

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

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

Minutes

1. Call to Order:

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

Board Members Present:

Charles Scholl – President
Tom Moore - Vice-President
Ken Nishi
David Brown
Dan O'Brien

Board Members Absent:

None.

Staff Members Present:

Mike Armstrong, General Manager
Lloyd Lowrey, Legal Counsel
Marc Lucca, District Engineer
Jade Sullivan, Project Engineer
Suresh Prasad, ASO Finance and Technology
Richard Youngblood, Water Conservation Specialist
Paula Carina, Executive Assistant/Board Clerk

Audience:

Paula Pelot	Lester Lee
Jeannie Coles	Keith Israel, MRWPCA
Monica Haney	Ellen Aldridge, Avery Associates
Tony Kelsey	Susan Kiefert
Simon Whitmey	Jose Rodriguez
Bruce Delgado	Tony Altfeld, City of Marina
Nick Nichols	Jim Dowless
David McCall	Ian Gillis, East Garrison Partners
Peder Jorgenson, Schaaf & Wheeler	
Mike Wilson, Schaaf & Wheeler	

2. Oral Communications:

None.

3. Presentation:

- A. Consider Adoption of Resolution No. 2004-38 in Recognition of Jose Rodriguez, Collection Operator I, as Employee of the Quarter for July – September 2004:

Mr. Armstrong read the narration on this item.

On motion by Director Nishi, seconded by Vice-President Moore; the Board adopt Resolution 2004-38 recognizing Jose Rodriguez as Employee of the Quarter and awarding him a check for \$100 and four hours off with pay. The motion was passed.

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

- B. Consider Adoption of Resolution No. 2004-39 in Recognition of Tony Kelsey, System Operator II, as Employee of the Year for 2003-2004:

Mr. Armstrong read the narration on this item.

On motion by Director Nishi, seconded by Vice-President Moore adopt Resolution 2004-39 recognizing Tony Kelsey as Employee of the Year and awarding him a check for \$400 and sixteen hours off with pay. Director Nishi commented that Mr. Kelsey has been with the District a long time and has really grown professionally and is a credit to the District. The motion was passed.

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

President Scholl recessed the meeting from 7:07 until 7:16 p.m.

4. Action Items:

- A. Consider Adoption of Resolution No. 2004-36 to Approve a Quitclaim Deed for the Transfer of Land and Assignment of Easements for the Former Fort Ord:

Agenda Item 4-A (continued):

Mr. Armstrong introduced this item. Mr. Lowrey stated that he has been working on behalf of the District since the inception of dealing with the Army and FORA to obtain conveyance of the water and wastewater collection facilities. He stated there have been many meetings and conversations devoted to trying to define the properties that were being conveyed as well as the scope of the deeds. Mr. Lowrey said that the District had requested changes in the deeds prior to finalization of the deed, but that after speaking with attorneys in Washington D.C. the District was unable to make the requested changes. He added that there were changes in the form used by the Army in the preliminary conveyance in 2001 and the more recent conveyance made to FORA. He added that he would be very surprised if any jurisdictions see any changes in the format of their deeds, i.e. disclosures, or language that relates to hazardous materials. Mr. Lowrey stated that, based on conversations with all of the attorneys for the jurisdictions the District is involved with, he doesn't see any legal issues. If there would be any issues, they would be working with other jurisdictions towards a common purpose. Mr. Lowrey stated that it has taken seven years to get to where the District is now with the conveyance of the water and sewer systems. He said the District needs to ask itself, given the experience of dealing with the conveyance process, if they want to subject themselves to further delays for the considerations they think are appropriate. Mr. Lowrey advised that it would be prudent in exercising responsibilities to people the Board serves, to move forward in a manner contemplated by the agreements dating from 1997, and complete the conveyances that were begun in 2001. He advised the Board to work collaboratively with jurisdictions that the District is serving to obtain whatever modifications of language are appropriate after that time.

Director O'Brien asked what specific changes were requested. Mr. Lowrey stated that he has not seen the letter from the County to FORA and did not know what specific changes were requested.

Mr. Nick Nichols, Monterey County Redevelopment Agency, complimented the Board on the talented and professional staff working for the District. He stated that the County and the East Garrison partners are still working out issues relating to the conveyance of the East Garrison property. Mr. Nichols also requested additional time to allow the completion of discussion regarding the details of what is advantageous to both agencies regarding the East Garrison parcels. He requested delaying the transfer of only the four East Garrison parcels.

Mr. Ian Gillis, East Garrison Partners, stated that they have been working on an MOU with Mr. Armstrong regarding the four parcels and they are slightly more optimistic of getting the changes in the deed prior to transfer. Mr. Gillis requested the Board delay the transfer of the four East Garrison parcels.

Vice-President Moore stated that he hadn't heard the exact nature of the potential problem that is being foreseen.

Agenda Item 4-A (continued):

Mr. Lowrey stated the subject of his inquiries was to try and determine what the nature of the differences between the conveyance from FORA to MCWD and from FORA to the County. He believes the differences may be in the letter but as he hasn't seen the letter, he couldn't be certain. Mr. Lowrey stated that in general terms, the developers have undertaken some activities to clean up certain areas in East Garrison resulting in some disclosures not needing to be in the deed. Some disclosures that are in the deed are not within the power of the Army because they involve agreements with other agencies on things such as, water, and habitat.

Director Nishi stated that at the last meeting the County and East Garrison requested time to find out what the differences were between the conveyances. He does not believe the District should spend funds to solve the problem between the County and FORA. Director Nishi stated that the District is the only one who is going to get the conveyance. He also said the District should allow more time for the County and East Garrison to solve their problems but that the District should not expend any funds towards it.

Mr. Gillis stated it is an issue of housekeeping and it would be better to have a standard disclosure throughout the community and not a different disclosure for only certain parcels.

Mr. Lowrey stated that the legal issue would pertain to obtaining the revision of the deed which has already come from the Army to FORA. There were already mistakes made in the deed the Army gave to FORA that need to be revised. Mr. Lowrey stated an exhibit would need to be attached and the deed re-recorded.

Vice-President Moore asked if the disclosure stated specific clean-up needed to be done, and if the East Garrison Partners could prove that it was already done, would that solve the problem? Mr. Gillis stated that he didn't believe it would.

Mr. Armstrong stated the District staff is developing an MOU that talks about the proposed exchange: the District's four East Garrison parcels for additional land from the County at the District's F Reservoir site. Mr. Armstrong stated that MCWD wants to trade but does not want to get stuck with required mitigation for new land at the F Reservoir site.

Mr. Nichols said that Mr. Armstrong is correct in his statement and that the County is also interested in the District's ability to build an additional tank at the F Reservoir site.

President Scholl stated that basically there were two parcels under discussion: Parcel A – the corporation yard parcel and a second smaller parcel; and, Parcel B – the four East Garrison parcels. He agrees that it is best to work with people when you can to make it as easy as possible to get their jobs done. President Scholl asked what the con was to delaying this conveyance from the District's perspective.

Agenda Item 4-A (continued):

Mr. Armstrong stated that the corporation yard parcel is the most critical. The District needs that parcel to be able to negotiate with CSUMB and Marina if the District decides to move the corporation yard. Mr. Armstrong said the District will continue to work collaboratively with the other agencies on the East Garrison parcels regardless of the outcome. In his opinion, the four East Garrison parcels are not as important at this time as the corporation yard parcel.

Director O'Brien asked if there is any danger in the District postponing this conveyance and having the Army change its mind and therefore losing the property.

Mr. Lowrey stated there is always potential for change but the fact that the parcels have already been conveyed to FORA makes it slightly easier to manage. The risk to the District is greater with respect to the corporation yard as the District has already incurred costs regarding planning and committing themselves to the facility for certain operations.

Director O'Brien asked if the parcels could be separated and conveyed at different times. Mr. Lowrey stated they could be conveyed separately and it would not make any difference if they were separated.

On motion by Director Brown, seconded by Director O'Brien; the Board approve Resolution No. 2004-36 with the modification to accept the corporation yard parcel and smaller nearby parcel and defer action on the four East Garrison parcels for three months. Mr. Armstrong stated that three months might be too optimistic. Director Brown amended his motion to defer action on the four East Garrison parcels for six months. Director O'Brien seconded the amendment to the motion.

Vice-President Moore stated that he would support a motion approving Resolution No. 2004-36 as written with additional instructions to staff to seek, in conjunction with the corrections that the Army needs to issue to the deeds, corrections that would make the East Garrison parcels identical to the others the County receives from the Army. Vice-President Moore stated that since the District would have to get deed modifications from the Army, even though the parcels have been transferred to FORA, the District might as well become the owners of record and proceed with getting the corrections made. Director Nishi said he did not think it was that simple.

President Scholl asked legal counsel if it was as simple as Vice-President Moore alluded to. Mr. Lowrey stated that he thought it was that simple. He said that formal changes must be made to the deed that don't require anyone to make decisions, but the changes the County wants are changes that someone in Washington is going to have to make a decision on because the form is different than they usually use. Mr. Lowrey stated that the time horizons are different for each of the actions.

Agenda Item 4-A (continued):

Vice-President Moore stated that he agrees the horizons are different but the process is still the same as the District has to go back to the Army for the modifications.

Director Nishi said that the District shouldn't be having their attorney spending District time doing all the work to solve the problem, but the County and East Garrison should be solving the problem and bringing it to the District.

Mr. Armstrong asked if the letters sent to FORA contain a request to change the conditions on the four small East Garrison parcels. Mr. Nichols said they did not. Mr. Armstrong clarified that the County is asking FORA to change the conditions on everything else they have and the four parcels were not included.

President Scholl asked if the motion made meets the County's and the East Garrison partners' objective. Mr. Nichols stated it did.

Director Nishi stated he is concerned that the change to the parcels will not affect the District's four parcels. Mr. Nichols answered that the County was in agreement.

The motion was passed.

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

B. Consider Approval of Minutes of the Special Board Meeting of May 19, 2004:

Mr. Armstrong introduced this item.

On motion by Director Nishi, seconded by Director O'Brien; the Board approve the minutes of May 19, 2004 with Ms. Pelot's changes incorporated. Vice-President Moore requested to change the word "were" in the first sentence on page 3, to "to be". Director Nishi amended his motion to have Vice-President Moore's change incorporated into the minutes. With a vote of 4-Ayes, 0-Noes, 0-Absent, 1-Abstained, the motion was passed.

C. Consider Approval of Minutes of the Regular Board Meeting of May 26, 2004

Mr. Armstrong introduced this item. Director Nishi asked that page 4 of the minutes show that Director Brown "stepped down" and was not "excused" for the roll call vote of item 4-A. On page 6, Director Nishi asked that Director's Comments be corrected to say "Director Nishi questioned the water usage on the corner of Imjin and Fourth Avenue and commented that there

Agenda Item 4-C (continued):

was running water.” Under item 6-A, Director Nishi asked that a sentence be added to state that the presentation by Mr. Dowless and Mr. Lucca emphasized the poor condition of the Ord systems.

On motion by Director Brown, seconded by Director Nishi; the Board approve the minutes with Ms. Pelot’s changes incorporated and the changes Director Nishi requested. With a vote of 4-Ayes, 0-Noes, 0-Absent, 1-Abstained, the motion was passed.

D. Consider Authorizing the General Manager to Send a Comment Letter to the City of Sand City on its Water Supply Draft Environmental Impact Report:

Mr. Armstrong introduced this item. Vice-President Moore asked why Mr. Lucca’s signature was on the letter and not Mr. Armstrong’s. Mr. Armstrong stated that it was appropriate for Mr. Lucca’s signature as this was a comment letter on the EIR. Director Nishi stated that he understood that Sand City was told the District would not give them the 300 afy of desalinated water. President Scholl stated that a committee was formed to meet with Sand City. Director Nishi said the committee members did not have authority to make agendas and set meetings which is why they never met. He is concerned that the Board can’t set the policy. Director Nishi questioned the draft EIR where it states “alternative water supply location - Marina Coast Water District.” He wanted to know who said the Marina Coast Water District would be an alternative water supply location.

On motion by Vice-President Moore, seconded by Director Brown; the Board direct staff to send the letter as written. Mr. Tony Altfeld, City of Marina, stated that the City understands the District has made no commitments or entered into any negotiations with Sand City at this time. He voiced his concern over the language in the transmittal that states, “Under this alternative, Sand City proposes to purchase unused capacity from MCWD’s current desalination plant with an ultimate purchase of the entire plant capacity, i.e., 300 AFY.” Mr. Altfeld reminded the Board that the District’s Water Augmentation Project EIR is still outstanding.

Mr. Dave McCall voiced his concerns over how the letter was drafted. He said that at the recent Californian American Water Company presentation, it was stated that MCWD was asking for 2400 afy for Fort Ord, 300 afy for the south side, assuming it means Sand City, and 300 afy for other service areas, which is more than the 2400 afy that was asked for from Cal Am. Mr. McCall also stated that the letter states the MCWD owns and operates a desalination plant, but should only say it owns a desalination plant. He said he understands from Mr. Armstrong that the taxpayers floated the bond to pay for the desalination plant and doesn’t think that the public knows about the plan to either sell the desal plant or just the desal water to Sand City.

Agenda Item 4-D (continued):

Mr. McCall thinks the public should have input on this matter and asked the Board to wait until Sand City and the District finish their EIR's.

Vice-President Moore stated that the Board has not yet made a decision.

Director Nishi stated that he did not know if the Sand City Council knew that the desal plant was not working. President Scholl said that Sand City knows the current situation with the desal plant. Discussion followed. Mr. Lowrey directed the Board's attention to the sentence in the draft letter that reads, "As a minimum these discussions should address the Sand City project assumption that the MCWD will act as an emergency backup water supply." He stated that the letter makes note of the assumption in the Sand City EIR, which may or may not be unfounded, and the District is calling that to their attention so the assumption doesn't go forward unchallenged. Director Nishi asked what the last paragraph means. Mr. Lowrey stated that the paragraph says that there is a need for continuing discussions on that point and there shouldn't be just an assumption. Director Nishi asked if the Board is interested in giving any desalinated water to Sand City. If the answer is yes then he thinks it is appropriate to send the letter, and if it is no then he doesn't think it is appropriate to send it.

With a vote of 4-Ayes, 1-No, 0-Absent, the motion to send the letter was passed.

7. Consent Calendar:

Director Nishi requested to pull items A, C, and E from the consent calendar.

On motion by Director Brown, seconded by Vice-President Moore; the Board approve the consent calendar consisting of items B) Consider Adoption of Resolution No. 23004-41 to Approve a Professional Services Agreement with Schaaf & Wheeler for On-Call Plan Check Services; and, D) Consider Approving Expenditures for the Month of June 2004. The motion was passed.

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

A. Consider Adoption of Resolution No. 2004-40 to Accept the Final Corporation Yard Master Plan:

Director Nishi stated that he did not know if it was the right place to put in a corporation yard and after hearing of the disrepair of the sewer system in Fort Ord was not sure if it was prudent to spend this money on a corporation yard instead of the infrastructure.

Agenda Item 7-A (continued):

On motion by Vice-President Moore, seconded by Director Brown; the Board adopt Resolution No. 2004-40 to accept the final corporation yard master plan. President Scholl emphasized that adopting the resolution is not making a commitment to moving forward with the construction of the corporation yard, it only accepts the master plan.

The motion was passed.

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

C. Consider Approval of the Draft August 2004 Newsletter:

Director Nishi voiced his concern over not reviewing this item at the first meeting of the month. Director Brown suggested a correction to the word "value" in the caption under the picture on the front page. He suggested it be corrected to "valve".

On motion by Vice-President Moore, seconded by Director Brown; the Board approve the draft August 2004 newsletter. With a vote of 5-Ayes, 0-Noes, 0-Absent, the motion was passed.

E. Consider Approving the Minutes of the Regular Board Meeting of June 9, 2004:

Director Nishi stated that the first paragraph on page 7 of the minutes ends abruptly. Mr. Armstrong said that staff would look into it. Director Nishi would like included on page 8 in the last paragraph that Vice-President Moore asked if more than twenty people applied would a lottery be used and could a director be included? President Scholl requested to have added that Legal Counsel said absolutely not. President Scholl would like staff to review the end of the first paragraph on page 7 and the other changes to page 8 then bring the revised minutes back to the next meeting.

8. Staff Reports:

A. Bayer Tank Update:

Mr. Sullivan introduced this item. Vice-President Moore requested postponing this item allowing the consultants' time to get their equipment working.

10. Planning Workshop:

C. Outreach Activities for the Ord Community Service Area:

President Scholl introduced this item. Ms. Paula Pelot recalled that President Scholl had requested staff recommendations. She stated that it could be difficult if it was a joint meeting between the District and Ord Community residents without some type of representative grouping. Ms. Pelot suggested checking to see if the different communities within the Ord Community had residence associations and possibly a representative from each association would participate. Ms. Pelot stated she was not clear on how the committee would make recommendations to the board. She reiterated that the board should get representation from the various areas as they are very distinct communities.

President Scholl stated that he didn't believe he asked staff for recommendations at the last meeting. He wanted the Board to discuss the different things they should do. President Scholl explained the duties and make up of the Joint City/District Committee. He then stated that on one level, the Board could consider having joint meetings with Sand City, Seaside, Del Rey Oaks, CSUMB, etc. On another level, a community outreach program could be used as a system to communicate with everyone on District activities and ongoing issues. President Scholl said another level could be to get together with specific communities to listen to issues and respond to their concerns.

Director Nishi stated that it is difficult for the Ord Communities to request meetings unless they are a larger entity such as Seaside, Sand City, etc. He would like to go to several different communities such as Preston Park, Bay View, Army, CSUMB and five or six different locations to check the participation and if there is a need to expand or lessen the number of meeting places.

Vice-President Moore stated he would be interested to see if the Board would support having staff look into the cost of a quarterly carrier-route sort. He explained that not all residents in the Ord Community receive bills from the District so that if notice was sent with the bills, not everyone would see it. With carrier-route sort, notices would go to everyone in the Ord Community who received mail. On the other hand, Vice-President Moore stated that he believed the alternatives were correctly described. He stated that the District could have joint city committees with the different cities within the former Fort Ord. Vice-President Moore stated that a problem with that is the City of Seaside could appoint a member to the committee who doesn't live on the former Fort Ord and is unfamiliar with the problems there. He said that Fort Ord is a community and by setting up separate committees with separate cities, it is perpetuating a division of the community. He suggested creating a District/Fort Ord Committee with more than two but less than ten members with the Board deciding on how many members total. The District would then let people know that they are taking applications for the committee and depending on how many apply, could have the Board select the members or ask for a vote from the community by letting them know who is running via carrier-route sort.

Agenda Item 10-C (continued):

Ms. Pelot agreed that a member from each city in the Ord Community would not work very well, but that one representative from each community i.e. Bay View, Abrams, Preston Park, would work better.

For clarification, President Scholl asked the Board what they thought was the purpose for the proposed meetings.

Director Nishi stated that it was to allow input from the Ord Community residents to the District as they are not currently represented on the Board. President Scholl stated that public is allowed to attend any District Board meeting to provide input just as Ms. Pelot and Ms. Coles have been doing. He asked how a town hall type meeting would be different from a Board meeting because only two Board members would be present and they would not be able to take any action; whereas, if the public were present at a Board meeting, they would be heard by the entire Board. Director Nishi stated in that case, the District should cancel all committee meetings. President Scholl said that all had been cancelled with the exception of the Joint City District Committee.

Vice-President Moore stated that if the Board could find the appropriate number of representatives from the Ord Community willing to commit to serving the communities they represent, there could be a knowledgeable discussion. He added that another advantage to committee meetings is that communication is two-way and any miscommunications could get resolved at the committee meeting before coming before the Board.

President Scholl stated that by holding town hall type meetings, it will be more of a complaining session instead of a working meeting. Vice-President Moore acknowledged that there is a risk of getting representatives that would not do a particularly good job and the process may not turn out to be useful. He doesn't see the process as something that should be allowed to turn into micromanagement of District staff. The process should be to talk about policy level issues that deal with the Ord Community.

Director Nishi stated it is the Board's responsibility to listen to everyone even if the opinion they express doesn't agree with the Board's.

President Scholl answered that the Board has always listened to public comment at the Board meetings and has repeatedly encouraged public participation at both monthly Board meetings. He added that staff made a presentation at the May Board meeting as a direct result of public comment from Ord Community residents which shows the Board is listening and responding to their concerns. President Scholl stated that he didn't feel sending out more newsletters would help in spreading information. He believes that a workshop would be more beneficial and stated that he could support sending out letters to see who might be interested in representing their communities.

Agenda Item 10-C (continued):

Director O'Brien suggested sending out information to everyone in the Ord Community inviting them to a meeting/workshop and asking them to provide input on whether the Board should form a committee or appoint people to represent different neighborhoods.

Ms. Pelot stated that it would be more beneficial to have a representative from each neighborhood at the meetings instead of hundreds of public present for Board meetings as an interim until there is representation on the Board.

President Scholl suggested holding several workshops within the Ord Community to allow public feedback and staff presentations on the status of Ord Community projects and infrastructure. Ms. Pelot stated that she believed that it was an interim solution.

Director Brown stated that he agreed with Director Nishi about the Board needing to be available to listen to the Ord Community residents. He agreed with having a committee of Ord Community representatives and holding several workshops.

Vice-President Moore suggested notifying residents through carrier route-sort and seeing how interested they are by the number that turnout for the meetings.

President Scholl asked if there was a consensus to send out a newsletter inviting Ord Community residents to two workshops. Director O'Brien suggested also sending something in the bills so that all Ord ratepayers are included. President Scholl requested staff to send the newsletter and schedule two workshops within the Ord Community.

President Scholl recessed the meeting from 9:02 until 9:07 p.m.

The Board entered into closed session at 9:07 p.m.

5. Closed Session:

- A. Pursuant to Government Code Section 54957.6
Conference with Labor Negotiator
Agency Negotiator: William Avery & Associates
Employee Organizations: Teamsters Local 890 and SEIU Local 817

The Board returned to open session at 10:40 p.m.

6. Possible Action on Closed Session Items:

President Scholl stated that general direction was provided to Ms. Ellen Aldridge, Avery Associates.

8. Staff Reports:

A. Bayer Tank Update:

Mr. Peder Jorgensen and Mr. Mike Wilson, Schaaf & Wheeler Engineering, gave a presentation on the Bayer Tank explaining the design and purpose of the tank. Mr. Jorgensen explained the structural analysis that was performed on the tank and results of that analysis. The results show that there is corrosion and stress that make the tank a seismic risk. Mr. Jorgensen suggested an interim solution of dividing the Central Marina system into two zones, Zone A and Zone B, to match the Ord Community pressure zones. After splitting Central Marina into two zones, five metered interties would connect the Ord Community and Central Marina systems and water use between the two could be monitored. After connecting the systems via the interties, the Bayer Tank could be removed.

Vice-President Moore asked if there was land adjacent to the Bayer Tank that was the same or higher elevation. Mr. Jorgensen stated that the land adjacent to the Bayer Tank drops off at least ten feet and to use that land another tank would have to be constructed using the same structure. Discussion followed.

Vice-President Moore stated that the District was looking at two challenges: 1) The noticeable difference of the water between Fort Ord and Marina and the possibility of customers not liking the taste and/or complaining that their water tastes different on certain days depending on which water they are used to; and, 2) a political problem of maintaining the argument that these are separate systems.

Director Nishi asked how much water could be run through the intertie. Mr. Jorgensen stated that either side has the potential to supply enough water for both systems.

Director O'Brien asked how long after the intertie is in place before the Bayer Tank is taken out of service? Mr. Jorgensen stated that the interim solution is the intertie. President Scholl asked if the intertie is interim then what is the final solution? Mr. Lucca added there is a Marina Water Intertie Study in the FY 2004/2005 Budget that will look at a solution. If the conclusion of the study shows the intertie as the best possible solution then nothing else will be done. If the conclusion shows another tank is the best solution, then two tanks will be built allowing for routine maintenance between the tanks. Discussion followed. Mr. Armstrong stated that the District has begun looking at scoping out the larger study and is not quite ready to bring the

Agenda Item 8-A (continued):

Board a proposed scope of work but that the intertie is an interim solution to the emergency that faces the District at this time.

President Scholl asked if the both the Marina Water Intertie Study and the interim intertie were both going forward and one was clearly favored over the other, could the District end work on one of the projects. Mr. Lucca stated that a scope has not even begun for the Marina Water Intertie Study and it will not be proceeding at the same rate as the interim intertie.

Vice-President Moore asked that the political aspects do not get in the way of providing the best technical solution to this emergency. Mr. Lucca stated that the District has been working with most of the people involved i.e. developers, City of Marina and FORA and all are aware of what is being suggested as an interim solution. He also stated that when information comes in on the Marina Water Intertie Study it will be provided to the Board.

B. Negotiations with CSUMB on Capital Charge Component:

Mr. Armstrong introduced this item and stated that he had not yet received a response from CSUMB. Director Brown stated that CSUMB is dragging their feet and the Board may need to hire special counsel. Director's O'Brien and Nishi agreed with Director Brown. President Scholl asked if a mediator should be hired before special counsel. Vice-President Moore asked where the District was in recategorizing the fees. Mr. Armstrong stated that Bartle Wells was looking into it. Director Nishi asked about sending individual bills for capital component projects i.e. Highway One sewer line repair. Mr. Armstrong suggested that if the Board wanted to discuss strategies, they may want to consider buying time with special counsel and sit down to talk about it. President Scholl agreed with hiring special counsel. Mr. Armstrong stated that Hatch & Parent was available to discuss this item. Director Nishi asked if the District should consider hiring legal counsel that is familiar with litigating against CSUMB. President Scholl stated that the legal counsel Director Nishi was referring to had litigated against San Marcos, not CSUMB. Mr. Armstrong stated that he felt comfortable inviting Mr. Rob Saperstein, Hatch & Parent, to discuss strategies and let the Board decide if they want to continue with Hatch & Parent. Staff was requested to schedule a meeting with Mr. Saperstein.

10. Planning Workshop:

A. Water Usage Study Workshop:

Mr. Youngblood introduced this item and reviewed the spreadsheet showing water usage in Marina and the Ord Community. Mr. Armstrong stated that the data collected provides the District good information regarding water use. Vice-President Moore requested the internal and external square footage of homes be included in the spreadsheet. Discussion followed. Director

Agenda Item 10-A (continued):

Nishi stated that the majority of water is being used on landscaping and the District should consider raising rates or tiers.

9. Information Items:

B. Counsel's Report:

Mr. Lowrey informed the Board that the appellate court decided that water usage rates, connection and capacity fees are not subject to Prop. 218.

11. Correspondence:

No comments.

12. Director's Comments:

Director Nishi inquired on the status of what happened with the hydrant use he spoke of in the May 26th minutes. Mr. Lucca stated that staff investigated and found that the water was being used without a meter and the construction company was fined as a result.

President Scholl complimented everyone on the well run meeting and stated that with everyone working together much was accomplished.

13. Adjournment:

The meeting was adjourned at 11:46 p.m.

APPROVED:

Thomas P. Moore, Vice-President Date

ATTEST:

Michael D. Armstrong, General Manager