

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
February 23, 2005  
7:00 p.m.

**Minutes**

1. Call to Order:

Vice President Brown called the meeting to order at 7:00 p.m. on February 23, 2005.

Board Members Present:

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

Board Members Absent:

Howard Gustafson

Staff Members Present:

Mike Armstrong, General Manager  
Lloyd Lowrey, Legal Counsel  
Marc Lucca, District Engineer  
Suresh Prasad, Director of Finance  
Richard Youngblood, Conservation Coordinator  
Paula Riso, Executive Assistant/Clerk of the Board

Audience:

Bob Schaffer, Marina Community Partners

2. Oral Communications:

Mr. Suresh Prasad, Director of Finance, informed the Board that the District's request to extend the loan draw period with City National Bank was accepted and paperwork is now proceeding. Mr. Lloyd Lowrey, Legal Counsel, requested to have an urgency item that arose since the agenda was posted added to the agenda regarding a court decision on CEQA, and a letter be sent to the court requesting the decision to be published.

Vice President Brown made a motion to add to the agenda, sending a letter requesting the court decision on CEQA be published. Director Scholl seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Absent, the motion was passed.

3. Consent Calendar:

Director Nishi requested to pull items D, F, and G from the consent calendar. President Moore requested to pull item I from the consent calendar.

Director Scholl made a motion to approve the consent calendar consisting of items A) Consider Adoption of Resolution No. 2005-12 to Authorize the Design Phase for the Ord Community Reservoirs D and E Replacement Project; B) Consider Adoption of Resolution No. 2005-13 to Authorize the Design Phase of the Ord Community WWTP Flume Project; C) Consider Adoption of Resolution No. 2005-14 to Authorize Construction of the Crescent Avenue Sewer and Water Pipelines Extension Project; E) Consider Approval of the Draft March 2005 Newsletter; H) Consider Expenditures for the Month of January 2005; and, J) Consider Approval of the Draft Minutes of the Regular Board Meeting of January 12, 2005. Vice President Brown seconded the motion. The motion passed.

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

D. Consider Appointment of Dan O'Brien to Fill the Marina Position on the Water Conservation Commission:

Director Nishi stated that the format was to review items at the first meeting of the month and take action at the second meeting. He asked why this item was on this agenda for action on the consent calendar when the Board hasn't reviewed it. President Moore stated that it was on the consent calendar as there are four vacancies on the Commission and one applicant that the Board is familiar with and he thought this was a non-controversial item. President Moore added that there was discussion at a previous meeting regarding this applicant. Director Nishi questioned if it was okay to bring items to the board for approval without first reviewing them. Director Scholl commented that all items don't necessarily have to go to both meetings and anyone can pull items from the consent calendar if they want to vote no or question the item.

Vice President Brown made a motion to approve the appointment of Dan O'Brien to fill the Marina position on the Water Conservation Commission. Director Scholl seconded the motion. Director Nishi asked what the term of appointment was for Mr. O'Brien. Director Scholl stated that terms of appointment are on the agenda for the next WCC meeting. Mr. Armstrong stated the appointments are two year terms. Director Nishi commented that the term needs to be stated and that the Board needs to follow the rules. The motion passed.

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

Agenda Item 3-D (continued):

Director Scholl commented that the District has had a hard time getting public members to fill the vacancies on the WCC and Mr. O'Brien has served on the District Board as a conscientious dedicated individual. He added that he believed it is an insult as well as disrespectful and unacceptable that a Director would vote against Mr. O'Brien being appointed to the Commission. Vice President Brown agreed with Director Scholl. Director Nishi asked what the District has done to find public members to fill the vacancies on the WCC and would like a report on it at the next meeting. Director Scholl stated that the WCC has been recruiting members and have several prospects on the horizon.

F. Receive Draft Budget for FY 2005-2006 and Review Approved Schedule:

Director Nishi inquired on the sequence between the first and second readings. He asked if the schedule allowed for any Budget changes to be made by the District and still allow FORA time between the readings. President Moore asked Legal Counsel what happens when there are changes between the first and second readings. Mr. Lowrey replied that if the changes are non-substantive, they can be made and the process will continue; but, if the changes are substantive, the process must begin again with a first reading. Mr. Armstrong added that FORA is looking at changing its process of adopting the MCWD budgets and rates and their schedule may change. President Moore asked Director Nishi what additional information he needed that might cause him to suggest changes to the budget. Director Nishi answered that there are a lot of issues; i.e. the RCI project. He added he would have liked to get the Bartle Wells report at an earlier date to allow input from other developers. Mr. Armstrong stated that the Board received the budget several times for review and will review it in greater detail at the Budget Workshop on March 2, 2005.

Director Scholl made a motion to receive the draft Budget for FY 2005-2006 and approve the schedule. Vice President Brown seconded the motion. With a vote of 3-Ayes, 1-No, 1-Absent, the motion passed.

G. Receive the Quarterly Financial Statements for October 1, 2004 – December 31, 2004:

Director Nishi commented that he pulled this item so he could vote against it.

Vice President Brown made a motion to accept the Quarterly Financial Statements for October 1, 2004 – December 31, 2004. Director Scholl seconded the motion. The motion passed. With a vote of 3-Ayes, 1-No, 1-Absent, the motion passed.

I. Consider Approval of the Draft Minutes of the Special Board Meeting of January 5, 2005:

President Moore suggested correcting the minutes to show “Golden Gate” not “Golden State” University. Also on page 4 of the minutes, first paragraph, third sentence to read, “...not one Board member has read the policy. Only legal counsel has read it.”

President Moore made a motion to approve the draft minutes of the special Board meeting of January 5, 2005 as corrected. Vice President Brown seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Absent, the motion was passed.

4. Informational Items:

A. General Manager’s Report:

Mr. Armstrong reminded the Board of the Budget Workshop on March 2, 2005. He commented that several Board and staff members will be attending the Special Districts Institute workshops on Saturday, February 26, 2005. Mr. Armstrong informed the Board that the FORA Board is holding a retreat on March 18, 2005 and water will be a main focus. He added that he is working with Mr. Michael Houlemard in preparing briefing material for the FORA Board to explain where the District is in regards to current supply, where the District is going with future augmentation supply and how FORA and MCWD are participating in the regional scene. Mr. Armstrong stated he is also working with AMBAG on a water forum set for March 19, 2005. Mr. Armstrong stated if any Director is interested in a tour of the District facilities to let him know so a tour can be arranged.

B. Counsel’s Report:

None.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

No comments.

2. Joint City-District Committee:

No comments.

3. MRWPCA Board Member:

Director Scholl commented on the Phase I Salt Reduction Program. He also stated that Mr. Keith Isreal gave a presentation on their Recycled Water project and tour. Director Scholl added that he has been aggressively trying to get representation for MCWD on the major MRWPCA committees. President Moore commented that he had heard that Mr. Lou Calcagno suggested that either the MRWPCA or MCWRA would be a good agency to run a regional desalination plant. Mr. Armstrong stated that Mr. Calcagno commented on the structure of MRWPCA JPA, not the entity itself.

4. LAFCO Liaison:

No comments.

5. JPIA Liaison:

No comments.

6. Special Districts Association (SDA) Liaison:

No comments.

7. FORA:

Vice-President Brown commented that he was unable to attend the February 18, 2005 FORA Board meeting but Mr. Armstrong attended as the District alternate. Mr. Armstrong stated the main topic was the Highway 1 corridor sign issue. He added there was a presentation by Mr. Peter Smith, President of CSUMB, on the new staff/faculty housing project to be constructed on the corner of 8<sup>th</sup> Street and 2<sup>nd</sup> Avenue.

8. Executive Committee:

No comments.

9. Community Outreach:

No comments.

D. Director's Comments:

Director Nishi thanked staff for providing the requested information on CSUMB negotiations and on the chlorine project. He added that he would like to see a copy of the specs that contractors received for bid on the disinfection project.

Added Item: Authorizing Board President to Sign a Letter to the CA Court of Appeals:

Mr. Lowrey briefed the Board on an unpublished decision by CEQA regarding water supply assessments and identifying future water sources even though not all of them would be immediately available. The mitigation for the project required that development be phased on a tentative map by tentative map basis as water supplies actually materialized. President Moore asked for explanation of an "unpublished" decision. Mr. Lowrey explained that the appellate court can decide to either publish a decision or not. Vice President Brown added that when a decision is published, it is printed in a law book to use as a precedent by other courts in the state. If it is not published, lawyers cannot cite the decision as authority to any court. Vice President Brown added that the Board is being asked to authorize a letter to be sent to the Court of Appeals asking for the decision to be published in the law books so that it can be citable. Mr. Lowrey stated that the court could choose to publish only a portion of the case as well. Mr. Armstrong commented that publishing this case law could be helpful to everyone involved.

Director Scholl made a motion to authorize the Board President to sign a letter to the CA Court of Appeals. Vice President Brown seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Absent, the motion was passed.

5. Planning Workshop:

A. Discuss Strategic Planning: Process, Content, and Schedule:

Director Scholl commented that he believed the single most important thing the Board does is Strategic Planning. He added that he had reservations whether or not the Board has the capability of working together on Strategic Planning. Director Scholl stated if the Board wants to develop policy he is willing to do that but stated that it will take time, possibly more than other members are willing to devote.

President Moore stated that at a previous meeting it had been discussed that all Board members needed to participate and that any outcome needed to be consensus based. He added that it is not necessarily the only way to handle the workshops, and that decisions don't have to be a consensus of the Board, just a majority.

Agenda Item 5-A (continued):

Director Scholl suggested creating an Adhoc Committee to work with staff to develop a draft Strategic Plan for the Board to use as a starting point. Vice President Brown agreed that an Adhoc Committee to work with staff would be a good idea. Director Nishi commented that anything the Board does to work together will help solve the Strategic Planning issue. Discussion followed.

President Moore appointed Director Scholl and Vice President Brown as the Adhoc Committee to work with staff to develop a draft Strategic Plan.

The Board entered into closed session at 8:20 p.m.

6. 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
- B. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: General Manager

The Board returned to open session at 9:40 p.m.

7. Possible Action on Closed Session Items:

President Moore stated no action taken was taken on either item 6A or 6B.

- A. Consider Performance Evaluation Format for General Manager for 2005:

President Moore stated he had asked to have this item on the agenda to discuss where the Board wants the General Manager to focus his efforts and the process and format of completing performance evaluations. Director Scholl clarified that a performance evaluation is not expected to change the performance of an individual. It should be used so that things the Board wants done, will get done. Discussion followed. Mr. Armstrong suggested having the Adhoc Committee work with him to develop performance objectives and bring a recommendation to the Board.

Regular Board Meeting  
February 23, 2005  
Page 8

12. Adjournment:

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

APPROVED:

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David W. Brown, Vice President      Date

ATTEST:

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Michael D. Armstrong, General Manager