

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
May 24, 2006
7:00 p.m.

Minutes

1. Call to Order:

President Brown called the meeting to order at 7:00 p.m. on May 24, 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
Joan Warren, Management Services Administrator
Evelina Adlawan, Water Quality Manager
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Elizabeth Caraker, City of Marina
Michael Shaw, Cypress Knolls
Bob Schaffer, Marina Community Partners
Dick Goblirsch, Del Rey Oaks
Jim Heitzman, MRWPCA
Mr. Eric Zigas, Environmental Science Associates
Tim O'Holloran, City of Seaside
Jill Anderson, City of Seaside

Eric Robinson, Cypress Knolls
Chandler Roland
Pete Erickson
Stan Cook, FORA
Mike Owen

2. Oral Communications:

Mr. Mike Owen, Marina resident, voiced his appreciation for the cookies provided at the Board meetings. He also handed out a flyer on the next meeting of the Marina Tree and Garden club scheduled for June 3rd from 2 – 4:00 p.m. Mr. Owen asked that public be allowed to review the agreement on the desalination plant before it is approved by the Board.

President Brown requested to move to item 4, the Consent Calendar.

4. Consent Calendar:

President Brown requested to pull item 4-A (Consider Adoption of Resolution No. 2006-38 Certifying a CEQA Addendum Regarding Use of Existing Desalination Plant Water in the Ord Community) from the consent calendar. Director Moore requested to pull item 4-B (Consider Adoption of Resolution No. 2006-39 to Renew the Agreement with the Department of the Navy for Locating Beach Erosion and Wave Monitoring Equipment at the District Office) from the consent calendar.

President Brown returned to agenda item 2.

2. Oral Communications:

Mr. Pete Erickson, Marina resident, voiced his support of the Cypress Knolls project.

President Brown returned to the pulled items from agenda item 4.

4. Consent Calendar:

A. Consider Adoption of Resolution No. 2006-38 Certifying a CEQA Addendum Regarding Use of Existing Desalination Plant Water in the Ord Community:

Mr. Chandler Roland, Marina resident, voiced his concerns over providing water for the future growth in the City of Marina and the problems with salt water intrusion in the groundwater supplies.

Vice President Gustafson made a motion to adopt Resolution No. 2006-38 certifying a CEQA Addendum regarding use of existing desalination plant water in the Ord Community. President Brown seconded the motion. The motion was passed.

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

B. Consider Adoption of Resolution No. 2006-39 to Renew the Agreement with the Department of the Navy for Locating Beach Erosion and Wave Monitoring Equipment at the District Office:

Director Moore stated that he had pulled this item because Government Code section 1091 classifies his employment with the Department of the Navy as a conflict of interest. Mr. Lloyd Lowrey, Legal Counsel, stated that Government Code section 1090 requires that members of an organization not be financially interested in any contract made by them in their official capacity. He added that Government Code section 1091 makes Director Moore's employment with the Government a remote interest. Director Moore removed himself from the dais and left the room.

Director Nishi asked Mr. Lowrey if Director Moore should remove himself from any items pertaining to the Ord Community. Mr. Lowrey answered that the only conflict would be when the Department of the Navy is involved.

President Brown asked if it was Mr. Lowrey's interpretation that Director Moore was required to step down. Mr. Lowrey answered that he believed in an abundance of caution it was prudent for Director Moore to step down.

Vice President Gustafson made a motion to adopt Resolution No. 2006-39 renewing the agreement with the Department of the Navy for locating beach erosion and wave monitoring equipment at the District office. Director Scholl seconded the motion. Director Nishi stated that at the last meeting he had asked for language to be added so the District could receive a report of the data gathered from the monitoring equipment. Mr. Lowrey answered that the language was part of the contract already. President Brown concluded to add the following words to section 3-i, "...provided at least yearly without request during the time of the agreement." Vice President Gustafson amended his motion to include the language suggested. Director Scholl seconded the amended motion. The motion was passed.

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

Vice President Gustafson made a motion to approve the consent calendar consisting of items: C) Consider Approval of the 2005 Consumer Confidence Report for the Marina Coast Water District and Ord Community Water Systems; D) Consider Adoption of Resolution No. 2006-40 Calling a General District Election on November 7, 2006; E) Receive the Quarterly Financial Statements for January 1, 2006 – March 31, 2006; F) Consider Approval of the Draft Minutes of the Regular Board Meeting of April 12, 2006; and, G) Consider Approval of the Draft Minutes of the Regular Board Meeting of April 26, 2006. Director Scholl seconded the motion. The motion was passed.

Agenda Item 4 (continued):

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

3. Action Items:

- A. Consider Adoption of Resolution No. 2006-35 to Approve the Infrastructure Agreement between the Fort Ord Reuse Authority and MCWD for the Imjin Parkway Office Park:

Mr. Andrew Sterbenz, District Engineer, introduced this item. Director Moore requested verbiage be added to ensure that Developers and their successors will pay the District's established cost for recycled water. It was concluded that the following language be added to the last sentence of section 6.2 of the Agreement, "*The Developer and its successors or assignees agree that the District's established cost of recycled water will be paid by the recycled water customers.*"

Director Moore made a motion to approve Resolution No. 2006-35 approving the Infrastructure Agreement between the Fort Ord Reuse Authority and MCWD for the Imjin Parkway Office Park with the change noted above. Director Scholl seconded the motion. Mr. Michael Shaw, Cypress Knolls, commented that the recommended language is also covered under section 24 of the Agreement. The motion was passed.

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

- B. Consider Adoption of Resolution No. 2006-36 to Approve the Infrastructure Agreement between East Garrison Partners I, LLC, the East Garrison Public Financing Authority and MCWD for the East Garrison I Development:

Mr. Sterbenz introduced this item and commented that the same changes and amendments made in the previous agenda item will also be incorporated into this Agreement. Director Moore inquired if Exhibit E is necessary to this document or if it could be included in paragraph 5.

Director Moore made a motion to adopt Resolution No. 2006-36 approving the Infrastructure Agreement between East Garrison Partners I, LLC, the East Garrison Public Financing Authority and MCWD for the East Garrison I Development and moving the language from Exhibit E to the end of paragraph 5 as well as the changes made to section 6 of the agreement in agenda item 3-

A. Director Scholl seconded the motion. The motion was passed.

Agenda Item 3-B (continued):

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

C. Consider Adoption of Resolution No. 2006-37 Adopting the Proposition 50 Grant Functionally Equivalent Plan:

Mr. Lucca introduced this item. Director Moore asked if table ES-9 would be updated. Mr. Lucca answered that it would be when the second phase of the Prop 50 Grant is submitted.

Director Scholl made a motion to adopt Resolution No. 2006-37 adopting the Proposition 50 Grant Functionally Equivalent Plan. Vice President Gustafson seconded the motion. The motion was passed.

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

D. Consider Approving a Revised Board Meeting Agenda Format:

Mr. Lucca introduced this item. Discussion regarding the meeting start time followed.

Director Nishi made a motion to approve the proposed Board meeting agenda format with the Call to Order time at 6:45 p.m. and reconvene to Open Session time at 7:15 p.m. Vice President Gustafson seconded the motion. Director Moore asked if Director Nishi's motion included a three month trial basis. Director Nishi answered that it did.

Director Moore made a motion to amend the motion with the Call to Order time at 6:45 p.m. and reconvene to Open Session time at 7:00 p.m. Director Scholl seconded the motion. President Brown asked Mr. Lowrey for clarification if a Director can amend another Director's motion. Mr. Lowrey answered that an amended motion could be made and it would be a secondary motion and would have to be voted on separately to amend the first motion.

Mr. Owen commented that he felt it would be acceptable if the Board didn't finish the Closed Session items in time and reconvened the meeting after 7:00 p.m.

With a vote of 4-Ayes, 1-No, 0-Absent, Director Moore's motion to amend Director Nishi's motion was passed.

Agenda Item 3-D (continued):

With a vote of 4-Ayes, 1-No, 0-Absent, the amended motion was passed.

5. Planning Workshop:

A. Discuss LAFCO Annexation Process and Related Board Governance Issues:

Mr. Lucca introduced this item. He commented that the City of Seaside recently passed a Resolution to get representation on the District Board. President Brown asked if a JPIA would have to be created for Seaside to get a seat on the District Board. Mr. Lowrey answered that it would require State Legislation. Mr. Lowrey gave a brief explanation of the voter approval in the LAFCO annexation process and on pre-clearance. Discussion regarding the LAFCO process followed. Mr. Lowrey stated that within the next year LAFCO's Municipal Service Review (MSR) should be complete and following that, the Annexation process will be completed. One alternative would have the District's Board of Director candidates running in the next general election in 2008 to be elected by voters that include the annexed portion of the District. Mr. Lowrey added that, under this alternative, by 2010 all of the Board members would have been voted on by the entire annexed District. Director Moore asked if there needed to be a pre-clearance for the Annexation of the Armstrong Ranch. Ms. Elizabeth Caraker, City of Marina, answered that it would have to be done and would be a very simple process as there are no voters in that region. Discussion on pre-clearance continued concluding that pre-clearance was necessary whenever any annexation occurs. Director Nishi stated that LAFCO was delayed in completing the MSR's due to a heavy workload.

Mr. Lucca asked for direction from the Board regarding the annexation process and governance issues. Director Moore suggested that staff provide the Board a copy of the MSR as soon as it is available. The Board concurred.

Ms. Jill Anderson, City of Seaside, commented that the Seaside City Council had requested representation on the District Board and has passed a Resolution to look into doing so. Director Moore asked if it would be helpful if the District appointed an Ad Hoc Committee to discuss these matters with the City of Seaside. Ms. Anderson answered that it would be helpful.

Director Moore suggested that the Board consider establishing an Ad Hoc Committee if the City of Seaside is willing to participate. President Brown asked that consideration of an Ad Hoc Committee be placed on a future agenda for discussion.

Mr. Owen asked for clarification on which area of Seaside the MCWD provides water to. Director Nishi stated that the District sends out newsletters as well as discusses the District's service areas at Board meetings. He was concerned that the public wasn't getting the information the District distributes.

Agenda Item 5-A (continued):

Mr. Lowrey explained the agreements the District has to provide water to all portions of the Ord Community of which Seaside has a number of customers.

6. Informational Items:

A. General Manager's Report:

Mr. Lucca stated he had no further comments.

B. Counsel's Report:

Mr. Lowrey stated he had nothing to report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Scholl stated that the WCC took a field trip to look at ETO Controllers.

2. Joint City-District Committee:

Vice President Gustafson stated there was general discussion on future water supply.

3. MRWPCA Board Member:

Director Nishi commented that there was a budget workshop in June and was very impressed with the return on investments the MRWPCA has received.

4. LAFCO Liaison:

Director Nishi commented that the dynamics are very interesting and the Public member and Alternate were reappointed.

5. JPIA Liaison:

Director Moore stated that he had attended the JPIA May Board meeting which was held in Monterey.

6. Special Districts Association (SDA) Liaison:

Director Moore stated that the next scheduled meeting is July 18, 2006.

7. FORA:

Director Nishi stated there was an informative meeting with Congressman Sam Farr.

8. Executive Committee:

Vice President Gustafson stated he and President Brown met with Mr. Lucca to discuss the agenda.

9. Community Outreach:

Director Scholl stated there was nothing to report.

D. Directors Comments:

Director Nishi commented that President Brown was doing a good job in pulling the Board together. He added that he would like to see the agenda items kept in order and only pulling items out of order if a consultant or someone else is present from out of town. Director Nishi also said the May 19-25, 2006 Carmel Pine Cone reported that the Pebble Beach golf courses are being irrigated from Forest Lake and aeration is being used to stop algae growth. Director Nishi commented that the Armstrong Ranch is still viable for a reservoir and he hopes that the District considers building it.

Director Scholl stated that he did not feel the MRWPCA's two and a half percent return on their long-term investment was not very impressive.

Director Moore commented that he appreciated President Brown's attempt to accommodate the public by moving things around on the agenda as long as it doesn't confuse us with the order.

Vice President Gustafson thought the agenda order was well done.

7. Planning Workshop:

A. Proposed Expense Reimbursement Policy and Ethics Training Policy:

Ms. Joan Warren, Management Services Administrator, introduced this item. Director Moore stated that he had several comments and suggested several changes.

Agenda Item 7-A (continued):

Director Moore's changes included:

- 1) that page two of the Proposed Expense Reimbursement Policy better define "Personal losses incurred while on District business." He asked that a proposal be brought back for consideration.
- 2) Exhibit A be combined with Exhibit B and change the title to read District Travel and Reimbursement Policy.
- 3) Middle two bullets on page 193 of the packet are confusing; clarify.
- 4) Third paragraph, last sentence under Reimbursement Process for the District's Board of Directors, begins with "This". Clarify what "this" is.
- 5) Exhibit B, Ethics Training, third paragraph read "...approved by the California Attorney General and the..."
- 6) Top of page 205, strike subsection (4).
- 7) Page 208, Section 2 is not clear on the rates, are these the actual IRS rates or Federal Rates. Needs clarification.
- 8) Page 209, paragraphs (h) and (j) are to be deleted, why? Mr. Prasad answered that the District is not exempt from Transient Occupancy Taxes. Mr. Lucca answered that it would be confirmed before the next meeting.

Mr. Lucca stated this would be brought back as an action item with the comments included.

B. 2006 Strategic Plan – Board Housekeeping Items:

Mr. Lucca introduced this item and asked what items the Board would like to discuss in the July Strategic Plan Housekeeping items. Vice President Gustafson asked that the District's Annexation and strategies be discussed, as well as desalination options. Mr. Lucca answered that those would be brought back as Planning Workshop items. Director Moore suggested the Board hold a strategic outreach plan on the Annexation issue. Mr. Lucca suggested rolling the outreach plan into the Ad Hoc Committee process. Mr. Lucca asked what the Board wanted for the Strategic Plan Housekeeping items. President Brown suggested having the Closed Session and Public Outreach as Board Housekeeping Items.

President Brown recessed the meeting from 8:50 until 9:00 p.m.

The Board entered into closed session at 9:00 p.m.

8. Closed Session:

- A. 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: Water Rights
Negotiating Parties: MCWD and Clark Colony Water Company
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

The Board returned to open session at 9:50 p.m.

9. Possible Action on Closed Session Items:

Mr. Lowrey stated that no action was taken in closed session.

President Brown made a motion to approve the General Manager's contract with two corrections. The first correction is that under "Term" in paragraph 4, the last sentence that reads, "Each year on the anniversary of this contract, the term of the contract be extended by one year" be stricken. And paragraph 5 should read "...under this Contract, or is convicted of a felony." Director Moore seconded the motion. Director Nishi asked if this Resolution could be acted upon without public notice. Mr. Lowrey stated that agenda items 8 and 9 serve as public notice. The motion was passed.

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

The Board re-entered into closed session at 9:54 p.m.

Regular Board Meeting
May 24, 2006
Page 11 of 11

The Board returned to open session at 10:00 p.m.

Mr. Lowrey stated no action was taken in closed session.

10. Adjournment:

The meeting was adjourned at 10:00 p.m.

APPROVED:

David W. Brown, President

Date

ATTEST:

Marc A. Lucca, General Manager