

Marina Coast Water District

District Offices
781 Neeson Road, Bldg 520
Marina, California

Special Board Meeting
May 19, 2004
6:30 p.m.

Minutes

1. Call to Order/Roll Call:

Mr. Michael Houlemard, Executive Officer, Fort Ord Reuse Authority, called the meeting to order at 6:35 p.m. on May 19, 2004. Mr. Michael Armstrong called roll for the Marina Coast Water District.

Board Members Present:

Charles Scholl – President
Ken Nishi
Dan O'Brien
David Brown – arrived at 7:06 p.m.

Board Members Absent:

Tom Moore – Vice-President

Staff Members Present:

Mike Armstrong, General Manager
Lloyd Lowrey, Legal Counsel

Audience:

Paula Pelot
Jeanne Coles
Al Bunkley
Eva Gamble
Charlotte Martin
Larry Tubbleville
Etna Monsalve-Campos
Denise Turley
Richard Gewehr
Judy Parsons

Agenda Item 2 (continued):

2. Oral Communications:

Ms. Paula Pelot commented that when a number of residents called the Marina Coast Water District Offices, they were told that the meeting was going to be held at the 11 Reservation Road address. Mr. Armstrong apologized for the incorrect information on the agenda and stated that a staff member was now at the Reservation Road site to direct any public members to the correct location.

Ms. Denise Turley asked who was responsible for the contamination in the water in the former Fort Ord. Mr. Houlemard stated that the US Army was the responsible party and information was available on their website: <http://www.fortordcleanup.org>.

President Charles Scholl directed the public's attention also to the Water Quality reports available on the tables at the back of the meeting room.

Ms. Pelot stated that public could also attend regular BRAC meetings for information on the contamination and cleanup efforts and that information on those meetings could be found at www.fortordcleanup.org.

Mr. Richard Gewehr asked if there were any studies done prior to any of the new construction that pointed to how much water would be used by the new construction and how it would affect the pricing structure. Mr. Houlemard stated that Mr. Gewehr's question was about rates, the subject of the public hearing, and that there were only taking comments, not questions.

3. Public Hearing:

Mr. Houlemard opened the public hearing and stated that the purpose of the public hearing was to accept written protests. He further stated that although oral comments would be on the record, they would not affect the protest vote. He stated that all protests would have to be validated before the final outcome would be announced.

Ms. Paula Pelot, representing the Preston Park Tenants Association and portions of Abrams Park, stated that many residents did not receive the notice of public hearing and protest; that the notice was enclosed with a bill that had many errors causing many residents to be focused on the bill and not the notice; that the notice should have been in more than one language and that there should have been more time given for residents to protest. She added that the reason that Ord Community residents pay double to triple the rates of the rest of the District ratepayers is because they are charged as a service area via a contract with FORA. She stated that via that contract, Ord Community ratepayers are paying for the FORA Capital Improvements Program (CIP) and they receive little to no benefit from those improvements for which they are charged. She stated

that she has previously asked the District to annex the Ord Community through LAFCO so that the Ord Community will be a part of the District and all ratepayers will then have to pay the same rates. She also stated that Preston Park residents are paying for the FORA capital improvements program through the increased water rates and again through their rents should the laterals require repair.

Ms. Pelot commented that the new water meters that had recently been installed were leaking at the Homeward Bound residences on Wittemeyer Court and the Homeward Bound management had seen a large increase in the usage charges as a result of the leaking gaskets on the newly installed meters. She also stated that the newly installed remote reporting meters may not be reporting accurately.

Ms. Pelot stated that when customers received incorrect billing statements and called the office, they were not given adequate answers by customer service staff.

Ms. Pelot stated that although she had requested the number and location of service accounts that would qualify to participate in the protest, she was given vague numbers. Consequently, an effective protest could not be organized.

Ms. Pelot asked whether or not vacant units would be counted and whose signatures would be validated, the person(s) paying the bill or only the name of the person in whose name the service account was billed. She also asked whether or not all the service connections in Seaside Highlands would be counted in the target number if no one yet resided at the service address.

Mr. Houlemard stated that the District would still need to determine how many of the service accounts could be counted in the protest and that the number is a "moving target." Mr. Houlemard also stated that all protests would have to be validated, just like any other protest or any other election, before the outcome would be announced.

Mr. Lowrey, Counsel for the District, clarified that the protest should be signed by the bill payer and that only validated written protests would impact the validity of the increases that had already been passed by FORA. He further stated that public comments will not affect the protest vote. Mr. Lowrey stated that any member of the public who had already submitted a protest could still supplement, in writing, the reasons of their protest prior to the close of the public hearing.

Ms. Charlotte Martin of Bay View Mobile Home Park asked if the District had received the Bay View protest petition and where the District was on the percentages toward the required number to overturn the proposed rate increase. Mr. Armstrong indicated that they had received a petition protest from Bay View residents.

Mr. Larry Tubbleville, resident of Bay View Mobile Home Park, voiced his concern over the process for validation of signatures of the protest vote. Additionally, he stated his concern over the watering practices for the in-common grounds of Seaside Highlands and the baseball field and how that water allocation affected other residences such as Bay View. He also stated that his lease with the Bay View Mobile Home Park stated he must keep his lawn green and that should he fail to do so, he would face eviction and incur relocation expenses. Mr. Tubbleville stated that he and other Bay View residents do not want to pay for the usage of the other communities that are being developed on the former Fort Ord. He also asked if the District and FORA are in compliance with Office of Management and Budget OMBA133,128,87,27 as well as Code of Federal Regulation (CFR), code regulations required for the reporting of the proper information as to how the rates are calculated and charged.

Etna Monsalve-Campos, resident of Seaside Highlands, stated that she was there representing the residents of Seaside Highland and Bay View. She stated that she went door-to-door in Seaside Highlands and that none of the residents contacted had received the notice of the proposed increases and of the public hearing.

Ms. Eva Gamble commented that a baseball field between Seaside Highlands and Bay View had broken sprinklers that were spewing water 20 feet in the air for at the least 40 minutes that she was driving through that area on the prior Saturday.

Ms. Denise Turley commented that she was concerned that her water bill was 25% higher that last year even though she was out of town with the water shut off for a month. She also stated that when people came into the District office for answers to questions they were not getting satisfactory answers. Ms. Turley stated that some military people were afraid to sign the petition and that those who had lived elsewhere did not understand why their water bills were so high here.

Ms. Charlotte Martin stated that Mr. Prasad told her the reason for the rate increase was to encourage conservation. She stated that, in one month, their water bills went up 250%, and people in their community are on a limited income and cannot afford these increases.

Mr. Richard Gewehr stated that the water pressure in the Bay View Community is not reliable and that they cannot shower when Seaside Highlands is watering their construction or the new ball field, specifically from 7:30 a.m. until 5:30 p.m. He stated that he does not want to pay an increase when the water pressure problems have not been solved and when he is paying for Seaside Highland's water.

Ms. Judy Parsons, Manager of Sun Bay, voiced her concern over holding a protest over a rate increase that not everyone was aware of.

Ms. Paula Pelot reiterated that there was not adequate notice given regarding the increase and protest. She also stated that there are US Mail delivery problems on the former Fort Ord and many residents may never have received the bill and notice. She stated that the response to her query regarding the target number to be used in the validation and tabulation of the protest was vague and made it impossible to organize an effective protest. She also stated that Ord Community residents, because they live in the service area, cannot be elected or appointed, to the Marina Coast Water District Board. Ms. Pelot requested additional time to allow for the protest.

Mr. Houlemard closed the public comment period. He commented on the concerns he heard voiced from the public, specifically on communications related issues, technical and operation issues, and lease related issues. Mr. Houlemard acknowledged hearing about mail delivery problems but stated that he believed that everyone who received their bill also received the notice of hearing and protest. Mr. Houlemard stated that the law determines how the protest must be conducted. Mr. Lowrey stated that California voters enacted Proposition 218 and Section 6, now codified as Article XIII D of the *California* Constitution, provides the requirements for this proceeding with regard to related to property-related fees and charges. He then explained the Prop. 218 process. He also stated that a number of cases are working their way through the State courts, including the California Supreme Court, and it had not yet been determined if the proposed increases were subject to Proposition 218 but that he had advised the Board that it would be prudent to follow it for purposes of the currently proposed increases.

Ms. Coles asked for a further explanation of what Mr. Lowrey described in the Proposition 218 process as the right to protest of tenants of a property. Ms. Coles and Ms. Pelot contended the District's interpretation of "bill payer" vs. "tenant" in the described process.

Mr. Houlemard advised that following the validation of the protests received, information will be provided to all customers regarding the outcome of the protest.

President Scholl thanked the public members for attending the public hearing and providing input and invited them to future meetings.

Director Nishi voiced his concern that he was unaware of the problems that the public spoke of during public comment. He was, from his weekly update as a Director, under the impression that all was well.

Director Brown stated it was unfair to say that staff disregarded any problems.

4. Adjournment:

The meeting was adjourned at 7:40 p.m.

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APPROVED:

Charles H. Scholl, President Date

ATTEST:

Michael D. Armstrong, General Manager