

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
May 25, 2005
7:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 7:00 p.m. on May 25, 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, Deputy General Manager/District Engineer
Rich Youngblood, Conservation Coordinator
Suresh Prasad, Director of Finance
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Bob Schaffer, Marina Community Partners
Michael Shaw, Marina Heights
Ian Gillis, East Garrison Partners
Chris Keen, East Garrison Partners
Dick Goblirsch
Dave Houston, Citigroup, Inc.
Simon Whitmey, Marina Community Partners
Doug Yount, City of Marina
Colin Gallagher
Chuck Landy, Marina Heights

2. Oral Communications:

President Moore stated that the packet was missing the transmittal for agenda item 4-E although the backup was in the packet. The transmittal was handed out prior to the meeting. President Moore also mentioned that item 7-A was pulled from the agenda.

3. Presentation:

A. Review Ord Community FY 2005-2006 Budget, Rates, Fees and Charges and Receive a Presentation on Proposed Capacity Charges:

Mr. Suresh Prasad, Director of Finance, introduced this item and Citigroup, Inc. staff; Mr. Dave Houston, Mr. Chris Mikai, Ms. Carmen Vargas, and Mr. Nikolai Sklaroff. Mr. Mike Armstrong, General Manager, gave a brief background on the process leading to the retention of services from Citigroup, Inc. Mr. Dave Houston gave a presentation of the analysis by Citigroup regarding capacity charges.

Mr. Colin Gallagher, Marina resident, encouraged the Board to approve an amount that would be lower than California American Water rates and would pay the debt before the maturation of the loan.

Mr. Ian Gillis, East Garrison Partners, encouraged the Board to approve a rate-based approach.

Director Nishi commented that public members should be able to comment and provide input.

Director Scholl asked if an inflation factor was incorporated into surcharge amounts. Mr. Houston answered the analysis as presented did not include an inflation factor; it was a fixed cost.

Director Nishi asked what methodology was used to reach the \$6,000 capacity charge. Mr. Houston answered that the original number developed by Bartle Wells, Inc. was \$7,500 but he did not know what criteria was used. Director Nishi voiced his concern over the capacity charges and who was paying them and the fact that he received the report from Citigroup just prior to the meeting.

President Moore inquired if the length of time for the bonds was 35 years. Mr. Houston answered that they were all 35 years. Discussion followed regarding growth projection and when expenditures for capital projects were anticipated. President Moore inquired on capital projects proposed for the Army and if they were paying capacity charges for those projects. Mr. Marc Lucca, Deputy General Manager/District Engineer, commented that there were no specific capital projects that only benefited the Army.

Agenda Item 3-A (continued):

Mr. Prasad added that the Army has been paying the capital component charge that is added to the water rates. Mr. Armstrong stated that if the Army were to expand their current holdings and build new buildings they would be assessed capacity charges.

Director Scholl commented that, as shown in the graphs provided, the present “pay-as-you-go” plan is not viable. He added that there were many variables that needed to be looked into such as if there would be lower fees for low income housing, etc. Mr. Lowrey stated that whatever mechanism or funding is adopted it needs to be based on cost considerations and not social consideration. President Moore asked if Citigroup made any allowances for low income housing. Mr. Houston answered that everyone is treated the same and there are no allowances made. He added that existing customers would not be charged nor would CSUMB or the Army be charged any differently than they currently are.

Director Scholl stated that the developers would need to pay a majority of the costs and not have it fall on the ratepayers.

Vice President Brown agreed that the developers would need to pay the full capacity charge or hybrid of capacity charges and surcharges. Mr. Armstrong commented that there are many variables that could be used in a hybrid alternative.

Director Nishi commented that he would like to hold a public hearing so more public could be present before considering adding surcharges to customer’s bills. President Moore stated that public hearings are built into the District’s budget process but it would be difficult in this case as the District cannot know who may be future customers.

Mr. Chuck Landy, Marina Heights, voiced his approval of the selection of Citigroup, Inc. to perform the study regarding capacity charges. He suggested the Board keep in mind that affordability is figured into the rates that affect the buyer’s ability to buy housing. Mr. Landy stated that they are ready to disclose to customers the different rate for new buyers, i.e. monthly capital surcharges.

Mr. Simon Whitmey, Marina Community Partners, stated the there will be full disclosure to all customers purchasing houses regarding the surcharge and lauded Mr. Houston’s hybrid alternative of capacity charges and surcharges. He encouraged the Board to consider the hybrid alternative of splitting costs between developers and future customers. Mr. Whitmey added that due to the discussions regarding capital charges, FORA has agreed to fund an additional \$18 million towards the Water Augmentation Project thus saving the District millions.

Agenda Item 3-A (continued):

Mr. Gallagher asked the Board to consider the alternatives very carefully and not make it cost prohibitive for new buyers and future customers.

Mr. Gillis commended the District staff on their approach of the capacity charges and retaining Citigroup to prepare this financial report. Mr. Gillis stated he would support a middle of the road alternative with capacity charges and surcharges.

Mr. Michael Shaw, Cypress Knolls, stated that District staff, Citigroup and the developers are looking for policy and direction to go forward. He added that ultimately the capacity charges are not paid by the developers but by the cities and home buyers.

Mr. Doug Yount, City of Marina, encouraged the Board to look at the community and the needs of the community i.e. police, fire stations, schools, etc. Higher capacity charges will take funds from the community. Mr. Yount urged the Board to look at higher surcharges and lower connection fees.

President Moore asked what Citigroup assumed would happen to the existing equalization fee when doing the calculations for the alternatives. Mr. Prasad answered the equalization fee would be removed.

Director Nishi stated he would like to have seen a scenario with the \$6,000 capacity charge. He added that Seaside Highlands was getting off easy. Director Nishi asked what happens when Marina Station comes on line and if they pay capacity charges. Discussion followed.

Director Gustafson suggested having staff meet with developers to see how much they are willing to pay towards capacity charges.

Vice President Brown stated that the developers are willing to pay a portion but not all of the capacity charges. He suggested a middle option.

Director Scholl suggested a combination of capacity charges and surcharges with the surcharge for both water and sewer being a maximum of \$20.

President Moore stated the customers will ultimately be paying for the costs and agreed that a combination of capacity charges with a maximum surcharge of \$20 would be the best solution.

Vice-President Brown agreed to limit the surcharge to a maximum of \$20.

Director Nishi stated the ratepayers are going to pay for it and would like to see the developers pay the entire \$6,000 capacity charge.

Agenda Item 3-A (continued):

President Moore asked if the surcharges would end when the bonds are paid off. Mr. Houston answered that it was assumed they would end when the debt is paid. President Moore commented the surcharges would only be on new development not existing customers. Director Nishi commented on the fact that Seaside Highlands and Sunbay didn't pay a capacity charge but should pay something. Mr. Lowrey answered that he would have to look into the legal basis of back charging or assessing fees. Director Nishi stated that if the developments didn't pay a capacity charge they should pay a surcharge for capital improvements. Mr. Lowrey stated that he would look into it.

President Moore recessed the meeting from 8:45 until 8:53 p.m.

President Moore asked if anyone had questions of Mrs. Evelina Adlawan, Water Quality Manager, on the Consumer Confidence Reports. Hearing none, President Moore advised Mrs. Adlawan that she didn't have to be present for that item later in the meeting.

4. Action Items:

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

Director Scholl made a motion to appoint Mr. William Lee to a two-year term on the Water Conservation Commission (WCC). Vice President Brown seconded the motion. The motion passed.

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

Director Scholl made a motion to appoint Mr. Lloyd Eads to a one-year term on the WCC. Vice President Brown stated that he would like to hear from any applicants in the audience before filling all the positions. The motion fails for lack of a second.

President Moore asked if any applicants would like to make a statement.

Mr. Colin Gallagher stated he was present as a resident of the City of Marina and believes he would be a good choice for the WCC as he also serves on the City of Marina Planning Commission. He added that it could be helpful to be on both Commissions and urged the Board to appoint him to fill one of the positions on the WCC.

Agenda Item 4-A (continued):

Director Scholl made a motion to appoint Mr. Lloyd Eads to a one-year term on the WCC. Director Gustafson seconded the motion. The motion passed.

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

Vice President Brown made a motion to appoint Mr. Colin Gallagher to a one-year term on the WCC. President Moore seconded the motion. Director Nishi asked if Mr. Gallagher could serve on both Commissions. Mr. Lowrey answered that the WCC and Planning Commission positions were advisory only and didn't see a problem. The motion failed.

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

Vice President Brown made a motion to appoint Mr. Mike Ordonez to a one-year term on the WCC. Director Gustafson seconded the motion. Director Scholl commented that Mr. Ordonez missed three of the last four meetings. Mr. Youngblood stated the WCC passed the applications to the Board without any recommendations. President Moore asked if Mr. Youngblood knew of the reason for Mr. Ordonez's absenteeism. Mr. Youngblood cited personal reasons. Vice President Brown stated he spoke with other members of the WCC and was informed that Mr. Ordonez provided constructive input when in attendance. Vice President Brown stated that having someone on the Commission who can provide input when present is better than having a vacant seat. The motion passed.

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

President Moore suggested that any Board member could request to agendaize an item regarding absenteeism from Commission meetings. Director Nishi asked if the Board needed to adopt a policy regarding absenteeism. Mr. Lowrey stated that the Board could adopt any policy regarding rules for the Commission. Director Nishi asked for a report on attendance for the WCC for the last year.

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:

Director Scholl made a motion to adopt 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. Vice President Brown seconded the motion.

Mr. Shaw commented that it was important to go ahead with the augmentation project and encouraged the Board to pass this item.

Mr. Whitmey agreed with Mr. Shaw and encouraged the Board to pass this item.

President Moore inquired if passing this resolution, a statement of overriding considerations, would bring risk of lawsuits. Mr. Lowrey stated there is always the risk of lawsuits and this resolution only approves a program level document.

The motion passed.

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

C. 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.

President Moore clarified the Board is not expected to approve a hybrid project but to approve expending funds to select a project. Mr. Armstrong agreed and stated that he hopes the Board understands the hybrid project is proposed as a joint project with the Monterey Regional Water Pollution Control Agency. Discussion followed. Director Nishi asked where on the transmittal it is stated the Board was to select the hybrid project. Mr. Lowrey stated the transmittal was to approve scheduling a joint meeting. Mr. Armstrong stated that he is looking for the Board to make a statement that it is their understanding that in pursuit of the hybrid alternative, the scope of the hybrid alternative is a joint project with details to follow. Director Scholl, Vice President Brown and President Moore stated they understand it will be a joint project. Director Nishi asked if legal counsel understands it. Mr. Lowrey answered that the transmittal points out the hybrid alternative is a joint project.

Agenda Item 4-C (continued):

Vice President Brown made a motion to schedule a joint meeting with FORA on June 10, 2005. Director Scholl seconded the motion. The motion passed.

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

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

Mr. Lucca introduced this item. He noted several documents that mentioned sewage flows from the City of Del Rey Oaks routed through the Seaside County Sanitation District: the 1997 Del Rey Oaks Final EIR; 2001 Schaaf & Wheeler report; the 2004 Sewer Master Plan by Seaside County Sanitation District; and, the 1994 FORA Master Plan.

Director Scholl made a motion to adopt Resolution No. 2005-29 to accept the Ord Community Wastewater Collection System Master Plan. Vice President Brown seconded the motion. The motion passed.

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

E. Consider Adoption of Resolution No. 2005-30 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. President Moore asked if Pajaro/Sunny Mesa could be added to the MOU at a later date. Mr. Armstrong answered he believed they could.

Vice President Brown made a motion to adopt Resolution No. 2005-30 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. Director Scholl seconded the motion. Mr. Lowrey advised that he is not advising the Board on this issue and asked Special Counsel to review the document. The motion passed.

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

F. Consider Adoption of Resolution No. 2005-31 to Authorize Approval of Marina Coast Water District's Water Shortage Contingency Analysis and Plan:

Mr. Lucca introduced this item.

Vice President Brown made a motion to adopt Resolution No. 2005-31 to authorize approval of Marina Coast Water District's Water Shortage Contingency Analysis and Plan. Director Scholl seconded the motion. President Moore asked to have the WCC take a look at more statistical tests and specifics. He also asked staff and WCC to develop a summary table that catches the stages and the measurements that trigger them. The motion passed.

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

G. Consider Adoption of Resolution No. 2005-33 to Approve an Audit Contract for FY 2004/2005 through FY 2008/2009:

Mr. Prasad introduced this item.

President Moore stated he was most impressed with the proposals by Nicholson & Olson and Porter & Company. Director Nishi stated he thought a contract should only be for three years. Discussion followed.

President Moore made a motion to adopt Resolution No. 2005-33 to approve an audit contract for FY 2004/2005 through FY 2008/2009 with Nicholson & Olson. The motion passed.

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

5. Consent Calendar:

President Moore requested to pull item D from the Consent Calendar. Director Nishi requested to pull item B from the Consent Calendar.

Director Gustafson made a motion to approve the Consent Calendar consisting of items A) Consider Approval of the 2004 Consumer Confidence Report for the Marina Coast Water District and Ord Community Water System; and, C) Consider Approving Expenditures for the month of April 2005. Director Scholl seconded the motion.

Agenda Item 5 (continued):

The motion passed.

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

B. Receive the Quarterly Financial Statements for January 1, 2005 to March 31, 2005:

Director Nishi stated he would like to see notation of the amount owed by CSUMB.

Vice President Brown made a motion to receive the Quarterly Financial Statements for January 1, 2005 to March 31, 2005. Director Scholl seconded the motion. The motion passed.

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

D. Consider Approval of the Draft Minutes of the Regular Board Meeting of April 13, 2005:

Vice President Brown made a motion to approve the draft minutes of the regular Board meeting of April 13, 2005. Director Scholl seconded the motion. The motion passed.

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

6. Informational Items:

A. General Manager's Report:

Mr. Armstrong gave a brief update on the current recruitment process for two positions within the District. He added that there will be a retirement luncheon for Ms. Connie Chavoya's retirement on June 30, 2005.

B. Counsel's Report:

No comments.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Scholl stated that he had a meeting with staff to review the conservation ordinance and announced that it would be before the Board next month.

2. Joint City-District Committee:

Director Nishi asked that the minutes show he was present as a Committee member. Mr. Armstrong stated that Director Nishi was not a member of the Committee. President Moore stated that Director Nishi was not appointed to the Committee.

3. MRWPCA Board Member:

Director Scholl stated there was nothing discussed that pertained to the District.

4. LAFCO Liaison:

No comments.

5. JPIA Liaison:

No comments.

6. Special Districts Association (SDA) Liaison:

No comments.

7. FORA:

No comments.

8. Executive Committee:

No comments.

9. Community Outreach:

No comments.

D. Director's Comments:

Director Nishi stated he asked for information on CSUMB's Visitor Center showing connection to the system and has not received it yet. He also voiced his concern on the 300 afy back-up to Sand City. Director Nishi stated negotiations should be on Board level. He is also concerned that FORA passed a policy in which MCWD would be giving water to FORA and FORA would allocate it the way they want. Director Nishi stated information was not received on who filled the seat for the Special District's Association. President Moore answered that Ms. Anne McGowan was voted in as President and Ms. Peggy Shirrel as alternate. Director Nishi asked to have his concerns addressed.

Mr. Armstrong stated he needed clearer questions and guidance from Director Nishi.

Director Nishi asked for an agenda item on how the District got to the position where the FORA Board took up an issue of Marina Coast Water District giving water to FORA and FORA has the allocation rights.

Mr. Lowrey stated that he recommended the issue on Water Supply Assessments be clarified and brought before the two Boards. Discussion followed.

Director Scholl stated at least five times Director Nishi criticized Citigroup that he just received the information this evening and needed more time to review it. Director Scholl added that there were three meetings held by Citigroup and the District and Director Nishi could have attended if he was interested.

The Board entered into closed session at 10:00 p.m.

7. Closed Session:

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

C. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator
Property: Water Rights – Desalination Facility
11 Reservation Road, Marina
Negotiating Parties: MCWD, FORA, and City of Marina
Under Negotiation: Price and Terms

The Board returned to open session at 10:07 p.m.

Director Scholl made a motion to continue the meeting until 10:30 p.m. Director Gustafson seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Absent, the meeting continued.

The Board entered back into closed session at 10:07 p.m.

The Board returned to open session at 10:29 p.m.

8. Possible Action on Closed Session Items:

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

9. Adjournment:

The meeting was adjourned at 10:30 p.m.

APPROVED:

Thomas P. Moore, President Date

ATTEST:

Michael D. Armstrong, General Manager