

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
March 22, 2006  
7:00 p.m.

**Minutes**

1. Call to Order:

President Brown called the meeting to order at 7:00 p.m. on March 22, 2006.

Board Members Present:

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

Board Members Absent:

None

Staff Members Present:

Marc Lucca, General Manager  
Lloyd Lowrey, Legal Counsel  
Andrew Sterbenz, Interim District Engineer  
Suresh Prasad, Director of Finance  
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Doug Yount, City of Marina  
Michael Shaw, Cypress Knolls  
Bob Schaffer, Marina Community Partners  
Bill Brasher, Marina Heights  
Dick Goblirsch, Del Rey Oaks  
Eric Robinson, Cypress Knolls  
Victor Calderon, The Salinas Californian  
Kevin Howe, The Monterey Herald  
Quinton Roland, Marina resident

2. Oral Communications:

None.

The Board entered into closed session at 7:01 p.m.

3. Closed Session:

- A. Pursuant to Government Code Section 54956.9  
Conference with Real Property Negotiators  
Property: District Desalination Plant  
Negotiating Parties: MCWD and Marina Developers  
Under Negotiation: Price and Terms

The Board returned to open session at 7:29 p.m.

4. Possible Action on Closed Session Items:

President Brown stated that no action was taken in closed session.

5. Action Items:

- A. Consider Adoption of Resolution No. 2006-19 to Approve the Draft Water Supply Assessment and Written Verification of Supply for the Cypress Knolls Development Project:

Mr. Marc Lucca, General Manager, stated that the draft WSA/WV for the Cypress Knolls Development was the same as provided previously and is a redlined version.

Vice President Gustafson made a motion to adopt Resolution No. 2006-19 to approve the draft Water Supply Assessment and Written Verification (WSA/WV) of Supply for the Cypress Knolls development project. Director Nishi seconded the motion.

Director Moore stated he was not in favor of adopting this WSA/WV until the desalination agreement is completed. Director Moore pointed out on page 21 of the packet, page 17 of the WSA/WV, Table 6-1 has "University Heights" listed and it should be corrected to state "University Villages". Director Moore asked what would happen if this item were approved and an agreement is never reached. Mr. Lloyd Lowrey, Legal Counsel, stated that the WSA/WV is contingent upon an agreement being reached and if an agreement is not made, the WSA/WV is invalid and the City of Marina cannot rely on it for their EIR. Director Moore also stated that Mr. Byron Buck had previously commented that the numbers used were very aggressive and Director Moore would like to be more conservative and therefore is not in favor of adopting this WSA/WV.

Vice President Gustafson commented that this was a great opportunity for the City of Marina and its residents.

Agenda Item 5-A (continued):

President Brown stated he had been reluctant to approve the WSA/WV without the agreement because he felt there would be no motivation to complete the agreement. However, after receiving the assurances from Mr. Lowrey, he is inclined to support the WSA/WV.

Mr. Michael Shaw, Cypress Knolls, stated that he appreciated the comments made and that the developers are anxious to complete the agreement as soon as possible. He urged the Board to adopt the Resolution approving the WSA/WV.

Mr. Quentin Roland, City of Marina resident, questioned the reason for the desal plant discussions. President Brown explained that the District is required to provide a WSA/WV which the developer needs to complete the EIR. Vice President Gustafson added that other water sources are scheduled to come on-line at a later date and if the other water sources are not ready when the developers need the water, the desal plant would be an available source of water. Director Moore explained that this WSA/WV is contingent upon an agreement being met between the developers and the District. Director Nishi thanked Mr. Rowland for asking questions and if his understanding was correct. Director Nishi explained that the Marina Coast Water District's jurisdiction includes Central Marina and supplies water to the Ord Community through a contract. There is a possibility of becoming one jurisdiction at a later date. Director Nishi explained that Central Marina has paid and is paying for the desal plant and by negotiating with the developers, the Board is looking at relieving the Central Marina residents of those debts.

Mr. Rowland stated that he was interested in development rights/water rights and was concerned that Central Marina resident water rights were being given to another development without them knowing about it or being able to participate.

President Brown stated that the District is not a land use jurisdiction and is required to perform a WSA/WV upon request.

Mr. Eric Robinson, Cypress Knolls, stated that adoption of the WSA/WV does not reduce the amount of water available for existing or future customers in Central Marina.

Mr. Lowrey suggested several changes in the Resolution on page 4 of the packet. He suggested changing the word "execution" to "effectiveness" in the last sentence of the Resolved paragraph; add the word "Quality" before the word "Act" in that same sentence; changing the word "execution" to "effectiveness" in the last sentence of the last WHEREAS paragraph at the top of page 4; and, at the bottom of page 3, last sentence to read, "...the District 'are negotiating' an agreement...".

Vice President Gustafson amended his motion to include the changes suggested by Mr. Lucca, Mr. Lowrey and Director Moore. Director Nishi seconded the amended motion.

Agenda Item 5-A (continued):

Director Scholl commented that he agreed with Director Moore that the numbers are too conservative, and that the desal plant was financed and paid for over 10 years by Central Marina and now the Board is looking to enter a contract that has not yet been agreed upon. Director Scholl feels it would be risky to approve this WSA/WV without an approved contract.

The amended motion was passed.

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

B. Consider Adoption of Resolution No. 2006-21 to Approve a Professional Services Agreement for a Geotechnical Assessment of the East Garrison Tank Site:

Mr. Andrew Sterbenz, Interim District Engineer, introduced this item.

Director Moore inquired on the cost of the Geotechnical firm to assess the site. Mr. Sterbenz answered that a quote for \$9,500 was received and more than likely would be the approximate cost.

Vice President Gustafson made a motion to adopt Resolution No. 2006-21 approving a Professional Services Agreement for a Geotechnical Assessment of the East Garrison Tank Site. Director Nishi seconded the motion. The motion was passed.

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

C. Consider Adoption of Resolution No. 2006-22 to Approve a Professional Services Agreement with Creegan & D'Angelo for Design Phase Services for the General Jim Moore Boulevard, Phase II Project:

Mr. Sterbenz introduced this item.

Vice President Gustafson made a motion to adopt Resolution No. 2006-22 approving a Professional Services Agreement for Design Phase Services for the General Jim Moore Boulevard, Phase II project. Director Moore seconded the motion. The motion was passed.

Agenda Item 5-C (continued):

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

D. Consider Approval of the Draft Minutes of the Regular Board Meeting of February 8, 2006:

Director Scholl commented that he had asked to have this as an action item so that he could abstain from the vote.

Director Moore made a motion to approve the draft minutes of the regular Board meeting of February 8, 2006. Vice President Gustafson seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Abstained, 0-Absent, the motion was passed.

6. Consent Calendar:

President Brown stated that Mr. Lucca had asked to pull item B (Consider Adoption of Resolution No. 2006-24 to Amend the Existing Nextel Agreement at D/E Tank Site) from the consent calendar as negotiations are not complete at this time.

Vice President Gustafson made a motion to approve the consent calendar consisting of items: A) Consider Adoption of Resolution No. 2006-23 to Approve the Construction and Transfer of Water and Sewer Infrastructure Agreement between Annandale Associates, LLC and MCWD for the Carmel Circle Development; C) Consider Approving Expenditures for the Month of February 2006; and, D) Consider Approval of the Draft Minutes of the Regular Board Meeting of January 25, 2006. Director Moore seconded the motion. The motion was passed.

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

7. Informational Items:

A. General Manager's Report:

Mr. Lucca stated that the proposed field trip to tour the District and visit several current and upcoming construction projects would take place in late summer and a date would be brought to the Board as the time gets closer. Mr. Lucca commented that Director Scholl had recently inquired on the Pajaro/Sunny Mesa pilot desalination plant and stated he talked to Mr. Mark Del Piero, Pajaro/Sunny Mesa General Manager, and was told that they were waiting for a permit

Agenda Item 7-A (continued):

and the pilot plant would be installed in June or July and would operate for a few years to determine water chemistry. Mr. Lucca stated that the District had recently applied for a Prop. 50 Grant for Well #33 and is now on the short list. He also commented that he attended the March 9, 2006 Seaside City Council meeting and the MRWPCA Storage Committee meeting on March 16, 2006. Mr. Lucca stated that on March 24, 2006 General Managers would be meeting with Congressman Sam Farr's office.

B. Counsel's Report:

Mr. Lowrey stated that the MPWMD, MCWRA, and Pajaro have signed a revised MOA that states the MCWRA is in charge of managing water unless the jurisdiction is in a different basin.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Moore stated there was an ET Controller presentation on the different types of controllers and the Commission was considering establishing a standard for the type of controllers installed. Director Scholl stated for the record that Director Moore is attending the meetings as his alternate because he is taking a class that conflicts with the WCC meeting date and time.

2. Joint City-District Committee:

There was no meeting.

3. MRWPCA Board Member:

Director Nishi commented that Ms. Peggy Shirrel was nominated as President and Mr. Joe Russell was nominated as Vice President. He added that he talked with Mr. Keith Israel, MRWPCA General Manager, about sharing Committee assignments.

4. LAFCO Liaison:

Director Nishi stated it was good to see the dynamics of the way the Directors interchange. The next meeting is March 27, 2006.

5. JPIA Liaison:

No comments.

6. Special Districts Association (SDA) Liaison:

Director Moore stated the next meeting is in April.

7. FORA:

Director Nishi said the meeting was held on March 10, 2006.

8. Executive Committee:

No comments.

9. Community Outreach:

No comments.

D. Directors Comments:

Vice President Gustafson commented that he was asked to participate on the Desalination Advisory Committee. He stated that the Pajaro/Sunny Mesa desalination pilot plant would be ready for tours in July. Vice President Gustafson gave Mr. Lucca a binder to review on the desalination project.

Director Nishi commented that Pajaro/Sunny Mesa was planning a July BBQ to celebrate the desalination pilot plant. He added that he was meeting with Congressman Sam Farr on April 20, 2006 to discuss grant funding. Director Nishi commented that President Brown was doing an outstanding job.

8. Staff Reports:

A. Revisit Strategic Plan Goals and Objectives Quarterly:

Mr. Lucca introduced this item. He added that District staff is planning its Business Plan which will define how and when they will meet the Board's Strategic Plan Goals and Objectives. Mr. Lucca informed the Board on the items that would be before the Board within the next few months.

9. Discuss Maintaining Separate Cost Centers:

Mr. Suresh Prasad introduced this item. Mr. Lowrey stated that when FORA ceases in 2014, the District may adopt a resolution or an ordinance to keep the cost centers separate although it can be modified by subsequent Boards in the future.

Agenda Item 9 (continued):

Director Gustafson questioned representation on the District Board. Mr. Lowrey reviewed several options regarding voting and representation and jurisdiction.

Director Moore questioned if the District could require a 2/3 vote to change any Ordinance it may adopt. Mr. Lowrey answered that State Law wouldn't allow that and it would be subject to challenge. Director Moore asked if there was a mechanism that could be created to keep the cost centers separate. Mr. Lowrey answered that there could be a financing agreement that would require the District to dedicate revenue from the Ord Community rather than the whole District that would require keeping separate cost centers. Discussion followed.

Mr. Michael Shaw asked for clarification on the transmittal where it states which goal the separate cost centers are consistent with. Mr. Prasad answered that it was goal 4F.

Director Moore stated that he would like to note for the record that Director Nishi requested other Board members not show body language when he is speaking and yet he was showing body language while Director Moore was asking his questions. Director Moore asked that Director Nishi please refrain from body language.

Director Nishi stated that others have done it many times.

President Brown stated that there is some body language that is more offensive than others.

The Board entered into closed session at 8:38 p.m.

10. Closed Session:

- A. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator  
Property: Water Rights  
Negotiating Parties: MCWD, Clark Colony Water Company  
Under Negotiation: Price and Terms of Payment
  
- B. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator  
Property: Easements, Rights-of-Way, Pipelines and Appurtenances, and Water Rights  
Negotiating Parties: MCWD and MRWPCA  
Under Negotiation: Price and Terms



- C. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator  
Property: Sand Tank Lot  
Negotiating Parties: MCWD and Chadmar Group  
Under Negotiation: Price and Terms
  
- D. Pursuant to Government Code Section 54957  
Public Employee Appointment  
Title: General Manager  
Negotiating Parties: MCWD Board of Directors  
Under Negotiation: Terms
  
- E. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator  
Property: Tank Site Negotiations  
Negotiating Parties: MCWD and CSUMB  
Under Negotiation: Terms

The Board returned to open session at 8:50 p.m.

11. Possible Action on Closed Session Items:

President Brown stated that the Board gave direction to the negotiating committee in regards to item 10-A.

12. Adjournment:

The meeting was adjourned at 8:51 p.m.

APPROVED:

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David W. Brown, President      Date

ATTEST:

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Marc A. Lucca, General Manager