

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
June 9, 2004
7:00 p.m.

Minutes

1. Call to Order:

President Scholl called the meeting to order at 7:00 p.m. on June 9, 2004.

Board Members Present:

Charles Scholl – President
Tom Moore - Vice-President – arrived at 7:01 p.m.
Ken Nishi
David Brown
Dan O'Brien

Board Members Absent:

None.

Staff Members Present:

Mike Armstrong, General Manager
Lloyd Lowrey, Legal Counsel
Jim Dowless, O & M Superintendent
Suresh Prasad, ASO for Finance & Technology
Evelina Adlawan, Technical Services Manager
Marc Lucca, District Engineer
Rich Youngblood, Water Conservation Specialist

Audience:

Paula Pelot
Charlotte Martin
Larry Tubbleville
Jeannie Coles
Simon Whitmey
Byron Buck, Byron Buck & Associates
Jim Brezack, RBF Consulting
Brian Thomas, RBF Consulting
Bob Schaffer
Nick Nichols, Monterey County
Keith McCoy

2. Oral Communications:

None.

3. Action Item:

- A. Consider Adoption of Resolution No. 2004-32 to Authorize Purchase of a Dump Truck and Amend the FY 2003/2004 Budget:

Mr. Dowless introduced this item.

Vice-President Moore inquired on the bid made by Salinas Valley Ford. Mr. Dowless stated the quote did not include tax and license. Director Nishi voiced his concern that the dump trucks being compared were not the same models. Mr. Dowless stated that it is difficult to find trucks on the lots that are exactly the same. President Scholl clarified that the purpose was to find a truck that meets all the requirements at the lowest price.

On motion by Director Brown, seconded by Vice-President Moore; the Board adopt Resolution No. 2004-32 to authorize the purchase of a dump truck and amending the FY 2003/2004 budget. The motion was passed.

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

4. Review Draft Board Items:

- A. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2004-xx to Approve the District Budget and Ord Community Compensation Plan for FY 2004-2005:

Mr. Prasad introduced this item. Director Moore asked that the Ord Community line item listed as "Other Income" be broken out to show all the miscellaneous fees.

Ms. Paula Pelot spoke of the letter she had written and provided to the Board. She again requested a chance to protest the rate increase for the Ord Community stating that adequate time and information had not been provided for a protest. Ms. Pelot stated the minutes for the meetings on the 19th and 26th of May do not reflect the comments made by the members of the public and asked for additional time to provide input regarding those minutes.

Agenda Item 4-A (continued):

Mr. Larry Tubbleville expressed his concern over the new construction and that current customers are being subjected to rate increases over a debilitated water system. He also asked why the District is not looking into grants to help subsidize the infrastructure improvements thus not requiring the increase of rates.

Ms. Charlotte Martin said that she had received a letter stating that as of June 1, 2004, the Bay View Community would be transitioning water service to the Marina Coast Water District. She thought that since she was already receiving bills from the District that the District was already reading her meter. The letter also stated that there would be an administrative fee added to the bill which includes the cost of reading the meters.

Ms. Jeanne Coles stated she had just received her latest bill and it has increased although there is no change in the number of people living in the house and would like an explanation.

President Scholl stated that after receiving all the questions and comments, the General Manager would respond.

Ms. Paula Pelot stated that since the District began changing out the meters and replacing them with the automated meter reading system, everyone is experiencing a higher usage reading and asked that the District have someone look into the readings soon.

Mr. Armstrong addressed the comments made by the public members. He stated the issue of current Ord Community customers paying for new construction is not accurate. Current customers are paying a meter fee, a usage fee and a capital component fee based on usage. New construction is being paid by developers based on the District's In-Tract policy. Mr. Armstrong answered the issue that tenants living in the Ord Community prior to new construction are helping pay to restore bad systems. All customers in the Ord Community, through their rates and capital component charges, are helping to pay for repair and improvement of the water and wastewater systems that were conveyed from the U.S. Army through FORA to the MCWD. Mr. Armstrong explained the systems are in need of work to bring them up to the standards that the District wants all of the customers to have. He explained that through the capital component charge, current and future customers are helping to repair and improve the system piece by piece. Mr. Armstrong clarified that both the District and FORA, when they were responsible for the system, have both actively pursued grants and have received over \$6 million in grants. Mr. Armstrong stated that the letter received by tenants of the Bay View Community was sent without the District's knowledge and is hoping that another letter to clarify this issue will be sent by Mr. Roeder to his Bay View tenants.

Agenda Item 4-A (continued):

Mr. Armstrong stated that on the issue of the meter change out creating higher water usage the District will look into the higher usage complaints on a meter by meter basis. He added that if any customer feels that they are having problems with their water usage, they are encouraged to contact the District and someone can help them figure out where the water is being used.

Mr. Lowrey addressed several comments made in Ms. Pelot's letter. He stated that that the reference made to Government Code Section 53753 is to a process that is for assessment proceedings under Section 4 of Article XIII D of the California Constitution which was enacted by Proposition 218 and was for a vote type of election although not with ballots. Section 6 of Article XIII D of the California Constitution is not a vote, it is a protest with all protests required to be in writing. Section 53750 subdivision subsection I, provides that notices in Article XIII C and Article XIII D may be mailed with bills. The District followed subsection 6 of Article XIII D not subsection 4.

President Scholl inquired on the statement Ms. Pelot made that her meter readings were not consistent with the District's. Ms. Pelot stated that her billing statements do not match with the usage on the meter.

Mr. Tubbsville stated that on page 6 of the proposed budget there is no grant revenue listed for 2003, 2004, or 2005.

Ms. Pelot said that she asked Mr. Lowrey for the Government Code section that the District was following and was given general information and not the specific article and subsection used by the District. Mr. Lowrey read the narration from the California Constitution, Article XIII D, section 6a, subsections 1 and 2.

Vice-President Moore asked if the constitution allowed customers to submit their protests via mail. Mr. Lowrey stated that it did. Ms. Pelot said she did not feel that having customers mail their protests with their bills was a secure process.

Vice-President Moore commented that he believes the strongest irritant to Ord Community customers is the capital component fee. The District was not in favor of the capital component fee but it was FORA's decision. Vice-President Moore also stated that there is an In-Tract policy that requires developers to pay for infrastructure due to new construction. He further explained that the Ord Community and Central Marina are two separate systems and neither will subsidize the other.

Ms. Pelot asked why the District had yet to annex the Ord Community when this has been an issue for the last several years.

Agenda Item 4-A (continued):

Director Nishi stated that the District has not collected over \$700,000 in capital component fees from CSUMB. He stated he would like to know where the money is coming from to pay for some of the improvements. He said that he believes the Ord Community customers are subsidizing the capital improvements that the District is making while not collecting from CSUMB.

Mr. Armstrong explained that the District is in negotiations with CSUMB at this time as required by law.

Director Nishi asked how the District is paying for CSUMB's share of the capital projects. Director Brown stated that the District is refraining from any capital projects on CSUMB until negotiations are complete. Director Nishi stated that all projects affect everyone, including CSUMB. He again asked where the District is getting the money to pay for capital improvements.

Mr. Tubbsville stated he would like the District put a lien on CSUMB to preclude them from receiving any grant funds thus pressuring them to pay the District what is owed.

Ms. Pelot asked if the District is in negotiations with CSUMB as a result of the Validation Action. Mr. Armstrong stated that the District is in negotiations because they are required to do so by law. Mr. Lowrey added that Government Code 54999.3 provides that MCWD will comply with the requirements before imposing a capital facilities fee (as defined in Government Code section 54999.1) on any school district, county office of education, community college district, the California State University, the University of California or state agency.

Director Nishi agreed that the District must negotiate with CSUMB, but would like to know where the money is coming from to pay for the capital projects in the proposed budget.

President Scholl referred to the letter written by Ms. Pelot in which she stated "Director Nishi pointed out that a serious lack of water pressure increases public safety risks should fires occur on the Bayview property." President Scholl said that Director Nishi's statement was incorrect and clarified that there was a presentation at the end of the last meeting that showed there was sufficient water supply and pressure at the hydrant leading to the Bay View property. He wanted to make it clear that the District would not knowingly allow an unsafe situation to exist anywhere in the District.

Mr. Tubbsville stated that he was without water on May 31st, June 3rd, and June 6th and it was fortunate that there were no critical situations requiring the need for water.

Agenda Item 4-A (continued):

Director Nishi asked President Scholl to supply the notification that the Board received stating there was low water pressure at the Bay View property.

President Scholl told Director Nishi to direct his question to the appropriate staff.

Director Nishi stated he had not received information on the low water pressure and doesn't remember reading it in the General Manager's emails. If he missed it, he would like staff to let him know the date it was provided.

Mr. Armstrong asked Mr. Dowless if he was aware of the water being turned off on the dates Mr. Tubbleville provided. Mr. Dowless stated that the Operations and Maintenance crew does not have any control over what goes on in the area past the meter. He is aware that Mr. Ray Roeder's staff frequently shuts down the water for repairs and maintenance and the District is rarely notified of the shut downs. Mr. Roeder's staff will frequently go to the meter vault and close off the gate valve which shuts down the entire complex. Mr. Dowless added that when the District needs to shut off water to any customers, even in an emergency, notices are placed on the residences or businesses, or staff knocks door to door to inform customers of the water outage.

Vice-President Moore asked if the fire hydrants on the Bay View property are under Mr. Roeder's control or the District's. Mr. Dowless stated they are under Mr. Roeder's control. Mr. Armstrong clarified that the Bay View property is a private system and that it does not meet District standards. Vice-President Moore asked if the hydrants are included in Mr. Roeder's private system. Mr. Armstrong stated they were.

Director Nishi issued a point of order stating that when this issue came up with Mr. Roeder, Director Brown stepped down stating a conflict of interest. He wanted to know if Director Brown's situation changed. Mr. Lowrey stated that, in his opinion, the reason given by Director Brown at the last meeting was not a conflict of interest and that Director Brown was stepping down in case of a perception of a conflict of interest.

Ms. Pelot stated that the public does not want to be perceived as accusing the District as being an evil empire, but as trying to bring real issues to the Board's attention that are unjust, unfair and are of real concern to the community.

Mr. Tubbleville stated that 95% of the time Bay View residents are given advance notice before the water is turned off, but there are times that the water is turned off without notice.

Director Nishi asked for documentation on the Koff and Associates recommendation.

Agenda Item 4-A (continued):

Mr. Lowrey reminded the Board that the Ordinance adopted by FORA and the draft resolution before them this evening contemplates the rates, fees and charges becoming effective on July 1, 2004. Discussion followed regarding if a quorum will be present for the meeting on June 23, 2004. Director Brown inquired on the consequences of not passing the budget before July 1, 2004. Mr. Armstrong asked Mr. Lowrey to speak about the process, the agreement with FORA and their ordinance, and what actions the District would have to take if the budget is not adopted by July 1, 2004. Mr. Lowrey stated that FORA would have to take action to modify their ordinance to coordinate whatever action the District takes. If there are certain budgets that are built on collecting rates, fees and charges and the budget doesn't get passed there may be some impact. The process would be to consult with FORA and both agencies would have to take some action. President Scholl asked if there was any alternative, aside from a special meeting, to get the budget voted on before July 1, 2004.

Ms. Pelot stated that although the rates are to increase on July 1, 2004, the billing doesn't get processed until August and doesn't understand why there would be a problem. Mr. Prasad stated that not all customers are billed at the end of the month. It would impact both Marina and Fort Ord.

President Scholl led a discussion on the possibility of scheduling a special meeting. Director Nishi stated that at the last meeting no Board members said that they would be unavailable at the June 23rd meeting. No consensus regarding a meeting date was met.

B. Review Draft Board Transmittal to Consider Approval of the Water Supply Assessment for the Proposed East Garrison Development:

Mr. Lucca introduced this item and Mr. Byron Buck of Byron Buck & Associates. Mr. Buck explained the Water Supply Assessment (WSA) developed for the East Garrison development and how use factors were calculated.

Director O'Brien asked about the Urban Water Management Plan (UWMP) and the laws that have changed since the UWMP was created. Mr. Buck stated that the UWMP was in the process of being revised and that it was allowable to use the current UWMP for WSA's.

Director Nishi asked what happens if the developer wants to change their specific plan after the District approves the WSA. Mr. Buck stated if there was a significant change, the developer would need to come back before the Board and that the WSA is valid only for the development as proposed. Discussion followed.

Agenda Item 4-B (continued):

Director O'Brien asked if the temporary shutdown of the Well with TCE and coliform detections changes the validity of Section 3.2 of the WSA. Mr. Buck stated as it is a temporary shutdown it does not change the validity of the statement in Section 3.2.

Vice-President Moore questioned the use factor determination in Table 2-1 on the different lots being 0.3 instead of 0.33. Mr. Buck stated he determined the use factor by considering the lots as a group. Discussion followed. Mr. Nick Nichols commented that the use factors determined by Mr. Buck were as accurate as could be made with appropriate safety factors included and was in agreement with the 470 afy assessment for the development.

Vice-President Moore asked what other developments were being considered. Mr. Keith McCoy stated there are two other projects being considered within the next several years in the Parker Flats area and possibly a third.

President Scholl asked that this item be placed as an action item on the next agenda.

President Scholl recessed the meeting from 8:57 until 9:07 p.m.

C. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2004-xx to Accept the Ord Community Water Distribution System Master Plan:

Mr. Lucca introduced this item and Mr. Jim Brezack and Mr. Brian Thomas of RBF Consulting. Mr. Brezack made his presentation to the Board on the Ord Community Water Distribution System Master Plan.

Director Nishi asked if the intertie project was addressed in the Master Plan. Mr. Brezack stated that it was not addressed. Mr. Lucca stated the intertie project was included in the proposed FY 2004/2005 budget. Director Nishi asked if the pipeline size in the capital improvement program would address the possible movement of the well field. Mr. Brezack answered that the capital improvement program did specifically address the likelihood of moving the well field. Director Nishi stated that he would like the sentence on page 2-2 which addresses desalination to be modified to state that the desalination plant is not functioning at this time. President Scholl asked that the sentence be revised to note Director Nishi's correction. Director O'Brien stated on page 4-1, the reference to table 1.1 should be 2.2; and, on page 2-3, table 2.1 is showing water allocation numbers that have been changed. Mr. Brezack stated table 1.1 would be changed to 2.2 and the numbers in table 2.1 were taken directly from FORA documents. He also stated the footnotes below the tables clarify that the numbers have been superceded by Board action. Vice-President Moore suggested switching the numbers in the table and footnote so that the current numbers are shown in the table and the historical numbers are noted in the footnote. Director O'Brien inquired on the location of Well 32. Mr. Brezack answered that the future location is

Agenda Item 4-C (continued):

not absolute at this time. Vice-President Moore inquired on the amount of pipeline that might need to be moved to create an intertie. Mr. Brezack stated it depended on the placement of the intertie. Discussion followed. Director O'Brien stated that CSUMB is not in the legend in Figure 3. Vice-President Moore requested the title of the document be amended to read "2004 Ord Community Water Distribution System Master Plan" and omit the word "Final". Mr. Brezack reviewed the suggested changes to the Ord Community Water Distribution System Master Plan. President Scholl requested this item be placed on the consent calendar for June 23, 2004.

D. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2004-xx to Approve the Hot Water Recirculation Project:

Mr. Youngblood introduced this item. Vice-President Moore inquired on how the project would work and what would happen with the remaining funds should there be any. Mr. Youngblood stated that any remaining funds would be used towards water conservation initiatives. Vice-President Moore asked how the District would determine who would participate in the project. Mr. Youngblood stated the first twenty to apply and qualify would be accepted. Vice-President Moore asked if more than twenty people applied would a lottery be used and could Directors be included. Mr. Lowrey said they could not. President Scholl asked if the District should consider looking into the newer developments within Marina and using those homes as part of the project since they already have the recirculating systems. Discussion followed.

At 10:05 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. Director Brown gave his reasons for adjourning the meeting. With a vote of 2-Ayes, 3-Noes, 0-Absent, the motion failed. Discussion resumed.

Director Brown left the meeting at 10:09 p.m.

Director Nishi stated that the District needs to live up to the agreement that was agreed to when Resolution No. 2003-45 was adopted. Vice-President Moore asked legal counsel if the District could adopt another resolution to amend the first resolution. Mr. Lowrey stated the District could amend the resolution with a second one. Discussion followed. President Scholl requested this item be placed on the consent calendar for June 23, 2004.

E. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2004-xx to Approve a Quitclaim Deed for the Transfer of Land and Assignment of Easements for the Former Fort Ord:

Agenda Item 4-E (continued):

Mr. Lowrey introduced this item. Vice-President Moore asked what language is missing in the documents from FORA to the District that was in the document FORA received from the Army. Mr. Lowrey stated the changes were on page three, the second "Whereas" which was reproduced on page five Section 3B. Discussion followed. President Scholl requested this item be placed on the consent calendar for June 23, 2004.

- F. Receive an Update on Land Transfer Work Required to Complete the Transfer of Land in East Garrison Necessary for Construction of a New Water Storage Reservoir:

Mr. Lucca introduced this item. Vice-President Moore inquired on the geology where an overflow pond is recommended to be placed. Mr. Lucca stated there will be discussion between different agencies on where the site is located and that there is sufficient area for an overflow pond.

- G. Review Draft Board Transmittal to Consider Approving Expenditures for the Month of May 2004:

No comments or questions on this item. President Scholl requested this item be placed on the consent calendar for June 23, 2004.

- H. Review Draft Board Transmittal to Consider Approval of Minutes of the Regular Board Meeting of May 12, 2004:

No comments or questions on this item. President Scholl requested this item be placed on the consent calendar for June 23, 2004.

- I. Review Draft Board Transmittal to Consider Approval of Minutes of the Special Board Meeting of May 19, 2004:

President Scholl stated that Ms. Paula Pelot was going to provide suggested changes to the minutes. Mr. Armstrong stated the minutes provided are in the format and context that the District has used previously unless otherwise requested by the Board. President Scholl requested that Ms. Pelot's notes be provided to the Board and if they feel it is necessary, the item could be pulled from the consent calendar and changes requested to be made. President Scholl requested this item be placed on the consent calendar for June 23, 2004.

J. Review Draft Board Transmittal to Consider Approval of Minutes of the Regular Board Meeting of May 26, 2004

President Scholl stated that Ms. Pelot was going to provide suggested changes to the minutes of this meeting as well and it would be handled the same way as the previous minutes. Mr. Lowrey suggested that Director Brown's comment on page three of the minutes be modified to read, "...Director Brown felt that there was the perception that he had a conflict...". Director Nishi asked that page two of the minutes show that Vice-President Moore was absent. He also added that his comment on page five should state that he noticed water flowing from the meter, not a constant flow of water. Vice-President Moore pointed out a typo in the last paragraph on page five.

5. Staff Reports:

A. Highway One – 24 Inch Diameter Sewer Main Project:

President Scholl asked what criteria were being used to select which alternative to use on this project. Mr. Lucca stated there many different factors being considered in each alternative and that they would all have to be evaluated and all would present structural integrity. President Scholl stated that he believed the risk factor should be minimized and the level of confidence should be a factor in whichever alternative is chosen.

B. Bayer Tank Structural/Operational Improvements Project:

Mr. Lucca introduced this item.

Vice-President Moore stated he had received a complaint from a customer in the vicinity of the Bayer tank complaining of low water pressure. He would like to see a notice sent to the customers affected by the low water pressure explaining the reason for the low pressure. Director Nishi asked if there were adequate fire flows in that area. Mr. Lucca stated the fire hydrants have adequate pressure but he is not aware of the pressures in individual homes. Director Nishi would like the District to send a letter to the customers with sprinklers in their homes advising them there may not be adequate pressure for their sprinklers. Discussion followed.

The Board entered into closed session at 10:47 p.m.

6. Closed Session:

A. Pursuant to Government Code Section 54957
Threat to Public Services or Facilities

Consultation With: District Counsel, Lloyd Lowrey; and,
District Security Operations Manager, Richard Youngblood

The Board returned to open session at 11:06 p.m.

7. Possible Action on Closed Session Item:

A. Consider Accepting Water Utility Vulnerability Assessment Report – Marina and Ord
Community Service Areas:

The Board reported it provided direction to staff on completion of the vulnerability assessments.

8. Correspondence:

No comments.

9. Director's Comments:

Director Nishi would like to see the District reach out to the Ord Community to open communications. He would also like to get data on water use that was used in the conservation feasibility study as well as the Seaside Highlands development. President Scholl would like to see a spreadsheet showing water use data on the Seaside Highlands, newer development within Marina as well as old development within Marina.

Director Nishi inquired on the liability regarding Bayer tank water pressure and fire flows.

Mr. Lowrey stated he did not believe the District was liable to provide water for fire flows. Director Nishi would like to see documentation regarding liability.

Vice-President Moore would like to see agenda'd on the July 28th meeting, discussion on a periodic performance report in respect to water usage and the Board discussing what factors would be in the report, and having the District hire a consultant with expertise in statistics to help with the report.

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10. Adjournment:

The meeting was adjourned at 11:24 p.m.

APPROVED:

Charles H. Scholl, President

Date

ATTEST:

Michael D. Armstrong, General Manager