

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
December 8, 2004
7:00 p.m.

Minutes

1. Call to Order:

President Scholl called the meeting to order at 7:00 p.m. on December 8, 2004.

Board Members Present:

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

Board Members Absent:

Dan O'Brien

Staff Members Present:

Mike Armstrong, General Manager
Lloyd Lowrey, Legal Counsel
Marc Lucca, District Engineer
Suresh Prasad, ASO Finance and Technology
Connie Chavoya, ASO Administration and Personnel
Paula Carina, Executive Assistant/Board Clerk

Audience:

Bob Schaffer, Marina Community Partners
Howard Gustafson
Doug Yount, City of Marina
Michael Shaw
Dan O'Brien

2. Oral Communications:

Mr. Doug Yount, City of Marina, invited the Board to an open house at 265 Reservation Road for the City of Marina's Strategic Development Center on December 17, 2004. He also requested the Board hold a special meeting on January 5, 2005 to receive the draft Water Supply Assessment and Written Verification of Supply for the University Villages project, with consideration of that document to occur on January 12, 2005.

3. Oath of Office:

Mr. Armstrong administered the Oath of Office to the three newly elected Board members; Mr. Kenneth K. Nishi, Mr. David W. Brown, and Mr. Howard Gustafson.

4. Election of Board President and Vice-President:

President Scholl opened the floor for nominations for Board President. Director Brown nominated Director Moore. No other nominations were forthcoming.

On motion by Director Brown, seconded by Director Scholl; the Board nominate Director Moore for Board President. The motion was passed.

| | | | | | |
|--------------------|---|-----|-----------------|---|-----|
| Director Gustafson | - | Yes | Director Moore | - | Yes |
| Director Brown | - | Yes | Director Scholl | - | Yes |
| Director Nishi | - | Yes | | | |

President Moore nominated Director Brown for Vice-President. No other nominations were forthcoming.

On motion by President Moore, seconded by Director Brown; the Board nominate Director Brown for Vice-President. The motion was passed.

| | | | | | |
|--------------------|---|-----|-----------------|---|-----|
| Director Gustafson | - | Yes | Director Scholl | - | No |
| Director Brown | - | Yes | President Moore | - | Yes |
| Director Nishi | - | No | | | |

5. Action Items:

A. Consider Director Appointments to Standing Committees of the Board and to Outside Agencies for 2005:

President Moore asked his fellow Directors to submit their preferences for committees they would like to serve on to the General Manager and he would address those at the next scheduled Board meeting. Mr. Lowrey stated that Directors could provide information to either Mr. Armstrong or President Moore but there could be no other communication between Directors regarding their committee preferences.

- B. Consider Adoption of Resolution No. 2004-65 to Approve the Koff & Associates Study Recommendations to Revise Job Descriptions and Position Titles; Create Two Proposed O&M Systems Operator Grade III Positions; and, Revise the District Salary Schedules:

Ms. Connie Chavoya, ASO Administration and Personnel, introduced this item and pointed out typos on the transmittal regarding the percentages between steps and ranges. They should be 2.5% between steps and 1.25% between ranges.

On motion by Vice-President Brown, seconded by Director Scholl; the Board approve the Koff & Associates Study recommendations to revise job descriptions and position titles; create two proposed O&M Systems Operator Grade III position; and, revise the District Salary Schedules. The motion was passed.

| | | | | | |
|--------------------|---|-----|-----------------------|-----|-----|
| Director Gustafson | - | Yes | Vice-President Brown- | Yes | |
| Director Scholl | - | Yes | President Moore | - | Yes |
| Director Nishi | - | Yes | | | |

- C. Consider Adoption of Resolution No. 2004-67 to Participate in the Purchase of Basewide Environmental Insurance Coverage for District Properties in the Ord Community and to Amend the FY 2004-2005 Budget:

Mr. Armstrong introduced this item. He explained that there are several questions and concerns over the coverage of the basewide environmental insurance for District properties in the Ord Community. Mr. Armstrong further explained that FORA has recommended an apportionment of \$10 million to be split among FORA, MCWD, TAMC, MST and MPC; at \$2 million each in coverage. Mr. Armstrong stated that District staff has contacted the ACWA JPIA Insurance company as was informed that the District would be covered for munitions and explosives of concern (MEC), but did pollutants. The proposed basewide environmental insurance would cover pollutants.

Mr. Lowrey, Legal Counsel, explained that he had signed a confidentiality agreement with FORA when he picked up an un-redacted copy of the policy and stated that he would like to clarify if he would be allowed to share it with Board members before doing so. At this time, he stated he would not be in a position to advise the Board either way on this document as he has not had proficient time to study it. Mr. Lowrey stated that following a cursory review it is of questionable benefit to the District at this time. Mr. Armstrong stated that he believes the District has time to decide on this issue. He added that FORA has stated that this coverage or similar coverage must be in place before any property can be conveyed from FORA.

Agenda Item 5-C (continued):

Vice-President Brown stated that he heard at the FORA Board meeting there is a \$1 million deductible on this policy. He asked for clarification. Mr. Armstrong answered that the policy would be an umbrella of \$10 million to cover FORA, MCWD, TAMC, MST and MPC at \$2 Million each, with a \$1 million deductible for MEC, and \$500,000 for non-MEC claims. He explained that under this pooled concept there would not be a limit of \$2 million coverage for MCWD, but if there was an explosion on any property, the liability could use up the collective \$10 million with nothing left over for future claims.

Director Nishi asked why other entities, i.e. CSUMB and UCMBEST were not included in this coverage. Mr. Armstrong stated that they, like the US Army are self-insured. Discussion followed. Director Scholl stated that with the limited information available, it would be too difficult to make any kind of decision. Director Gustafson stated that he cannot support this policy if it raises rates for District ratepayers.

Mr. Michael Shaw, Marina Heights Cypress Knolls, stated that they have hired attorneys who specialize in insurance and invited District Counsel to speak with those attorneys.

Mr. Lowrey stated that the one issue that might need clarification is the need to have insurance acceptable to FORA before conveyance of properties.

Mr. Bob Schaffer, Marina Community Partners, stated that developers are paying their share of insurance.

Mr. Dan O'Brien commented that the insurance company offering this coverage is under investigation and voiced his concern over the possibility of high commission fees. He added that there may be unknown chemicals and pollutants that were used on the former base and may be unearthed at any time. Mr. O'Brien stated that he would like to see this item discussed more thoroughly and better understood before any action is taken.

Mr. Shaw commented that there is no commission on this insurance policy.

President Moore stated that he is uncomfortable with approving a policy that cannot be disclosed to the public. He asked legal counsel if the Board could be challenged for approving a policy not available to the public. Mr. Lowrey stated he was not aware of any Brown Act exception and once it is approved it is a public document.

President Moore commented the Board could either do nothing at this time; direct staff to convey a message to FORA staff; or, make a motion containing a message to be sent to FORA.

Agenda Item 5-C (continued):

On motion by Vice-President Brown, seconded by Director Scholl; the Board table this item until the first meeting in January. With a vote of 5-Ayes, 0-Noes, 0-Absent, the motion was passed.

Director Nishi suggested that the Board should start considering insurance requirements on future projects in the Ord Community.

6. Review Draft Board Items:

A. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2004-xx to Direct Staff to Develop and Issue Will-Serve Letters for Future Developments:

Mr. Lucca introduced this item. Director Scholl stated he thought a resolution was passed stating will-serve letter issuance was staff responsibility. He recommended eliminating the number of homes and stick with the allocation under item 1 of the draft will-serve letter, making sure the total includes both potable and non-potable water; and, that this remains a staff function.

Vice-President Brown commented that he disagreed with taking out the number of homes as he felt the number was beneficial. President Moore asked if the number of homes was addressed in the Water Supply Assessment. Mr. Lucca stated that the number, size and types of homes were addressed in the Water Supply Assessment. Director Scholl commented that the number of homes doesn't matter as there are gardens and landscaping that use huge amounts of water. Mr. Lowrey stated that the City allocates potable water and not recycled water.

Director Nishi asked what a will-serve letter represents. Mr. Lucca stated that a will-serve letter is an indication that the District, under certain conditions contained in the letter, will provide sewer and water services to the developer. Director Nishi asked who needs to ask for a will-serve letter. Mr. Lucca stated that all developers, as a step in the plan check review, must request a will-serve letter which the developer uses to secure their funding and puts them on notice of the code requirements. Director Nishi asked if CSUMB has ever received a will-serve letter from the District. Mr. Lucca stated that he is not aware of the District issuing any will-serve letters for CSUMB. Director Nishi asked if CSUMB is building according to District standards. Mr. Lucca stated that CSUMB has turned in plans, paid for plan inspection and is expected to follow District standards.

Director Nishi asked who is keeping track of how much water is used if not all entities are receiving will-serve letters. Mr. Lowrey stated that the District doesn't need will-serve letters to track water use as it is tracked through the system.

Agenda Item 6-A (continued):

President Moore stated that the District could set a policy and require everyone to receive a will-serve letter. Director Nishi asked what happens if they use over their allotment of water and it is not available. Mr. Lowrey stated that according to Government Code the water could not then be provided and everyone must apply for water service, pay fees and must follow the District code and ordinances. Mr. Lowrey added that the County's ordinances require the developer to receive a will-serve letter as a condition of getting approval or there may need to be an environmental review process which would allow the District to be aware of any developments in process.

President Moore inquired on the developer being solely responsible for determining annual wastewater generation estimates. Mr. Lucca stated that this is a requirement of the developer to do the engineering work and that the District does check to make sure the numbers are correct. President Moore asked if the sentence could be modified so that the developers' estimates need to be accepted by the District. Mr. Lucca agreed with the modification. President Moore commented on the phrase "needs to" in the document. Mr. Lowrey stated that he put the words "needs to" in the document as it is not a conditional document but a disclosure document. If the District made this a condition of service document it could lead to legal recourse.

President Moore suggested adding to paragraph 11 that MCWD is the water "and reclaimed water" purveyor. He also suggested adding a paragraph 13 to address current or future water conservation requirements the District may have. Mr. Lucca agreed that it would be advantageous to add a paragraph referring developers to the District Code and conservation requirements. Mr. Lowrey stated that "reclaimed water" should not be added to paragraph 11 and it should be left as water purveyor.

President Moore recessed the meeting from 8:26 until 8:33 p.m.

- B. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2004-xx to Approve a Contract Change Order to the Design/Build Agreement with Kaweah Construction Co. for the Marina Disinfection Replacement Project and to Amend the FY 2004/2005 Budget:

Mr. Lucca introduced this item. Director Scholl commented that he believed the units were sized wrong and asked how that happened. Mr. Lucca stated that the information available at the time the units were sized did not anticipate that the hydrogen sulfide levels would rise as steeply as they have. Director Scholl asked if the unit size increase would increase everything including storage. Mr. Lucca answered that the entire footprint would be increased. President Moore inquired if only the storage capacity should be increased. Mr. Lucca stated that the District should be more conservative and avoid having to shut down a well or send non-chlorinated water into the system by not having the unit capacity to handle high hydrogen sulfide levels.

Agenda Item 6-B (continued):

Director Nishi asked what the specific differences were between the bids from Kaweah and MPE and if the difference was in the size of the generators. Mr. Lucca stated the difference was in the manufacturer of the generators. Director Nishi asked staff to provide numbers on the size and capacity of both the proposed generators from Kaweah and MPE for comparison. Director Scholl asked this item be brought back with the capacity of the MPE filter; what data was used; did it change; or, was it the wrong data, so that the District could learn and not make the same mistake again.

C. Review Draft Board Transmittal to Consider Approving Expenditures for the Month of November 2004:

There were no questions or comments on this item.

D. Review Draft Board Transmittal to Consider Approval of Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2005:

President Moore commented that the City of Marina requested the District hold a special meeting on January 5, 2005 at 7:00 p.m. for the University Villages WSA. All Board members concurred with the special meeting date and time. Director Gustafson stated that he had conflicts with several meeting dates and asked if some of them could be changed. Discussion followed. Director Gustafson stated that he would discuss moving meeting dates regarding his conflict and would report the outcome back to the Board.

E. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Special Board Meeting of November 4, 2004:

There were no questions or comments on this item.

F. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Regular Board Meeting of November 10, 2004:

There were no questions or comments on this item.

7. Discuss Possible Agenda Items of the December 15, 2004 Board Meeting:

Mr. Armstrong stated the December 15, 2004 meeting was originally scheduled to present the University Villages WSA, but that has been moved to the special meeting on January 5, 2005. President Moore concluded that the meeting for December 15, 2005 was not necessary and recommended cancelling the meeting.

8. Director's Comments:

Director Nishi suggested several items he would like to see on the January 12, 2005 agenda: 1) Why the District is continuing to serve two customers on one meter as it violates the ordinance; 2) CSUMB – Report on how the District is handling the projects, a list of the projects, how much money has been spent, when the District stopped collecting fees and the amount owed the District; and, 3) Seaside Sanitation running the Fort Ord flows, how far that has gone, the ramifications on who gets the flows, and how staff is prepared to address who gets the flows; 4) Recognition for Dan O'Brien.

Director Scholl reported on the MRWPCA Board meeting he had recently attended. He stated that there was a policy regarding annexation for which he asked questions prior to and during the meeting regarding buy-in and felt that he hadn't gotten any substantive answers to his questions. Director Scholl stated that the Board might consider holding a workshop and doing a self-assessment report card to see how things might be improved. He also commented that on Saturday, February 26, 2005, the Special District Institute is holding a workshop in Monterey on "How to Hold Efficient Board Meetings" and they are also offering a workshop on the Brown Act and Conflict of Interest Laws and he recommends that fellow Board members as well as staff consider attending.

President Moore stated that he would be providing a report on his attendance at the November 29th JPIA meeting. He also welcomed Directors Nishi and Scholl back to the Board and Director Gustafson as a new member.

9. Adjournment:

The meeting was adjourned at 9:10 p.m.

APPROVED:

Thomas P. Moore, President

Date

ATTEST:

Michael D. Armstrong, General Manager