

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
January 12, 2005
7:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 7:00 p.m. on January 12, 2005.

Board Members Present:

Tom Moore – President
David Brown – Vice-President – arrived at 7:10 p.m.
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
Suresh Prasad, Director of Finance
Connie Chavoya, Management Services Administrator
Paula Carina, Executive Assistant/Clerk of the Board

Audience:

Bob Schaffer, Marina Community Partners
Doug Yount, City of Marina
Michael Shaw, Cypress Knolls
Ian Gillis, East Garrison Partners
Keith McCoy, East Garrison Partners
Ben Smith
LeVonne Stone
Dan O'Brien

2. Oral Communications:

Mr. Ben Smith commented that he was trying to relocate his business to Paul Davis Drive and was at an impasse with the District regarding his plan check submittal and distributed copies of a letter and plans for the Board's review. He requested that someone contact him regarding this issue.

3. Presentations:

- A. Consider Adoption of Resolution No. 2005-02 in Recognition and Appreciation of Robert “Dan” O’Brien’s Services as Director from March – December 2004:

Mr. Mike Armstrong, General Manager, read the narration.

On motion by President Moore, seconded by Director Gustafson; the Board adopt Resolution No. 2005-02 recognizing Mr. Dan O’Brien’s services as Director from March – December 2004. The motion was passed.

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

- B. Consider Adoption of Resolution No. 2005-03 in Recognition and Appreciation of Director Charles H. Scholl’s Services as Board President During 2004:

Mr. Armstrong read the narration.

On motion by President Moore, seconded by Director Gustafson; the Board adopt Resolution No. 2005-03 recognizing Director Scholl’s services as Board President during 2004. The motion was passed.

Director Gustafson	-	Yes	Vice-President Brown-	Absent	
Director Scholl	-	Yes	President Moore	-	Yes
Director Nishi	-	Abstained			

4. Action Items:

- A. Consider Adoption of Resolution No. 2005-04 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 commented that the City of Marina contacted the District earlier in the afternoon requesting a specific action. He then introduced Mr. Doug Yount, City of Marina. Mr. Yount stated the City of Marina respectfully requests to continue this item until January 26, 2005 with a letter to be forthcoming.

On motion by Director Gustafson, seconded by Vice-President Brown; the Board postpone this item until January 26, 2005. With a vote of 5-Ayes, 0-Noes, 0-Absent, the motion was passed.

B. Consider Adoption of Resolution No. 2005-05 to Approve Acquiring a Loan for the Unfunded Liability Payment to the California Public Employees Retirement System (CalPERS):

Director Nishi voiced his concern over locking in for the next ten years with Community Bank and their condition of "The Borrower to maintain its principal banking relationship with CBCC." He also requested to see an option to pay the unfunded liability with 50% from LAIF reserves and 50% funded through a loan. Mr. Prasad commented that the condition with Community Bank is that they want a good working relationship with the District and that all conditions could be negotiated. He also commented that for an interest rate, staff used a ten-year average from the Wall Street Journal Prime instead of a lower variable rate which is currently 5.25%. Mr. Prasad added that an option with 50% from LAIF reserves and 50% funded will be added to the summary for the next meeting on January 26, 2005. Director Nishi also commented that he was concerned over not knowing what additional fees may be incurred with Community Bank as stated in condition 7 of the proposal letter.

Director Scholl asked why Director Nishi wanted to see an option with 50% reserves and 50% loan as opposed to 25% reserves and 75% loan or any other denomination. Director Nishi stated that interest rates are going up and he doesn't want the District to end up paying more toward the end. President Moore asked if staff looked at a 5-year term loan as well as a 10-year term. Mr. Prasad answered that staff would need to go back to all banks with the exception of First National Bank for 5-year proposals. Discussion followed.

On motion by Director Scholl, seconded by Vice-President Brown; the Board move this item to the January 26, 2005 Consent Calendar as presented. President Moore asked if staff could discuss with Community Bank the concerns regarding the conditions as previously discussed as well as a 5-year term for the entire \$1.1 million.

President Moore made a motion to amend the previous motion to include an option for a 5-year term loan for the entire amount. Director Scholl seconded the amendment to the previous motion. Mr. Prasad asked from which banks the Board would like staff to request proposals. Director Scholl stated to include proposals from whichever banks provide them. Ms. LeVonne Stone asked who pays for the loan. Mr. Dan O'Brien commented that there is not a prepayment penalty so the flexibility with a longer term and the ability to prepay could be worthwhile. Mr. Bob Schaffer questioned the wisdom of over-negotiating the loan and the rising interest rates. He stated that the District's integrity and credibility could be compromised by continuing to return to the banks with more requests and not completing the loan within a timely manner, as well as the fact that interest rates could spike and the District would then be stuck with a higher interest rate. The motion to amend the previous motion was passed.

Agenda Item 4-B (continued):

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

The amended original motion was passed.

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

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

President Moore handed out his recommendations for Director appointments to standing committees and outside agencies. His recommendations are as follows:

Joint City – District Committee:	Director Gustafson, Director Scholl Mike Armstrong – Alternate
Executive Committee:	President Moore, Vice-President Brown
Water Conservation Commission:	Director Scholl Director Nishi – Alternate
Community Outreach Committee:	Director Gustafson
MRWPCA Board of Directors:	Director Scholl President Moore – Alternate
MRWPCA Negotiating Team	Director Scholl, President Moore Mike Armstrong – Alternate
FORA Board of Directors:	Vice-President Brown Director Scholl, Mike Armstrong – Alternates
LAFCO:	Vice-President Brown Director Gustafson – Alternate
JPIA Liaison:	President Moore Director Nishi – Alternate
Special District’s Association:	President Moore Director Gustafson – Alternate

Appointing an AdHoc Committee:

MCWD/CWD Liaison	Director Nishi, Director Scholl Director Brown – Alternate
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Agenda Item 4-C (continued):

Director Scholl commented that the Joint City-District Committee usually has the President and Vice-President of the Board as members. President Moore stated that he was trying to spread out the appointments. President Moore offered to take Director Scholl's place on the Joint City-District Committee. Director Scholl agreed and also agreed to be a second alternate on that committee. Director Nishi commented that the MCWD/CWD liaison should be the same as the MRWPCA Negotiating team. He also voiced his concern with Vice-President Brown's appointment to FORA. President Moore stated that he would add himself in place of Director Nishi to the MCWD/CWD AdHoc Committee.

On motion by President Moore, seconded by Director Scholl, the Board approve the appointments as follows:

Joint City – District Committee:	Director Gustafson, President Moore Director Scholl, Mike Armstrong – Alternate
Executive Committee:	President Moore, Vice-President Brown
Water Conservation Commission:	Director Scholl Director Nishi – Alternate
Community Outreach Committee:	Director Gustafson
MRWPCA Board of Directors:	Director Scholl President Moore – Alternate
MRWPCA Negotiating Team	Director Scholl, President Moore Mike Armstrong – Alternate
FORA Board of Directors:	Vice-President Brown Director Scholl, Mike Armstrong – Alternates
LAFCO:	Vice-President Brown Director Gustafson – Alternate
JPIA Liaison:	President Moore Director Nishi – Alternate
Special District's Association:	President Moore Director Gustafson – Alternate
Appointing an AdHoc Committee:	
MCWD/CWD Liaison	President Moore, Director Scholl Director Brown – Alternate

Agenda Item 4-C (continued):

Ms. LeVonne Stone, President Fort Ord Environmental Justice Network, inquired on LAFCO representation. President Moore explained that the LAFCO liaison is not a member of LAFCO but someone who is keeping track of what is happening in LAFCO. Ms. Stone asked what was happening with the annexation process. President Moore answered that it was not under the District's control but that LAFCO was handling the service reviews. Vice-President Brown commented that Director Nishi wasn't assigned to any Committee's. Director Nishi stated that he had concern with a Director writing articles for Community Outreach. Director Scholl commented that the Director didn't have to personally write anything only that they would be in charge of Community Outreach and could ask someone else to write something.

The motion was passed.

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

Director Scholl commented that the FORA/CSUMB negotiating committee member was originally the FORA representative and that he became the committee member as alternate to FORA. Mr. Armstrong stated that the FORA/CSUMB negotiating committee member was appointed by the Board for this special committee and Director Scholl should remain as such until the Board feels otherwise as it is not a liaison or adhoc committee.

5. Consent Calendar:

Director Gustafson requested to pull items E) Consider Approval of the Draft Minutes of the Special Board Meeting of November 4, 2004; and, F) Consider Approval of the Draft Minutes of the Regular Board Meeting of November 10, 2004 from the consent calendar so that he could abstain from voting.

On motion by Vice-President Brown, seconded by Director Scholl; the Board approve the consent calendar consisting of items A) Consider Adoption of Resolution No. 2005-06 to Direct Staff to Develop and Issue Will-Serve Letters for Future Developments; B) Consider Approval of Correspondence to Plan Design Consultants Regarding the Money Purchase Plan; C) Consider Approving Expenditures for the Month of November 2004; and, D) Consider Approval of Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2005. The motion was passed.

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

President Moore asked if anyone would like to make a motion to include both items E) Consider Approval of the Draft Minutes of the Special Board Meeting of November 4, 2004; and, F) Consider Approval of the Draft Minutes of the Regular Board Meeting of November 10, 2004.

On motion by Director Scholl, seconded by Vice-President Brown; the Board approve the draft minutes of the special Board meeting of November 4, 2004 and the draft minutes of the regular Board meeting of November 10, 2004. The motion was passed.

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

President Moore recessed the meeting from 7:54 until 8:02 p.m.

6. Review Draft Board Items:

A. Review Draft Board Transmittal to Consider Future Sewage Flows from the Southwest Sector of the Ord Community and Determine Board and Staff Involvement in Discussions with the Seaside County Sanitation District:

Mr. Lucca, District Engineer, stated he was available to answer any questions. President Moore suggested staff continue discussions on a staff-to-staff level without committing the District or giving away any rights to sewage flow. Director Nishi disagreed that staff should hold discussions without a policy signed by the District, Del Rey Oaks and Seaside stating that the flows belong to the District. President Moore asked if staff was going to be bringing an agreement between the entities before the Board. Mr. Armstrong answered staff was planning on bringing a draft agreement before the Board. Mr. Lucca stated that agreement will probably be between the MCWD and Seaside County Sanitation District regarding sewage flows. President Moore asked if the District will have an agreement with Del Rey Oaks when they begin their development regarding sewage flows and language stating the flows belong to the District. Mr. Armstrong answered there will be an agreement with Del Rey Oaks regarding sewage flows. He also suggested pulling this item from the next agenda as discussion was held and staff was given Board direction.

B. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx Granting a Request for Variance of District Code: Chapter 3.04.060 Resale of Water:

Mr. Lucca introduced this item. Director Nishi asked why it was a hardship. Director Scholl stated that it would cost \$100,000 to fix the problem. President Moore asked if there was a way to add an agreement to this variance for the creation of a Special Assessment District (SAD). Mr. Lowrey, Legal Counsel, stated the way to do that is to put a time limit on the variance.

Agenda Item 6-B (continued):

President Moore asked staff to bring this item back with a time limit written into the variance. Director Nishi stated he still did not believe it was a hardship on the customer. Mr. Lowrey commented that the purpose for a SAD is to have the Lake Court property owners fund whatever engineering solution the District recommends. This item is to be placed on the consent calendar for the January 26, 2005 meeting.

C. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx to Approve a Memorandum of Understanding with the County of Monterey to Exchange Four District East Garrison Parcels for a New Tank Site at the County Youth Camp:

Mr. Lucca introduced this item. He explained the need to find a site to build a new tank as well as being able to provide water for the East Garrison area, Marina Airport, UC MBEST, as well as additional storage for the B zone. Mr. Lucca stated the area at the County Youth (Travel)Camp would be a viable site for a new tank. He explained the proposed exchange with the County for the District's four small East Garrison parcels and their Youth Camp site. President Moore asked if there were appraisals on the four parcels. Mr. Lucca answered there were no appraisals done. Mr. Lucca commented that the County was reviewing the MOU but was not anticipating any problems with the language.

Mr. Ian Gillis, East Garrison Partners, commented that this draft agreement was a culmination of the request several months ago to postpone transfer of the four parcels until an exchange could be worked to everyone's advantage. He added that an appraisal on the parcels could be problematical at this time as the East Garrison Partners has been having a difficult time getting that kind of information on property in the former Fort Ord. President Moore asked what was planned for the four parcels. Mr. Gillis stated that two would be in housing areas and two would be open spaces. This item is to be placed on the consent calendar for the January 26, 2005 meeting.

D. Review Draft Board Transmittal to Review Draft Budget Schedule for FY 2005-2006 and Provide Direction to Staff to Develop the Draft Budget for FY 2005-2006:

Mr. Prasad introduced this item. Director Scholl commented that last year Director Nishi had requested to see the draft budget and schedule before it is shared with the Water/Wastewater Oversight Committee (WWOC). Mr. Armstrong reminded the Board that the FORA Facilities Agreement requires the District to develop a budget with the WWOC. Director Scholl stated that there was a Board meeting on February 9, 2005 as well as a WWOC meeting and asked if it would be possible to get a copy of the budget that is going to be shared with the WWOC in the Board packet that is distributed on February 4, 2005. Mr. Armstrong answered that he did not see a problem with that. Director Scholl asked if that met with Director Nishi's request from last year's process. Director Nishi answered the sooner the information was received the better.

Agenda Item 6-D (continued):

Mr. Armstrong commented that the information provided on February 9, 2005 will be staff's first effort at the FY 2005-2006 draft budget and staff will update the Board on what occurred at the WWOC earlier that day.

Ms. Stone questioned the rates and fees on the Ord Community Water & Wastewater System Rates, Fees and Charges spreadsheet. She questioned who pays for the capital improvement projects. President Moore answered that developer's pay for some and the ratebase pays for the rest along with grant money. Ms. Stone asked if residents of Preston Park would be getting a reprieve on rates. President Moore stated that the District is working with FORA to determine if there is a way to change how they charge for capital projects on the Ord Community. Mr. Armstrong stated that the District is going before the Administrative Committee on January 26, 2005 regarding this issue. This item is to be placed on the consent calendar for the January 26, 2005 meeting.

E. Review Draft Board Transmittal to Consider Approving Expenditures for the Month of December 2004:

Director Nishi questioned several checks and commented that invoices needed to be paid within 30 days. Mr. Prasad provided information on several invoices. President Moore encouraged Board members to question staff offline regarding questions on any expenditure. This item is to be placed on the consent calendar for the January 26, 2005 meeting.

F. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Regular Board Meeting of November 23, 2004:

There were no questions or comments on this item. This item is to be placed on the consent calendar for the January 26, 2005 meeting.

G. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Regular Board Meeting of December 8, 2004:

There were no questions or comments on this item. This item is to be placed on the consent calendar for the January 26, 2005 meeting.

7. Staff Reports:

A. CSUMB Projects and Status of Negotiations re Capital Component Charges:

Mr. Lucca introduced this item.

Agenda Item 7-A (continued):

Director Nishi questioned if the North Campus project is bigger than the North Quad housing. Mr. Lucca answered that it was. Director Nishi clarified that CSUMB stopped making payments on the capital component charge on July 1, 2002 and signed an agreement on December 26, 2002. President Moore questioned the meter charges in the graph. Mr. Lucca stated the amount includes the purchase, installation, calibration and meter box set-up.

B. Residential Communities Initiative and the In-Tract Policy:

Mr. Armstrong introduced this item. President Moore asked how severe the problem with the infrastructure could be. Mr. Armstrong stated that a condition assessment was just completed and staff was meeting with Clark Pinnacle to review the assessment. President Moore asked for a cost estimate and maps showing infrastructure to be provided for reference. Director Nishi commented that there should be a "Hold Harmless, Indemnify" letter if they aren't going to comply with District standards and regulations. President Moore stated that the Board requested a hold harmless report to be brought to a future meeting for discussion. Mr. Armstrong answered that staff is working on it with legal counsel.

8. Discuss Possible Agenda Items of the January 26, 2005 Planning Workshop:

Mr. Armstrong stated that a Water Conservation Workshop is being planned for the planning workshop on January 26, 2005.

The Board entered into closed session at 8:55 p.m.

9. Closed Session:

- A. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator
Property: 4th Avenue and 8th Street, former Fort Ord
Negotiating Parties: City of Marina, CSUMB
Negotiating Parties: General Manager, Michael Armstrong
Under Negotiation: All Terms and Conditions

- B. Pursuant to Government Code Section 54956.9
Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation Pursuant to Subdivision (c) of Section 54956.9
1-case

The Board returned to open session at 10:17 p.m.

10. Possible Action on Closed Session Items:

President Moore stated that direction was provided to staff with no action taken.

A motion was made to adjourn the meeting following closed session.

11. Director's Comments:

No comments as time constraints didn't allow any.

12. Adjournment:

The meeting was adjourned at 10:17 p.m.

APPROVED:

Thomas P. Moore, President

Date

ATTEST:

Michael D. Armstrong, General Manager