

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
January 26, 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 7:01 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
Richard Youngblood, Conservation Coordinator
Paul Lord, Water Conservation Specialist
Paula Riso, Executive Assistant/Clerk of the Board

Audience:

Bob Schaffer, Marina Community Partners
Doug Yount, City of Marina
Michael Shaw, Cypress Knolls
Dan O'Brien
Simon Whitmey, Marina Community Partners
Byron Buck, Byron Buck Associates
Pete Koehn
Dewey Baird
Clark Morrison

2. Oral Communications:

None.

3. Presentations:

- A. Consider Adoption of Resolution No. 2005-07 in Recognition of Pete Koehn, Plan Check Engineer, as Employee of the Quarter for January – March 2005:

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

President Moore made a motion to adopt Resolution No. 2005-07 recognizing Pete Koehn as employee of the quarter for January – March 2005 and awarding him \$100 and four hours off with pay. Director Gustafson seconded the motion. The motion passed.

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

- B. Consider Adoption of Resolution No. 2005-08 in Recognition of Michael D. Armstrong, General Manager, and Awarding a Plaque and Gift Certificate for 5 Years of Service to MCWD:

President Moore read the narration.

President Moore made a motion to adopt Resolution No. 2005-08 recognizing Michael Armstrong for 5 years of service to MCWD. Vice President Brown seconded the motion. The motion passed.

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

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 introduced this item and Mr. Byron Buck, Byron Buck Associates. Mr. Buck briefed the Board on the changes to the draft Water Supply Assessment.

Agenda Item 4-A (continued):

Director Scholl asked if the anticipated water augmentation were to be allowed, would there be ample water for this project. Mr. Buck answered that under Code SB610 the Board could conclude that there would be enough water within the planning horizon. Director Nishi asked if it was the District's responsibility to track the projects' water allocation. Mr. Buck stated that it was in the District's best interest to track the numbers to keep within the bounds of FORA's water allocation and not violate any District contracts.

President Moore made a motion to approve the revised resolution that was distributed earlier in the evening. Vice President Brown seconded the motion. Director Gustafson commented that there is 1,325 afy allocated to the City of Marina. With the possibility of augmented water and given the proposed usage of Marina Heights, University Villages and Cypress Knolls, there should be enough water for all projects and it is in the City's best interest that all projects are completed. Director Gustafson suggested the District work with the developers to fix and maintain the Desalination Plant.

President Moore commented that the proposed action of passing the resolution does not preclude any of the options suggested by Director Gustafson. He added that the one issue he disagrees on is that although the City of Marina allocated 292 afy to Marina Heights, the MCWD Board's position is that Marina Heights will consume 349.5 afy. President Moore added that if Marina Heights demonstrates they are using less water, the MCWD is amenable to revising the demand factors used and free up some allocation for other developments.

Vice President Brown commented that when the District considered Mr. Buck's analysis on the Marina Heights project, 349.5 afy was the proposed usage that the demand factors and analysis concluded. Regardless of what the City Council allocated, the numbers used by Mr. Buck and the District are what should be used in this WSA. President Moore pointed out the WSA has language that states if the City of Marina can develop an "enforceable mechanism" to ensure Marina Heights does not go over the 292 afy approved by the City Council, the MCWD Board may consider the 57 afy difference for other development projects.

Director Scholl commented that instead of looking into the future at presumed water usage, the Board should look at current usage numbers as used in Marina Heights. He added that the 2,400 afy proposed in the Water Augmentation project should be included in the supply. Director Scholl added that it is not the role of the District Board to figure out how to provide water for projects as it is not a planning division for the City of Marina, but to focus on responsibilities and duties to manage the water supply for the City of Marina.

Agenda Item 4-A (continued):

Director Gustafson stated he thought it was the District's job is to supply and/or find the water when the City plans the development.

President Moore disagreed with adding the Water Augmentation Project's 2,400 afy as there is too much uncertainty with the project at this time to ensure there would be water available for all the proposed developments. He added that the allocation process is out of the District's control as FORA is the one to decide which entities will get the additional water. Mr. Armstrong clarified that the 2,400 afy has not yet been allocated by FORA. Director Scholl asked to withdraw his comments on adding the future augmentation supply as it has yet to be decided on how the allocation will be split.

President Moore asked what if there was an MOA between the City of Marina and the District ensuring that Marina Heights would comply with the 292 afy? Director Scholl asked Mr. Lloyd Lowrey, Legal Counsel, if it could be changed at a later date.

Mr. Lowrey answered that there is not a contract that cannot be broken and that what the District is looking for is reasonable assurance that water is available. Then the Board can come to a reasoned decision based on the evidence presented that the water supplies are going to be available and with each decision the Board makes it sets precedents that will inform decisions from that point forward. President Moore pointed out the results of this WSA go to the City of Marina as part of their CEQA process and it is up to the City to determine what to do with the information.

Mr. Lowrey explained that the City has the ability to make its own determination on the WSA but with respect to the verification the District has the final word.

Mr. Doug Yount, City of Marina, handed out a revised letter from the City of Marina. He stressed the primary objective was to move this project forward and adopt the WSA to be utilized in the environmental process. Mr. Yount added that although some changes to the WSA were positive, they were not responsive to the primary issues that are raised in the letter. He listed the primary issues as: 1) the projection of available water supply – not being projected over twenty years; 2) MCWD doesn't fully recognize the authority of the City of Marina to limit water to Marina Heights to 292 afy; and, 3) demand factor calculations are overstated – possible double counting. Mr. Yount concluded with the recommendation to please move forward with the adoption of the WSA and thanked everyone for their time and efforts.

President Moore asked if it was clear that the MCWD Board would need to be satisfied with the enforceability of restrictions. Mr. Yount answered what the Board is looking for is clear and he hoped that the same logic could be used in future WSA's with the Board agreeing to use the numbers the City Council allocates to the projects.

Agenda Item 4-A (continued):

Director Scholl asked when the WSA goes to City Council could the Council change the numbers to what they think is appropriate? Mr. Yount answered yes.

Mr. Michael Shaw, Cypress Knolls, commented that the water augmentation project was very important and that there needs to be reasonable assurance, not a guarantee, of available water. He added that according to SB 221 and SB 610, the WSA must determine, based on the entire record, whether the water supply projected in the WSA would be sufficient to satisfy the demands of a specific plan in addition to existing and planned future uses. Mr. Shaw asked the Board to follow the requirements of Water Code SB 221 and SB 610 to acknowledge future uses such as Cypress Knolls.

Mr. Dan O'Brien, resident of the City of Marina, commented that SB 610 is supposed to take the guesswork out of the water supply by stating how much water is available for agencies that are reliant upon groundwater. This District uses wells to provide water and of the three wells that provide water for the Ord Community, one is showing traces of TCE and saltwater intrusion. He added that as the projects are completed and the water demand increases, the viability of the wells is in question which is the reason for the augmentation project. Mr. O'Brien stated that to fix the problem would require capital the District doesn't have right now.

Mr. Rob Wellington, City of Marina Legal Counsel, added his appreciation of the hard work and dedication of all involved. He commented that the allocation of 292 afy the City Council gave to Marina Heights was not given lightly and the City will keep close tabs on usage. Mr. Wellington added that City Council would like to work with the District to come up with a mechanism to track allocation.

Director Nishi stated the District is not a land use jurisdiction and is only to provide water. He added the District needs to stay ahead of the curve. Director Nishi commented it is not the District's responsibility to track meters and usage.

Mr. Lowrey stated that under the California Law, Health and Safety Code, water cannot be provided to new customers if it is going to render the District incapable of providing the amount required for health and safety to existing customers.

Director Gustafson stated that he would like to see the WSA adopted and the District work with the City to come up with enforceable restrictions.

President Moore encouraged approval of the WSA and working with the City to develop ironclad enforcement mechanisms.

Agenda Item 4-A (continued):

President Moore called the question. The motion passed.

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

President Moore recessed the meeting from 8:10 until 8:20 p.m.

- 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):

Mr. Suresh Prasad, Director of Finance, introduced this item.

Director Scholl made a motion to adopt Resolution No. 2005-05 approving Option C (Community Bank 10-year fixed loan). Vice President Brown seconded the motion. Director Scholl commented the District should save the reserves and take the lowest rate for a ten-year loan. Vice President Brown agreed with Director Scholl. Director Nishi questioned the interest rate on Option H. Mr. Prasad stated the interest rate is a ten year average of the Wall Street Journal prime rate. President Moore pointed out that Option D has the lowest amortized cost and although there is a larger annual payment, it is only for five years. Mr. Prasad commented that the Ord Budget does not have the operating reserve to cover the increased cost of a five year loan. The motion was passed.

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

5. Consent Calendar:

Director Nishi requested to pull item A (Consider Adoption of Resolution No. 2005-09 Granting a Request for Variance of District Code: Chapter 3.04.060 Resale of Water) from the consent calendar. Mr. Marc Lucca, District Engineer, requested to pull item B (Consider Adoption of Resolution No. 2005-10 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) from the consent calendar.

Agenda Item 5 (continued):

Ms. Riso pointed out several minor changes made to items E and F. Director Scholl made a motion to approve the consent calendar consisting of items: C) Review Draft Budget Schedule for FY 2005-2006 and Provide Direction to Staff to Develop the Draft Budget for FY 2005-2006; D) Consider Approving Expenditures for the Month of December 2004; E) Consider Approval of the Draft Minutes of the Regular Board Meeting of November 23, 2004; and, F) Consider Approval of the Draft Minutes of the Regular Board Meeting of December 8, 2004, with the revisions to items E and F. Vice President Brown seconded the motion. The motion passed.

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

A. Consider Adoption of Resolution No. 2005-09 Granting a Request for Variance of District Code: Chapter 3.04.060 Resale of Water:

Director Nishi stated the customers provided no proof of hardship. He felt the cost estimate of \$100,000 was excessive. Director Gustafson asked for clarification. President Moore stated the District was interested in getting the entire matter rectified. Director Nishi stated another concern was that the customer was violating the District Ordinance. President Moore asked what the ramifications would be if the Board did not pass the variance. Mr. Lowrey answered that since there is a technical violation the District could disconnect the pass-through from the City Corporation yard to Ms. Walsh and she would be responsible to fix the problem. The reason for the variance is to allow Ms. Walsh time to coordinate with neighbors to form an assessment district to replace the water lines. Director Nishi stated the District has allowed this to occur thus allowing the violation. Mr. Lowrey explained that a variance request was for things that are out of the ordinary and the Board must decide if they want to grant the variance or have the customer comply with District rules.

Director Scholl made a motion to adopt Resolution No. 2005-09 granting a variance of District Code: Chapter 3.04.060 Resale of Water. Vice President Brown seconded the motion. The motion passed.

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

- B. Consider Adoption of Resolution No. 2005-10 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 reported that County Counsel reviewed the document and wanted to insert additional comments. Mr. Lucca requested to have this item pulled until the additional comments are received and reviewed following which it will return to the Board for consideration.

6. Informational Items:

A. General Manager's Report:

Mr. Armstrong commented on the recent discussions among a group of City Managers, heads of agencies and others, regarding urban water supplies. He explained that information from this group is being shared with local mayors and two supervisors, Lou Calcagno and Dave Potter. Mr. Armstrong does not want the Board to think that there is a group of managers that are providing information to mayors and supervisors about potential regional water collaboration and projects without involving agency boards. Mr. Armstrong stated that in the near future, Board members will be invited to participate in the discussions.

Director Gustafson commented that he heard the Californian American Water Company is trying to negotiate the (National Refractories) site from Pajaro/Sunny Mesa and they are considering using the Railroad right-of-way to run the lines through Marina.

B. Counsel's Report:

None.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Scholl noted the WWC met on January 20th and there would be more discussion during the Planning Workshop later this evening.

2. Joint City-District Committee:

No comments.

3. MRWPCA Board Member:

No comments.

4. LAFCO Liaison:

No comments.

5. JPIA Liaison:

No comments.

6. Special Districts Association (SDA) Liaison:

President Moore commented that he and Mr. Armstrong attended the SDA meeting in January and President Moore was elected treasurer for 2005. He added the LAFCO municipal service review for the Marina-Ord area was on track. President Moore stated concerns were raised over growth and the future expiration of the current agreement with the State Government that limits how much the State can take from Special District's reserves.

President Moore stated that it is time for re-election of the Special District's voting seat and alternate on LAFCO. Ms. Anne McGowan and Ms. Peggy Shirrel are both running for the voting seat.

7. FORA:

Vice-President Brown commented that he was unable to attend the January 21, 2005 FORA Board meeting but Mr. Armstrong attended as the District alternate.

8. Executive Committee:

No comments.

9. Community Outreach:

Director Gustafson commented that he is looking into having Mr. Sid Williams write something up.

D. Director's Comments:

Director Nishi commented that he thought the Board was going to receive comparisons on filters and numbers between Kaweah and MPE for the disinfection project and wanted to know the status of the project. He also voiced his concern over the water level in the Bayer tank being above the recommended level. Director Nishi commented that the desal plant is off-line and the District is still making payments on the loan. He requested to get the plant operational as soon as possible. Director Nishi commented on the issue with RCI and the Army and that is why he

Agenda Item 6-D (continued):

wanted to see the FORA Budget the same time the WWOC sees it. He commented that if the District continues to allow them to do what they want, it is poor policy on leveraging issues so the ratepayers don't end up paying. Director Nishi also commented on the discussions regarding Armstrong Ranch. He stated that the MCWRA wants three to six acres to build a reservoir and the District should use that as leverage to tap into the MRWPCA's recycled water depot.

Director Gustafson suggested working with the developers and having them pay to fix and maintain the desal plant allowing additional water to be available for future development.

Director Scholl commented on the Special District Institute conference being held in Monterey with special workshops on board meeting management and the Brown Act. He stated that he plans to attend. President Moore commented that he plans on attending as well.

President Moore complimented the Board on handling the WSA in a professional manner. He commented that Director Gustafson had conflicts on several meeting dates. Director Gustafson said he would miss the February 23, 2005 Board meeting due to a conflict and was working on conflicts with two other dates.

7. Planning Workshop:

A. Water Conservation Workshop:

Mr. Youngblood introduced Mr. Dewey Baird and Mr. Paul Lord. Mr. Armstrong introduced Mr. Dan O'Brien who recently submitted his application to be appointed to the WCC.

Mr. Youngblood gave a brief summary of the water conservation program. Director Scholl inquired on ultra low flow toilet potential water savings. President Moore inquired on leak detection and water loss. Director Nishi complimented the WCC Chair and Mr. Youngblood on a job well done. Director Gustafson also complimented the WCC on a job well done.

Director Scholl suggested focusing on new development as a priority in water conservation. Director Scholl inquired on hot water recirculating systems. Discussion followed.

President Moore agreed that focus should be on new development and suggested rearranging priorities with more focus on landscaping. Director Scholl suggested holding off on the demonstration garden and Director Nishi agreed.

The Board entered into closed session at 9:45 p.m.

9. Closed Session:

- A. 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 9:50 p.m.

10. Possible Action on Closed Session Items:

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

12. Adjournment:

The meeting was adjourned at 9:51 p.m.

APPROVED:

Thomas P. Moore, President

Date

ATTEST:

Michael D. Armstrong, General Manager