

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Special Board Meeting  
March 24, 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 March 24, 2004.

Board Members Present:

Charles Scholl – President  
Tom Moore  
David Brown  
Ken Nishi

Board Members Absent:

One vacant seat.

Staff Members Present:

Mike Armstrong, General Manager  
Lloyd Lowrey, Legal Counsel  
Rich Youngblood, Water Conservation Specialist  
Pete Koehn, Plan Check Engineer  
Jade Sullivan, Project Engineer  
Marc Lucca, District Engineer  
Paula Carina, Executive Assistant/Board Clerk

Audience:

Jim Brezack, RBF Consulting  
Doug Yount, City of Marina  
Simon Whitmey  
Michael Shaw, Marina Heights  
Patrick Breen  
Diana Ingersol, City of Seaside  
William Lee  
Dave McCall, City of Marina  
Anthony Altfeld, City of Marina  
Eric Tynan  
Rob Wellington, City of Marina Legal Counsel

Gary Wilmot  
Chuck Lande, Marina Heights  
Bob Schaffer  
Denise Duffy, DDA  
Martin Feeney  
Robert “Dan” O’Brien

2. Oral Communications:

None.

3. Presentation:

- A. Consider Adoption of Resolution No. 2004-17 Recognition and Appreciation of Ronald Russo:

Mr. Armstrong read the narration on this item.

On motion by Director Brown, seconded by Director Moore; the Board adopt Resolution No. 2004-17 in recognition and appreciation of Ronald Russo. The motion was passed with one vacant seat.

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

4. Action Items:

- A. Consider Appointment of Applicant to Fill the Existing Vacated Seat on the Board of Directors Through November 2004:

Director Nishi questioned accepting an application after the posted deadline. President Scholl stated it was a self-imposed deadline and it was acceptable to extend the deadline if necessary. Director Brown stated he did not have a problem with accepting the two applications. Director Moore suggested extending the deadline two more weeks to see if any other applications were forthcoming although he was also agreeable to accepting the two applications. President Scholl suggested moving forward with the two applications received provided there were no legal ramifications. Mr. Lowrey stated he saw no problem with the timeline as it was not a statutory, but a self-imposed timeline. He stated his preference is to be more inclusive than less inclusive. Mr. Lowrey suggested that a Board member make a motion to accept both applications for consideration.

On motion by Director Brown, seconded by Director Moore, the Board accept both Mr. William Lee and Mr. Robert "Dan" O'Brien's applications for consideration. With a vote of 3-Ayes, 1-No, 1-Vacant seat, the motion was passed.

President Scholl invited both applicants to briefly introduce themselves. The Board asked the applicants a series of questions regarding rates, availability to attend meetings, and the desire to run for election in November.

Agenda Item 4-A (continued):

On motion by Director Brown, seconded by Director Nishi; the Board appoint Mr. William Lee to the vacant board seat. Director Nishi stated he felt that Mr. O'Brien's property is in close proximity to the Armstrong Ranch and could create problems down the line. With a vote of 2-Ayes, 2-Noes, 1-Vacant seat, the motion failed.

On motion by Director Moore, seconded by Director Brown; the Board appoint Mr. Robert "Dan" O'Brien to the vacant board seat. With a vote of 3-Ayes, 1-No, 1-Vacant seat, the motion was passed. Mr. Armstrong administered the Oath of Office to Mr. O'Brien and Mr. O'Brien took his seat at the dais.

B. Consider Electing a Board Vice-President:

President Scholl introduced this item.

On motion by President Scholl, seconded by Director Brown; the Board elect Director Moore to serve as Vice-President of the Board. With a vote of 5-Ayes, 0-Noes, 0-Absent, the motion was passed.

C. Consider Approval of the "Will Serve Letter" for the Marina Heights Development Project and Authorize the General Manager to Sign the Will Serve Letter:

Mr. Armstrong introduced this item. Mr. Lowrey stated it was appropriate to bring this issue to the Board because legislature has imposed new obligations to be more careful in scrutinizing water supply. He explained this letter was an informational document for the developer. Director Nishi questioned the last sentence in section 3, which states "MCWD also needs to receive verification before water and sewer service is connected to the Development that the project has been approved by all other regulatory agencies with permit or review authority..." Mr. Lowrey stated it had been added because throughout the District's history there has been only one jurisdiction, the City of Marina. Now, the District is dealing with five or six jurisdictions. Mr. Armstrong added that this letter has more wording than previous "will serve" letters because this is an improved prototype to be used from this point forward. Mr. Lowrey stated that section six is not specific but more informational. Vice-President Moore questioned the first sentence in section 6 and Mr. Lowrey stated the sentence would be reworded. Vice-President Moore and President Scholl stated they did not want the number of proposed units added to the document. Director O'Brien stated the ruling document is from the City of Marina as the regulator. Discussion followed. Mr. Lowrey stated it would be appropriate for the Board to give staff policy guidance and direction to take the suggestions provided and to prepare a final letter to send out. Mr. Armstrong agreed with Mr. Lowrey's comments and asked if the Board wants to see "will serve" letters in the future or for staff to use this prototype and send out as they have in the past.

Agenda Item 4-C (continued):

Vice-President Moore asked what was the purpose of the “will serve” letter. Mr. Lowrey stated that the letter is to provide land use jurisdictions assurance that there is water, and lenders or financiers want to see such a letter before approving financing. Vice-President Moore reiterated the three purposes for a “will serve” letter as being, 1) the letter is informational to remind the developer of the existing codes and regulations; 2) an acknowledgement from the District to provide water services; and, 3) it is used by the developer to secure financing. Vice-President Moore suggested several corrections to the letter: 1) Section 1, first sentence, add the word “of” to City of Marina; 2) remove the word “solely” from the last sentence; 3) Section 3, last sentence to read, “...all ordinances and agreements as they apply to the development.”; 4) questioned the sentence in Section 4, that begins, “Cypress Marina Heights will agree to accept the transfer of ownership...”, whether abandoned facilities should be treated as surplus property; 5) Section 5, clarification on what figures will be given; 6) Section 6, last sentence in parenthesis to read, “(such as relocation of wastewater...)”; 7) Section 7, first sentence to read, “...existing public roadway rights-of-way.”; 8) Section 7, last sentence to read, “...conveyed to MCWD prior to final acceptance...”; 9) Section 8, last sentence to read, “...necessary to serve the project and to serve any future facilities associated with the project.”; 10) Section 11, first sentence to read, “All project related documents need to show...”. Vice-President Moore would like the letter to be clear that the District will provide 292.39 afy to the development, but if the development is near the limit of the water allocation, all development must stop. Mr. Lowrey stated the letter must be clear that the expectation is to provide the 292.39 afy and no more. Mr. Armstrong added that the FORA agencies need to decide on how to ensure that no development goes over its water allocation.

Mr. Rob Wellington, City of Marina, voiced his concerns over the “will serve” letter going before the Board as this is a ministerial act. He stated he would like the Board to give general policy guidance on “will serve” letters, and then let the General Manager handle them as before without Board action.

Ms. Diana Ingersol, City of Seaside, concurred with Mr. Wellington and advised the District of keeping the current policy of having the General Manager sending “will serve” letters to developers. Ms. Ingersol also stated the City of Seaside is very conscious of the need to conserve water and they require all new developments to use purple pipe for recycled water when it is available. She also agreed that the member agencies need to decide how to ensure the developments keep to their allocation.

Mr. Patrick Breen, Marina Heights, stated that Mr. Lande received the “will serve” letter and believed that the water allotment was his and enforceable. Mr. Breen stated it is a legal and mandatory duty that the “will serve” letter is provided by the District. He advised not to treat all people differently. Seaside Highlands got their “will serve” letter and so should Marina Heights.

Agenda Item 4-C (continued):

Mr. Gary Wilmot voiced his concerns over the funds spent to hold this discussion on the “will serve” letter when it is the District’s duty to provide one.

President Scholl asked why the letter was rescinded. Mr. Armstrong stated that he had rescinded the letter to ask guidance from the Board. Director Nishi asked if there was a standard “will serve” letter. Mr. Lowrey stated that it is not mentioned in any Ordinance or Policy but it is common practice to send “will serve” letters. He added that staff wants the Board to provide policy guidance on “will serve” letters. Director Nishi asked what the difference was between the March 12<sup>th</sup> and March 25<sup>th</sup> letters. He would like to see a format agreed upon before the next development needs a “will serve” letter. President Scholl requested an agenda item to be placed on the next Board meeting agenda to discuss setting policies regarding the “will serve” letter. Discussion followed.

On motion by Director Nishi, seconded by President Scholl; the Board send the March 12, 2004 letter to the Marina Heights developer. With a vote of 2-Ayes, 2-Noes, 1-Abstained, the motion failed.

President Scholl asked if Mr. Armstrong had enough guidance. Mr. Armstrong answered that he did. President Scholl recessed the meeting from 8:40 until 8:50 p.m.

D. Consider Adoption of Resolution No. 2004-18 to Authorize Repayment of Internal Loans:

Mr. Prasad introduced this item.

On motion by Vice-President Moore, seconded by Director Brown; the Board direct staff to develop a proposal to retain this loan, amortize it between five and fifteen years with an interest rate between the interest rate earned from LAIF and what the District would pay on the line of credit. Mr. Lowrey reminded the Board that setting rates is a two agency process and FORA needs to approve the rates as well. With a vote of 3-Ayes, 1-No, 1-Abstained, the motion to prepare an analysis was passed.

E. Consider Adoption of Resolution No. 2004-19 Approving the Project Budget for the Highway One – 24 Inch Diameter Sewer Main Project and to Amend the FY 2003-2004 Budget:

Mr. Lucca introduced this item. Vice-President Moore inquired on other sewer lines that cross highway one. Director O’Brien asked if there would be a problem going from a 24” line to an 18” line. Mr. Lucca stated the 24” line is only being used to 20% of its’ capacity.

Agenda Item 4-E (continued):

President Scholl asked if the corrosion was due to lack of use or age. Mr. Lucca stated he believed it was both. Director Nishi asked if all four sewer lines will be needed for future build-out of Ord Community. Mr. Lucca stated that is being discussed in the Ord Community Sewer Master Plan. Mr. Lowrey stated he would like the Board to find that the facility is an existing facility and the project will not increase capacity of the existing facility.

On motion by Vice-President Moore, seconded by Director Brown; the Board adopt Resolution No. 2004-19 approving the project budget for the Highway One – 24 Inch Diameter Sewer Main Project and to amend the FY 2003-2004 budget and finds that the facility is an existing facility and the project will not increase capacity of the existing facility. The motion was passed.

Director O'Brien	-	Yes	Vice-President Moore	-	Yes
Director Brown	-	Yes	President Scholl	-	Yes
Director Nishi	-	Yes			

F. Consider Approval of the Draft April 2004 Newsletter:

Director Brown suggested several corrections to the newsletter: 1) under Lead and Copper Testing, customer's should be corrected to customers'; and 2) updating the Directors information on page two. Mr. Youngblood pointed out a recent change to the newsletter that lists where tickets are available for the garden tour.

On motion by Vice-President Moore, seconded by President Scholl; the Board approve the April 2004 Newsletter. The motion was passed.

Director O'Brien	-	Yes	Vice-President Moore	-	Yes
Director Brown	-	Yes	President Scholl	-	Yes
Director Nishi	-	Yes			

G. Consider Approving Public Notice and Setting Date, Time, and Location for Public Hearing – Proposed Changes in Rates, Fees, and Changes for the Ord Community Service Area:

Mr. Armstrong introduced this item and reviewed several changes that were made to the document. The first change is under Step 8 in the Process for Adopting Prop. 218, action will state, "Water and Capital Component and Equalization Charges" with the statement in parenthesis to be deleted; first page of the notice - correct spelling of Equalization; and on the second page - the protest form address line will be changed to Address of Parcel (Property Parcel Number). Vice-President Moore suggested page one of the notice to show, "Proposed Changes in Rates" and "Proposed Changes in Charges".

Agenda Item 4-G (continued):

On motion by Director Brown, seconded by Vice-President Moore, the Board approve the public notice and public hearing. With a vote of 5-Ayes, 0-Noes, 0-Absent, the motion was passed.

President Scholl requested to table item 4-H.

5. Consent Calendar:

Director Nishi requested to pull item B (Consider Adoption of Resolution No. 2004-20 to Approve a Professional Services Agreement with Harris & Associates for the RCI Hayes Park Housing Replacement Project) from the Consent Calendar.

On motion by Director Brown, seconded by Vice-President Moore; the Board approve the Consent Calendar items A (Consider Adoption of Resolution No. 2004-16 to Approve a Professional Services Agreement with RBF Consultants to Review the Imjin and Second Avenue Irrigation Design Projects); C (Consider Approval of February 2004 Expenditures); D (Consider Approval of Minutes of the Regular Board Meeting of February 11, 2004); and, E (Consider Approval of Minutes of the Regular Board Meeting of February 25, 2004). The motion was passed.

Director O'Brien	-	Abstained	Vice-President Moore	-	Yes
Director Brown	-	Yes	President Scholl	-	Yes
Director Nishi	-	Yes			

B. Consider Adoption of Resolution No. 2004-20 to Approve a Professional Services Agreement with Harris and Associates for Construction Inspection at the RCI Hayes Park Housing Replacement Project:

On motion by Vice-President Moore, seconded by Director Brown; the Board adopt Resolution No. 2004-20 approving a professional services agreement with Harris and Associates for construction inspection at the RCI Hayes Park Housing Replacement Project. The motion was passed.

Director O'Brien	-	Abstained	Vice-President Moore	-	Yes
Director Brown	-	Yes	President Scholl	-	Yes
Director Nishi	-	No			

President Scholl requested to skip agenda item 6 (Informational Items) and move to agenda item 7 (Planning Workshop).

7. Planning Workshop:

Mr. Armstrong introduced this item and Mr. Martin Feeney, RG, CHg. Mr. Feeney gave a presentation to the Board entitled *Groundwater Inventory and Status Report*. The report contains several conclusions and recommendations concerning the District's continued use of its present (coastal) well fields. One recommendation is that the District must continue its ongoing practice of relocating wells further inland.

At 10:00 p.m. President Scholl asked if any Board members wanted to make a motion to adjourn.

On motion by Director Brown, seconded by Director Nishi, the Board adjourn the meeting. With a vote of 3-Ayes, 2-Noes, 0-Absent, the motion was passed.

12. Adjournment:

The meeting was adjourned at 10:02 p.m.

APPROVED:

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Charles H. Scholl, President

Date

ATTEST:

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Michael D. Armstrong, General Manager