining CalPERS.

Mr. Leon Heller stated it was honorable to consider joining CalPERS and that the employees should pay their share of the costs.

Ms. Paula Pelot commented she is a CalPERS employee and has been in plans where the employees paid their contributions and where the employer paid the employee's contributions. She questioned how many employees are of retirement age and how many are about to retire. Ms. Pelot questioned the five-year buy-in and the unfunded liability costs.

Mr. Bill Ingram agreed with Ms. Pelot and Mr. Heller and questioned the 8.4% interest rate CalPERS charges to amortize the unfunded liability. He mentioned he believed there are lawsuits pending with CalPERS and asked Mr. Pietrowski if there were. Mr. Pietrowski stated there are some legal issues taking place at this time.

Mr. Vern Davenport would like the employees to contribute to their own retirement.

Ms. Grace Silva-Santella stated moving to CalPERS makes sense but the unfunded liability is frightening. She reminded the Board that they also represent the ratepayers. Ms. Silva-Santella asked if the District has information from other agencies recently joining with CalPERS. She cautioned using Bonds to fund the liability.

Mr. Mike Owens voiced his support of the previous comments provided. He would like to see the best solution take place. Mr. Owens commented on the recent local cutbacks in the school system.

Mr. John Sanders stated the previous speakers have raised some good points. He questioned if the Board had allowed adequate public input.

Mr. Dan O'Brien commented this would create a considerable increase in the water bills and the customers would receive no benefit.

Mr. Gary Bryant commented on the phrase "subject to". He stated the employees accepted employment with the District "subject to". They knew the benefits they would receive when they were hired. Mr. Bryant stated the employees do not have a lot to argue about.

Ms. Monique Fargues cautioned the Board to consider this very carefully and that the senior employees would benefit the most from this action.

Action Item 4-A (continued):

Chris Fitz questioned the employees' contribution.

President Scholl stated the Board would try to answer questions posed by the public.

- 1) How many employees are soon to retire or of retirement age? Director Moore pointed out that there are 11 employees with less than 5 years, 7 employees with 5-10 years, 3 employees with 10-15 years, 1 employee with 15-20 years, 3 employees with 20-25 years, 1 employee with 25-30 years, 1 employee with more than 30 years with the District. Ms. Pelot stated the chart does not show what salaries and what share of the retirement monies belong to which employees.
- 2) How does the five-year buy-in work? Mr. Pietrowski explained that employees of CalPERS organizations can purchase up to 5 years of service credit and the cost is the sole burden of the employee.
- 3) Does the five-year buy-in affect the unfunded liability? Ms. Pelot asked if employees purchased additional service years, would it increase the cost to the District. Mr. Pietrowski stated although he did not work in the actuarial department, he did not believe so. Discussion followed.
- 4) Are there pending lawsuits for or against CalPERS? Mr. Pietrowski explained that CalPERS initiated a Corporate Governness Program and through the program has initiated several lawsuits.
- 5) How did other organizations deal with large unfunded liability when transitioning to CalPERS? Mr. Pietrowski stated he has dealt with more than a handful of accounts that have had sizable amounts of unfunded liability, and they paid the employers normal costs and the unfunded rate through CalPERS without doing any type of bond measure. Director Moore asked if those agencies paid the EPMC. Mr. Pietrowski stated when smaller agencies first join CalPERS most do not pay the EPMC.

Discussion was held on the chart showing the Money Purchase Retirement Plan and CalPERS retirement systems and hypothetical payouts. Director Moore asked Mr. Pietrowski to explain what entering CalPERS without liability means. Mr. Pietrowski explained that to enter CalPERS without liability means to enter with no service credit for employees. The District would start from today forward and all employees would start with zero years of service and have to put in a minimum of five years and be fifty years of age to qualify for retirement with CalPERS. President Scholl asked if the District could buy five years of service for employees who have at least that many years with the District or if they have less, however many years if they have. Mr. Pietrowski stated the District could purchase anywhere from zero to one hundred percent of prior service for its employees.

Action Item 4-A (continued):

Director Nishi stated he was pleased to see the amount of public present. He disagreed with the speakers who said there was no public input stating there had been meetings with public present. Director Nishi stated the only reason the public was present was because they received a letter stating their monthly bills would increase to fund the buy-in. The concerns are unfounded because the District does have the money to fund the buy-in and it does not have to affect the ratepayers. Director Nishi also clarified that the employees do not pay towards their retirement because years ago the District negotiated with them and agreed to pay 13.5% towards the retirement plan and it cannot be taken away without renegotiation. Director Nishi added that by joining CalPERS it would help more than just the employees; it helps the District as well when it comes to attracting qualified professionals to apply for open positions.

Director Brown agreed with Director Nishi on several issues. Public comment had been received and lateral hiring is good for the District, but by not having CalPERS it deters possible qualified employees. Director Brown stated if there is no surplus, the worst case scenario would be an average of \$4 per month per connection.

Director Moore stated the written record shows the employees are to pay the 7% member share. He said the Board could approve the Resolution without EPMC and do nothing further. The proposal without EPMC would mean paying the unfunded liability and that would give senior employees an unfair advantage to junior employees because junior employees would be paying EPMC for many years to come. Director Moore is optimistic that a deal can be crafted so there is a win/win situation for everyone although it may take time to look into all the details.

Vice-President Russo agreed with Directors' Nishi and Brown and wished the public had been present all along to hear the buildup of what the Board is discussing regarding how things could be done and how money is being spent in other areas.

Director Brown asked if the proposed Resolution requires the District to assume the unfunded liability. President Scholl stated he believes it assumes the District pay the unfunded liability but does not assume paying the EPMC. He then voiced three concerns: 1) no one understood the entire story; 2) regarding "subject to", the District has provided a generous pension plan and is now trying to enhance the retirement situation; and, 3) hearing the money to pay the unfunded liability would not come out of ratepayers pockets is hard to understand and believes this should have been integrated in the negotiation process allowing employees to start with CalPERS if they so choose.

Director Brown asked what approving Resolution 2004-07 would mean. Director Moore stated it means joining CalPERS with the District paying the unfunded liability but not the members (employees) contribution.

Action Item 4-A (continued):

Mr. Lowrey stated that the action before the Board tonight is that the attached contract with CalPERS would be adopted by Resolution 2004-07, resulting in the District paying the unfunded liability, according to paragraph D, and obligate the District to pay the employer's contribution, but not authorize the District to pay the employees' contribution. There is a companion set of actions the Board must take: 1) to amend the agreements with the employees; and, 2) to conform the Memorandum of Understanding with the employees to the actions that the Board takes regarding the District's obligations and contacts involved with CalPERS. Mr. Lowrey stated the Board can adopt the Resolution as it is now with follow-up action at a later date and to make sure it is clear that the Board intends to do that and that all contracts need to be consistent. Mr. Lowrey questioned the time limit mentioned in letters received from CalPERS. Mr. Pietrowski stated he had spoken with the actuarial department at CalPERS and they will allow a reasonable extension of time to complete this process, meaning one to three months.

Mr. Johnston asked if the Board could amend the Resolution or would that contradict the "thou shall not amend" command. Mr. Pietrowski stated the contract stands on its own now. The Resolution for paying the EPMC is a separate document. Mr. Johnston stated if the Resolution was amended this evening, it would not affect the contract. Mr. Pietrowski stated that a separate Resolution had not been started as of yet, but if one was, it would not affect the contract.

Mr. Thomas Barkhurst inquired what the words "and future service liability" in section 8 of the CalPERS contract means. Director Moore answered that section 8 refers to the District paying the unfunded liability and "future service liability" refers to the number of years the employee would work until retirement. He added that CalPERS looks at the number of service years the employee already has and then looks at the employee's age and approximate numbers left before reaching retirement age.

Director Moore stated it is his understanding that in order to enter CalPERS, the individual employee must sign a waiver turning over their money in the Money Purchase Plan. What happens if the employee does not do so or, what if they withdraw their waiver at this point? Does that mean they are opting out of CalPERS and staying with the current retirement plan? Mr. Lowrey stated that he assumes an employee could withdraw a waiver and if they did so or if they did not submit a waiver at all, they were electing to stay with the current plan. Ms. Chavoya stated the employees had already signed waivers from what they understood would happen following the meeting of January 7, 2004. Director Moore commented if the understanding were different, employees might ask for their waivers back if they were not expired already.

Mr. Lowrey commented that there is some difference of understanding and the Board's options at this point are: 1) go forward with the vote that was taken on January 7<sup>th</sup> with the understanding that there will need to be further actions taken in the future with respect to the EPMC and the MOU's; or, 2) defer action for a reasonable amount of time, not exceeding three months.

Action Item 4-A (continued):

President Scholl stated he would like to take some time on this matter because no one really understood what they were voting on at the January 7<sup>th</sup> meeting.

Mr. Bryant wanted the record to state he was not a “Johnny come lately”.

On motion by Director Moore, seconded by Director Brown; the Board postpone the decision for a period of two months and enter into negotiations with the Unions to see if a better deal could be crafted for all concerned. Director Nishi stated that by waiting the buy-in will continue to increase. Director Moore would like to look into 2% at 60 which may allow the District to pay a portion of the EPMC. He would like to engage a partnership with the employees to do that. President Scholl is in support of the motion as it allows a balance between ratepayer and employee concerns.

Mr. Bryant stated there many vendors of financial services. Has the District looked into other vendors? Why is CalPERS so desirable? President Scholl said it was because of the transferability from other agencies in a similar work force.

Mr. Barkhurst would like 2.7% at 55 looked into as other agencies offer that rate. He also stated that not all employees are happy with the present plan.

Ms. Pelot believes the District should go after CalPERS but not paying the unfunded liability. A compromise could probably be reached that is agreeable to all parties.

Mr. Owens agrees that if he had attended all the meetings he would have a better understanding of this item, but believes the employees should pay a part of the retirement plan.

Mr. Barkhurst clarified that the employees do pay 3.5% of their retirement after foregoing a raise and adding it to the 10% the District was paying.

Mr. Johnston clarified that Director Brown’s worst case scenario should have been \$2 per connection, not \$4 per connection. The District contracted for a compensation study to see how the District compared with other similar District’s regarding salary. The study does not just look at wages but at benefits as well. Mr. Johnston stated other Districts may not be paying the EPMC but are paying hiring salaries. When the District is setting salaries, they look at the entire compensation package. The fact that the District is paying both the employer and nominal employee contribution is counterbalanced by the fact that they are paying less in wages. Mr. Johnston added that, in the study, the 13.5 % was added onto the salaries of the employees. Although it may look like something for nothing, in reality the 13.5% is part of the employees’ wages and has been negotiated into their wage structure for years and employees gave up stuff to get that.

Action Item 4-A (continued):

Mr. Johnston stated if the Board comes back to the employees and proposes that in order to make the unfunded liability payments they are essentially going to lower the employees' wages by paying substantially under the 13.5% the District is going to have a problem. Mr. Johnston stated that in December the Board requested the General Manager to talk to the Unions about whether both parties are willing to do cost sharing on this and after talking with the members, the answer was no. When the General Manager was hired, one of his five-year goals was to move the District into CalPERS. Mr. Johnston stated the MOU's also specify that the District is going to look at going into CalPERS. Although CalPERS may have experienced losses a few years ago, so did most everyone else. Mr. Johnston stated that by the members voting 100% to join CalPERS, they are agreeing to the modification to the MOU and amending it would be strictly a formality. He urged the Board to turn down this motion to postpone and to vote in favor of the Board paying the unfunded liability and EPMC.

The motion to postpone the decision for a period of two months and enter into negotiations with the Unions was passed.

Director Moore	-	Yes	Vice-President Russo	-	No
Director Nishi	-	No	President Scholl	-	Yes
Director Brown	-	Yes			

President Scholl recessed the meeting from 9:00 until 9:10 p.m. Director Brown left the meeting at 9:00 p.m. Director Nishi left the meeting at 9:10 p.m.

5. Consent Calendar:

President Scholl commented that the minutes of October 22, 2003 and November 19, 2003 document that Director Nishi had received encouragement and had been facilitated by the Board regarding the desal motor. Mr. Lowrey stated that regarding item 5-C (Consider Adoption of Resolution No. 2004-10 to Approve the District's In-Tract Water and Wastewater Collection System Infrastructure Policy) correspondence was received from a representative of Clark Pinnacle but not the U.S. Army. He placed a call to Mr. Les Trescott, attorney for the Army, and they stated they supported Clark Pinnacle but were not going to issue a statement.

On motion by Vice-President Russo, seconded by Director Moore; the Board approved the Consent Calendar consisting of items A) Consider Adoption of Resolution No. 2004-08 to Approve Amendment No. 1 to the Professional Services Agreement with Denise Duffy & Associates for the Regional Urban Water Augmentation Project; B) Consider Adoption of Resolution No. 2004-09 to Approve Amendment No. 3 to the Professional Services Agreement with RBF Consulting to Complete the Engineering Basis of Design for the Regional Urban



Agenda Item 5 (continued):

Recycled Water Project; C) Consider Adoption of Resolution No. 2004-10 to Approve the District's In-Tract Water and Wastewater Collection System Infrastructure Policy; D) Consider Proposal for the Ord Community Main Booster Station Parcel; E) Consider Adoption of Resolution No. 2004-11 to Approve the District Technology Plan Appendix 2003-2004; F) Consider Approval of the October, November and December 2003 Expenditures; G) Receive Quarterly Financial Statements for July 1, 2003 – September 20, 2003; H) Consider Approval of the Draft February 2004 Newsletter; I) Consider Adoption of Resolution 2004-12 to Update Authorized Signatures for the LAIF Account; J) Consider Approval of Minutes of the Regular Board Meeting of October 22, 2003; K) Consider Approval of Minutes of the Regular Board Meeting of November 19, 2003; L) Consider Approval of Minutes of the Regular Board Meeting of December 10, 2003; M) Consider Approval of Minutes of the Special Board Meeting of December 15, 2003; N) Consider Approval of Minutes of the Special Board Meeting of January 7, 2004; and, O) Consider Approval of Proposed Regular Board Meeting Dates and Committee Meeting Dates. The motion was passed.

Director Moore	-	Yes	Vice-President Russo	-	Yes
Director Nishi	-	Absent	President Scholl	-	Yes
Director Brown	-	Absent			

Director Moore asked to go back to item 4-A to discuss who would facilitate labor negotiations. President Scholl stated that the Executive Committee could meet and discuss a this issue. Mr. Lowrey commented that the Board had previously designated the General Manager to act as negotiator with the unions. The action taken presupposed that the General Manager would meet with and negotiate with the unions. President Scholl suggested the Executive Committee meet and discuss direction to provide the General Manager. Mr. Lowrey reminded the Board that the Executive Committee is subject to the Brown Act and must be posted accordingly. It is possible to hold a 'Closed Session' if needed.

6. Informational Items:

A. General Manager's Report:

Mr. Armstrong explained that the time frame for the transfer agreement with Clark Pinnacle, Phase I, is running out. With new development, the developers put new infrastructure in the ground according to District standards and then transfer it to the District. Mr. Armstrong again reiterated that according to Mr. Les Trescott, the U.S. Army does not agree with the In-Tract Policy even though they are aware FORA adopted this policy and the District Board was considering adoption. Mr. Armstrong stated he is conversing with FORA representatives regarding roles and responsibilities.

Agenda Item 6-A (continued):

Mr. Armstrong also stated the District received the Admin Draft EIR from Sand City and provided comments. Mr. Kelly Morgan placed a call to Mr. Armstrong asking for the District's input on the following three options: 1) providing emergency back-up water to Sand City; 2) selling all the District's desal water to Sand City; and, 3) willing to sell or lease the desal plant. Mr. Armstrong will work to facilitate another meeting of the ad hoc committee.

B. Counsel's Report:

No comments.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

No comments.

2. Joint-City District Committee:

Director Moore stated there has been a lot of public present at the meetings. Discussion focused on water conservation, construction, water supply assessments and performing a statistical study within the local rate base. Mr. Armstrong stated the FORA Admin Committee discussed moving forward on what has been referred to as a Water Summit Presentation to the FORA Board. He added that FORA is contemplating forming their own set of water use factors. Mr. Lowrey stated the Urban Water Management Plan (UWMP) is to be used as guidance for developers in water supply assessments and certifications. Director Moore suggested an annual update for the UWMP instead of the required five years.

3. MRWPCA Board Member:

President Scholl stated a booklet was handed out showing the schematics of how the treatment plant works.

4. LAFCO Liaison:

No comments.

5. JPIA Liaison:

No comments.

6. SDA Liaison:

President Scholl commented that he attended the SDA dinner meeting on the 13<sup>th</sup> of January.

7. FORA:

No comments.

8. Executive Committee:

President Scholl stated the committee will be meeting soon.

9. Community Outreach:

No comments.

D. Director's Comments

1. President Scholl's letter of January 14, 2004

President Scholl elected to postpone this item.

7. Planning Workshop:

A. MCWD/MRWPCA Joint Regional Recycled Water Project:

No comments.

B. CSUMB Negotiations Update:

Mr. Armstrong stated a letter was received from CSUMB representative, Mr. Richard Taylor, stating they were still working on a more detailed response.

C. Discuss Date for Corporation Yard Master Plan Phase II Workshop with Congleton Architects:

Mr. Sullivan gave the dates that Mr. Congleton is available, February 23 – 27, 2004. Mr. Armstrong suggested it could be held during the workshop portion of the Board meeting on February 25<sup>th</sup>. Mr. Sullivan stated at least an hour is needed for the workshop. President Scholl stated he would like to see the workshop held during the workshop portion of the February 25, 2004 Board meeting. Director Moore and Vice-President Russo agreed.

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8. Adjournment:

The meeting was adjourned at 9:42 p.m.

APPROVED:

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Charles H. Scholl, President                      Date

ATTEST:

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Michael D. Armstrong, General Manager