

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Special Board Meeting
January 5, 2005
7:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 7:00 p.m. on January 5, 2005.

Board Members Present:

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

Board Members Absent:

None.

Staff Members Present:

Mike Armstrong, General Manager
Lloyd Lowrey, Legal Counsel
Marc Lucca, District Engineer
Paula Carina, Executive Assistant/Board Clerk

Audience:

Michael Houlemard, FORA Executive Director
Bob Schaffer, Marina Community Partners
Simon Whitmey, Marina Community Partners
Tony Altfeld, City of Marina
Doug Yount, City of Marina
Michael Shaw, Cypress Knolls
Byron Buck, Byron Buck Associates
Clark Morrison
Tom Gamble

2. Oral Communications:

None.

3. Action Item:

A. Consider Adoption of Resolution No. 2005-01 to Participate in the Purchase of Basewide Environmental Insurance Coverage for District Properties in the Ord Community:

Mr. Armstrong introduced this item and Mr. Michael Houlemard, Fort Ord Reuse Authority (FORA) Executive Director. Mr. Houlemard gave a brief presentation to the Board on the most recent information regarding the purchase of Basewide Environmental Insurance. He went over the liability and policy issues; terms and conditions; three options for obtaining insurance; and, reimbursement for insurance premiums.

Director Nishi inquired if the administration fee is the same for all entities. Mr. Houlemard stated that the fee was the same for all entities and each would pay a proportionate share of the fee. Director Nishi asked what the MCWD share would be if MPC, MST, and TAMC don't participate. Mr. Houlemard stated the District's share would remain at \$2 million and there would be no change in the costs to the District. Director Nishi asked if CSUMB and the Golden Gate University were participating. Mr. Houlemard answered that CSUMB elected not to participate and Golden Gate was talking directly to the insurance providers. Director Nishi voiced his concern over passing this cost to the ratepayers and would like to see the developers pick up this cost. He also stated that he would like to see discussion begin with the FORA Board regarding capital costs in the Ord Community.

Director Gustafson asked how the share of coverage was split among the agencies because some agencies have more land and should have a larger share. Mr. Houlemard stated that certain areas, i.e. the landfill, were not included as they were known conditions and this policy only covers unknown conditions and "munitions and explosives of concern" (MEC). Because of this, even though some agencies have more land, they have less area for which to obtain coverage.

Vice-President Brown inquired on the deductibles. The deductible for MEC is \$1 million and \$500,000 for pollution conditions. Mr. Houlemard stated that the purpose of this insurance was protection in case of a catastrophic event.

Director Scholl stated that this insurance is extremely expensive for the amount of coverage it provides. He asked if a catastrophic event could use the entire \$100 million insurance coverage and leave none remaining for other agencies. Mr. Houlemard stated that if a claim is made it would only use that agency's share and not touch the other agencies coverages. Discussion followed.

Director Brown asked for clarification on the insurance coverage the District currently has with JPIA. Mr. Armstrong stated that the JPIA insurance covers MEC but not pollutants. Mr. Lowrey added that the JPIA insurance is renewed annually and if a claim were made, no one knows how the coverage may change the following year.

Agenda Item 3-A (continued):

Director Gustafson asked how much additional the ratepayers would have to pay for this coverage. Mr. Armstrong stated that the other jurisdictions are going to pass the cost on to the developers but the District has only the ratepayers to absorb this cost.

President Moore asked how many acres are covered under this policy. Mr. Houlemard stated that it was approximately 6000 acres.

Director Nishi asked if the District could have a "Hold Harmless, Indemnify" agreement that other agencies would sign regarding District Easements. Mr. Lowrey stated that the District hasn't practiced that in the past but it could be adopted for future use.

Director Nishi asked what happened in ten years when the policy expires. Mr. Houlemard stated that none of the insurance agencies would insure past ten years and at that time a new policy may need to be purchased.

President Moore commented on the Draft Memorandum of Agreement. He inquired on item 1B which shows both FORA and MCWD as Insured. Mr. Houlemard answered that FORA is requesting to be on all policies. President Moore asked to eliminate FORA as an insured member under Marina Coast Water District's insurance policy. He also voiced his concern over the secrecy of the policy and that no one is allowed to see the entire document without signing a confidentiality agreement. Vice-President Brown agreed with President Moore. He added that he isn't comfortable purchasing insurance to cover only two million dollars after the million dollar deductible is paid and is not inclined to support this item.

Director Scholl asked if all agencies would be pulled into a lawsuit. Mr. Lowrey stated that he believed they would. Director Scholl asked what would happen with the District's current insurance if there was a claim made anywhere on the Ord Community. Mr. Armstrong answered that indications are that JPIA would take a very close look at the District's policy.

On motion by Director Scholl, seconded by Director Gustafson; the Board adopt Resolution No. 2005-01 with modifications to the Memorandum of Agreement with FORA that President Moore had suggested. Director Gustafson inquired on the cost to ratepayers. Mr. Armstrong stated that it was incumbent for the District to find a way not to pass this charge on to the ratepayers of which the cost would be approximately forty-five cents per customer monthly. Director Scholl stated that the resolution does not define where the funds come or how the District finances the payment of this insurance. Vice-President Brown stated that listening to Director Scholl's comments, he may be inclined to change his mind but he is concerned about the issues that were raised. Director Gustafson agreed that after listening to the comments, he is looking at things differently.

Agenda Item 3-A (continued):

Director Nishi stated that if the District is concerned over a lawsuit, maybe they should consider more than the \$2 million policy. President Moore stated that there were several issues he was concerned about. One issue is if this is the right amount of coverage; another issue is the secrecy of the policy; and the third issue is that not one Board member has read the policy. Only legal counsel has read it. President Moore commented on the modifications he previously mentioned and that he had others as well of which he could discuss with staff at a later time. Director Scholl asked if his questions and or modifications would change the coverage or substance of the MOA or if they were more of a clarification matter. President Moore stated that he had concerns over several phrases in the MOA which he would like clarified because he believes that the MOA is going to govern what coverage the District receives if they buy this insurance policy. Mr. Lowrey agreed that the MOA would govern the policy coverage. Mr. Armstrong stated that he had received a copy of President Moore's changes and felt they were more definitional and in need of clearer explanation of the statements. He stated that clarifying and fine tuning the MOA given President Moore's points would not change the substance of it but it could be fine tuned with FORA's compliance. President Moore added that the amount is at question as well. Is \$2 million enough or too much? Mr. Houlemard stated that FORA worked hard trying to sort out how much coverage would be needed for each agency and they gave it their best estimation. The motion was passed.

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

President Moore requested that staff bring a revised MOA for signature.

President Moore recessed the meeting from 8:03 until 8:09 p.m.

4. Review Draft Board Item:

- A. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx to Approve the Draft Water Supply Assessment and Written Verification of Supply for the Proposed University Villages Specific Plan Development and the Marina Community Partners Project:

Mr. Armstrong introduced this item and noted that an amended draft resolution was distributed to replace the one in the packet on pages 13 and 14. He then introduced Mr. Byron Buck, Byron Buck Associates. Mr. Buck gave a brief summary of the latest changes in the WSA for the proposed University Villages development. In conclusion, he stated that there was a shortfall of approximately 86 afy which would allow enough water for the University Villages portion of the development but not enough for the Specific Plan Other Uses and Open Space.

Agenda Item 4-A (continued):

Mr. Armstrong clarified that the previous two WSA's the District provided were not on specific plans with projects imbedded in them, but on projects. The City of Marina asked the District to mirror the WSA document on their EIR which is on the specific plan and Mr. Buck worked with the City and the developer to construct the WSA this way.

Director Scholl asked how it was decided that there is enough water for the Community Partners portion of the project but not for the Specific Plan and not the other way around. Mr. Buck stated that one is nested inside the other and Community Partners is a subset of the Specific Plan. There is enough water for the Community Partners project, but not enough for the larger plan. Director Scholl asked Mr. Lucca if the District has done a pulse check on capacity charges to see if the numbers are consistent with what was determined in the previous survey. Mr. Armstrong answered that at this time there is not enough information to determine if the capacity charges and uses for certain establishments are in line with what numbers the District is using as there are not enough of those to establish a good number. Over time, however, as more businesses move into Marina, there will be more information available and will allow the District to make better comparisons and possibly adjust capacity charges and EDU's.

President Moore inquired about Table 2-1 and how the number of person's per unit was established. Mr. Buck stated that the numbers were provided by the applicant who used public factors as well as the square footage of the residence. President Moore stated he would like the City and the Developer to look at how they will enforce or monitor people per unit so that they don't end up with a larger number of people living in the units and using a lot more water than originally planned. Mr. Buck answered that the average people per unit across all types of dwelling units for the City of Marina is 2.7.

Director Gustafson commented that many of these details will be worked through at a later date and right now the developers just need to get this WSA approved so they can get started with plot maps.

Director Nishi commented that he has concerns over how the developer will ensure the low water savings through water conservation devices i.e. high efficiency washing machines and hot water recirculation devices. If someone's washing machine breaks down, how will they ensure that another high efficiency washer replaces the previous one? Director Nishi also asked why Table 3-2 shows desal and recycled water as available water. Mr. Buck stated the desal plant is offline but until it is decided how it will be used, as is or a redesigned larger facility, it was characterized as it stands; and, recycled water is available by contract although the fact it may not be physically available is not germane. This document shows available water supply that the District could get if they needed to. President Moore suggested adding a footnote to Table 3-2 that explains the rights to additional recycled water.

Agenda Item 4-A (continued):

Vice-President Brown commented on person's per unit in Table 2-1 and how he came up with a weighted average.

Mr. Doug Yount, City of Marina, thanked everyone for the hard work that has gone into this project and stated that they will continue to work with District staff to look into factors and work together.

Mr. Armstrong stated the District was presented with changes this afternoon and will require further dialogue over the next few days. Consequently, the Board may see a WSA that is essentially the same as this one with perhaps a few Table factors changed. President Moore asked if the City would like to hold the WSA until the January 26, 2005 meeting. Mr. Yount stated they would prefer to keep it on the January 12, 2005 meeting agenda to keep with the City's EIR process.

Director Nishi asked if the dialogue pertains to the 86 afy shortage. Mr. Buck stated that it did. Mr. Armstrong clarified that the conclusion about the Marina Community Partners water demands will not change, but the Specific Plan could change. Director Nishi asked if the City of Marina's 1325 afy is potable water. Mr. Armstrong answered that it was potable water allocated by FORA. Director Nishi asked if recycled water was available, could the allocation go above 1325 afy. Mr. Armstrong stated he believed it could. Director Nishi stated the District should be proactive in looking for any type of water it can provide, including reclaimed water, at an affordable rate.

Director Scholl commented that these are all estimates and actual usage may be and usually is higher.

President Moore commented that projects like these almost force the District into becoming a land use jurisdiction to look at water use. He would like to see the City put in writing how they will ensure the water conservation features would continue. President Moore added that down the line, the Board could be asked to enforce FORA allocations and doesn't want to be put in that position.

Director Nishi commented that the project has allocated 109 afy in exterior use and the District should be proactive in pursuing use of recycled water which would free up that much potable water for other uses.

President Moore asked that Mr. Buck add a footnote to Table 2-1 incorporating Vice-President Brown's average of people per unit.

Agenda Item 4-A (continued):

Mr. Michael Shaw, Cypress Knolls, informed the Board that Cypress Knowles will be requesting a Water Supply Assessment in the near future and to take this into consideration when considering the University Villages WSA as well as the fact that some of the developments may take up to twenty years to build by which time the District's Water Augmentation Project should be complete.

Mr. Simon Whitney, Marina Community Partners, added his thanks for all the hard work staff provided working with the City and the developers.

5. Director's Comments:

Director Nishi commented that he would like an item on the next agenda to begin the process of the hold harmless issue. He also voiced his concern that the FORA representative didn't provide feedback on the insurance issue in a timely manner to allow Board input.

President Moore requested a staff report on the hold harmless issue to begin discussion. He also reviewed the draft agenda for the January 12, 2005 meeting and commented that it was a heavy load and asked if any items could be held until the following month. Mr. Armstrong stated that item 6-C could be held but the other items were pressing issues. President Moore suggested everyone reviewing their packets early and forwarding any questions to the General Manager prior to the meeting to help keep things moving in a timely manner. He also commented on his update from the JPIA meeting he attended and the fact that the General Manager is up for a performance review. He will provide the Director's copies of a JPIA performance review format. President Moore inquired on the Special District's Association conference coming up in February and asked if anyone is interested in attending a Saturday class. Mr. Armstrong stated that the information would be redistributed for anyone who had an interest.

6. Adjournment:

The meeting was adjourned at 9:02 p.m.

APPROVED:

Thomas P. Moore, President

Date

ATTEST:

Michael D. Armstrong, General Manager