

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
May 11, 2005  
7:00 p.m.

**Minutes**

1. Call to Order:

Vice President Brown called the meeting to order at 7:00 p.m. on May 11, 2005.

Board Members Present:

David Brown – Vice President  
Ken Nishi  
Howard Gustafson

Board Members Absent:

Tom Moore – President  
Charles Scholl

Staff Members Present:

Mike Armstrong, General Manager  
Lloyd Lowrey, Legal Counsel  
Marc Lucca, Deputy General Manager/District Engineer  
Rich Youngblood, Conservation Coordinator  
Suresh Prasad, Director of Finance  
Evelina Adlawan, Water Quality Manager  
Jade Sullivan, Capital Projects Manager  
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Bob Schaffer, Marina Community Partners  
Michael Shaw, Marina Heights  
Byron Buck, Byron Buck & Associates

2. Oral Communications:

None.

3. Action Items:

A. Consider Applicants to Fill the Public Member Positions on the Water Conservation Commission:

Mr. Rich Youngblood, Conservation Coordinator, introduced this item. Vice President Brown commented that there were only three Board members present and asked if Director Nishi had reconsidered appointing any of the applicants to the Water Conservation Commission. Director Nishi stated nothing had changed and he couldn't support appointing anyone if they were not present.

Vice President Brown requested this item be placed on the May 25, 2005 agenda.

B. Consider Adoption of Resolution No. 2005-27 to Approve the Plan for the MCWD Regional Urban Water Augmentation Project and File a Notice of Determination for the Project:

Mr. Marc Lucca, Deputy General Manager/District Engineer, introduced this item.

Vice President Brown commented that Director Nishi previously voted no on this item and asked if Director Nishi had reconsidered his decision. Director Nishi stated that he had not reconsidered.

Vice President Brown requested this item be placed on the May 25, 2005 agenda.

C. Consider Adoption of Resolution No. 2005-29 to Accept the Ord Community Wastewater Collection System Master Plan:

Mr. Lucca introduced this item. Director Gustafson asked how the Cities of Seaside, Sand City, and Del Rey Oaks fit into this item. Mr. Jade Sullivan, Capital Projects Manager, answered that the sewage flows for the Seaside portion of the Ord Community have historically been planned to pass through the Seaside County Sanitation District. Director Nishi voiced his concern over the sewage flows for Seaside. He stated the urgent question was who owned those flows going into the interceptor. Director Nishi added that this should be a policy issue before staff does their engineering work. Mr. Lucca stated that this was only a Master Plan and could be changed at any time. Director Nishi disagreed stating that once this is done it is not easily changed. He voiced his concern over staff taking on policy issues.

Director Brown asked for clarification on the difference between "Accepting" and "Approving" an action item.

Agenda Item 3-C (continued):

Mr. Mike Armstrong, General Manager, stated that the action staff is asking the Board to consider is merely accepting the fact that staff has completed the Master Plan.

Director Nishi stated that he could accept the Master Plan if the Master Plan was changed and certain items were not included. He added that once accepted, it would be difficult to change.

Mr. Lloyd Lowrey, District Legal Counsel, clarified that there is a legal difference between accepting and approving. Accepting signifies acceding and signifies that the task has been completed. It does not give an indication that this action of the Board adopts the plan or approves the elements of the plan.

Director Nishi asked if a resolution is needed to accept the Master Plan. Mr. Lowrey stated that it did not. Mr. Armstrong answered that past practice has been to accept Master Plans by resolution. Director Nishi voiced his concern over the past practice and stated that it doesn't make it right.

Director Gustafson stated that this is a very critical time regarding developments and water issues and commented that there is too much regionalism.

Director Nishi asked if the action is to accept and a resolution is not needed, what is the next step. He commented that if this is done as it was in the past then this will be the Ord Community Wastewater Collection System Master Plan.

Mr. Lowrey commented that the legal effect of approving the Master Plan means that the Board has adopted it and given policy direction to move forward upon its implementation. By accepting the Master Plan, it means that the Board has received it and given staff the direction to move forward on creating plans to bring back to the Board. By accepting the Master Plan by resolution has no legal significance but may change the significance in other people minds and hold some psychological weight.

Mr. Armstrong stated that every time this issue is raised, the record shows Board members thoughts and feelings on the issue of wastewater flows on the Ord Community. He added that the movement of wastewater flows through another jurisdiction must be discussed at Board level before it can occur. Mr. Armstrong stated that accepting this Master Plan has no bearing on that.

Director Nishi stated that the District should have an agreement in hand before proceeding.

Vice President Brown made a motion to adopt Resolution No. 2005-29 accepting the Ord Community Wastewater Collection System Master Plan. Motion failed for lack of a second.

Agenda Item 3-C (continued):

This item will be placed on the May 25, 2005 agenda.

4. Review Draft Board Items:

- A. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx to Approve a Memorandum of Understanding Among the Marina Coast Water District, the Monterey County Water Resources Agency, and the Castroville Water District for Coordination of Water Resources:

Mr. Armstrong introduced this item. Director Gustafson asked what Monterey County Water Resourced Agency (MCWRA) has to do with this project. Mr. Armstrong answered that the agencies are all part of the Salinas Basin. Director Nishi asked why Castroville Water District (CWD) is included in the MOU. Mr. Armstrong answered that the agencies need to work together to get access to Prop. 50 grant funding. Before the next meeting, Director Nishi asked to see the projects that CWD and the District have planned. He also asked why only CWD and the District were invited to participate with MCWRA. Mr. Armstrong stated that the three agencies would be partners in the MOU as the State views the agencies as partners and/or stakeholders in the Salinas Basin. He added that the Monterey Peninsula Water Management District (MPWMD) and the Monterey Regional Water Pollution Control Agency (MRWPCA) would be partnering together on another grant application.

Director Nishi voiced his concern over the joint project with the MRWPCA stating that the District has not agreed to partner with them. Mr. Armstrong answered that the District Board has generally agreed to do a project with the MRWPCA for the past 2-3 years although no details have been agreed to yet. Director Nishi stated that there needs to be a meeting of the minds. Mr. Armstrong answered that there would be a meeting of the minds to discuss details before there is a project.

Mr. Lowrey stated for the record that he was general counsel for both the District and CWD.

Director Gustafson questioned asking Pajaro/Sunny Mesa Water District to join the MOU with MCWRA, CWD and MCWD. Mr. Armstrong answered that the agencies included are part of the same Salinas Basin watershed and Pajaro/Sunny Mesa is generally not part of the Salinas Basin. Discussion followed. Director Nishi asked if Mr. Lowrey could sit in representing the District on this discussion. Mr. Lowrey answered he could if the District allowed him to. Director Gustafson asked to include Pajaro/Sunny Mesa in the MOU.

Vice President Brown requested this item be placed on the May 25, 2005 agenda as an action item.

B. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx to Authorize Approval of Marina Coast Water District's Water Shortage Contingency Analysis and Plan:

Mr. Lucca introduced this item, noted that there were two exclusions from the Board packet and provided that information. Mr. Byron Buck, Byron Buck & Associates, gave a presentation on the District's Water Shortage Contingency Analysis and Plan. Director Gustafson questioned how to manage the draw of water by the City of Salinas from the Salinas Basin. Mr. Buck stated that the Salinas Basin Plan manages the Basin as a whole and although there has been a lot of urban growth, the agricultural groundwater consumption has been dropping by augmenting water supplies. Mr. Buck stated that the Contingency Plan was to deal with a short-term emergency plan not long-term water shortages.

Director Nishi complimented Mr. Buck on his work on the Contingency Plan.

This item will be placed on the May 25, 2005 agenda.

C. Review Draft Board Transmittal to Consider Scheduling a Joint Meeting with the Fort Ord Reuse Authority Board of Directors to Consider Joint Approval of the Hybrid Project as the Water Augmentation Project for the Ord Community Service Area:

Mr. Armstrong introduced this item. He discussed a June 10, 2005 joint meeting with the FORA and District Boards explaining that the two items for discussion are the Water Augmentation Project and the Proposed FY 2005/2006 Budget. Director Nishi asked how the District would meet the requirements of the hybrid project. Mr. Armstrong stated that as described in the EIR, the recycled water would come from the proposed joint recycled water project and the desalinated water from the District's expanded desal plant. Director Nishi stated that he can't support this hybrid project because he can't see how the District can provide more than 300 afy of desalinated water. Discussion followed. Director Nishi requested to have an agenda item where the District gives 300 afy of desalinated water to the Marina developments and requested the Joint City District Committee discuss it on May 12, 2005. He added that he didn't think the Board was doing its job or there wouldn't be water issues.

Mr. Armstrong stated that the District is working closely with the City of Marina on the 300 afy desalination issue. Mr. Lowrey stated that the City of Marina and the people they are working with, including this District, have identified significant legal issues which if not handled properly and considered carefully could significantly prejudice the ability of the various parties to have flexibility in their actions. For this reason, at the request of the City of Marina, various attorneys have decided the objective is to try to understand the issues and possible course of action before advising any prospective clients.

This item will be placed on the May 25, 2005 agenda.

D. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx to Approve a Professional Services Agreement with Carollo Engineers to Complete the Marina Water Systems Master Plan Project and to Amend the FY 2004/2005 Budget:

Mr. Jade Sullivan, Capital Projects Manager, introduced this item. Director Nishi inquired what the total cost for Carollo Engineers would be. Mr. Sullivan stated the negotiations are not yet finalized. Director Nishi stated he was comfortable with Schaaf & Wheeler as they are most knowledgeable of the Fort Ord System. He added that he would like to see an Engineering firm that stays loyal to the District. Director Nishi stated that whenever anything goes wrong, Schaaf & Wheeler is the one that everyone goes to for help and believes that they are the most qualified.

This item will be placed on the May 25, 2005 agenda.

E. Review Draft Board Transmittal to Consider Approval of the 2004 Consumer Confidence Report for the Marina Coast Water District and Ord Community Water System:

Ms. Evelina Adlawan, Water Quality Manager, introduced this item. Director Nishi complimented the report noting the color and size was easier to read.

This item will be placed on the May 25, 2005 agenda.

Director Gustafson asked to comment on item 4-A and requested that Mr. Armstrong draft a letter to Pajaro/Sunny Mesa Water District inviting them to be included in the joint MOU. Discussion followed.

Vice President Brown recessed the meeting from 8:28 – 8:36 p.m.

Discussion on item 4-A continued. Director Gustafson reiterated that he would like Mr. Armstrong to draft a letter inviting Pajaro/Sunny Mesa Water District to join a regional group in seeking Prop. 50 funding. Mr. Armstrong stated that he would make inquiries and inform the Board of Pajaro/Sunny Mesa's considerations. Vice President Brown stated that it was the sense of the Board and directed Mr. Armstrong to follow up on the request.

F. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx to Approve an Audit Contract for FY 2004/2005 through FY 2008/2009:

Mr. Suresh Prasad, Director of Finance, introduced this item. Director Nishi stated that five-year contracts are too long and a two- or three-year contract would be better. He was concerned that the last audit firm did not find that the District had verbal contracts. Mr. Prasad stated that five-year contracts are common in the industry. He added there are no records of verbal contracts and therefore no audit firm would be able to find if there were any verbal contracts. Mr. Armstrong stated that the District does not have verbal contracts.

Agenda Item 4-F (continued):

Director Nishi stated that a five-year contract was too long and if the firm that performed the District's audit last year was selected, it would end up being for even more years. Mr. Prasad clarified that if Moss, Levy & Hartzheim was selected, it would be a total of six years with three previous years and three years beginning now. He added that staff is not recommending any of the audit firms and is providing information on all four audit firms for the Board's consideration.

This item will be placed on the May 25, 2005 agenda.

G. Review Draft Board Transmittal to Receive the Quarterly Financial Statements for January 1, 2005 to March 31, 2005:

Mr. Prasad introduced this item. Director Nishi asked how much CSUMB owes the District in capacity charges. Mr. Prasad answered that at this time CSUMB has not paid slightly over \$1 million. Director Nishi asked if it could be captured in the quarterly financials. Mr. Prasad answered that until negotiations are complete, the amount cannot be listed as a receivable.

This item will be placed on the May 25, 2005 agenda.

H. Review Draft Board Transmittal to Consider Approving Expenditures for the Month of April 2005:

There were no questions on this item. This item will be placed on the May 25, 2005 consent agenda.

I. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Regular Board Meeting of April 13, 2005:

Director Nishi asked to add "and a policy issue." to the third to last sentence on page 8 of the minutes. This item will be placed on the May 25, 2005 consent agenda.

5. Staff Report:

A. Ord Community FY 2005-2006 Budget, Rates, Fees and Charges:

Mr. Armstrong gave an update on the outcome of the May 11, 2005 meeting with land use representatives and developers. He added that it was a good meeting and everyone is working on providing more information on May 25, 2005 so that the Board can be comfortable and prepared for the proposed June 10 joint Board meeting with FORA.

Agenda Item 5-A (continued):

Director Nishi voiced his concern that the Board doesn't have input on how to structure this. He added that what occurs on the Ord Community will be the same when Marina Station is ready to develop. Director Nishi stated the Board has only had one budget workshop and has been left out of the process. Mr. Armstrong stated that it is not staff's intention to arrive at the conclusion or recommendation for the Board. He added that the Board will see all options so they can decide which option is best for the District. Director Nishi asked how staff got the capacity charge figure. Mr. Armstrong answered that a financial analysis was done determining how much revenue was needed to issue bonds to support capital programs. Director Nishi asked how the number of paying customers was decided. Mr. Armstrong stated the analysis was done on the growth projections developed by land use jurisdictions and compiled by FORA. Director asked what numbers were put in for the U.S. Army and CSUMB. Mr. Armstrong stated that there was zero for the Army and an unknown number from CSUMB. Discussion followed.

6. Discuss Possible Agenda Items of the May 25, 2005 Planning Workshop:

Director Nishi stated that the May 25, 2005 meeting will be long enough with the agenda items already scheduled.

7. Director's Comments:

Director Gustafson commented on the article in the Monterey Herald regarding Seaside.

Director Nishi stated that he asked for and received a copy of the letter the District sent to CSUMB about the negotiation and does not see anything regarding new projects. He also asked when the Visitors Center was connected and was told on January 19<sup>th</sup> but the letter stating no new connections is dated January 18<sup>th</sup>. If it was connected on January 19<sup>th</sup>, Director Nishi would like to see documentation of the inspection of connection, sign-offs, etc. and something from the contractor that did it.

Mr. Armstrong stated that Mr. Lowrey is excused from closed session for item 8-B and that 8-A was not going to be discussed as the anticipated information was not received. The Board entered into closed session at 9:00 p.m.

8. 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

Regular Board Meeting  
May 11, 2005  
Page 9

- B. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator  
Property: MCWD's 4<sup>th</sup> Avenue Site  
Negotiating Parties: MCWD, CSUMB, and City of Marina  
Under Negotiation: Price

The Board returned to Open Session at 9:25 p.m.

9. Possible Action on Closed Session Items:

Mr. Armstrong stated that direction was given to staff but no action was taken.

10. Adjournment:

The meeting was adjourned at 9:25 p.m.

APPROVED:

\_\_\_\_\_  
David W. Brown, Vice President      Date

ATTEST:

\_\_\_\_\_  
Michael D. Armstrong, General Manager