

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
October 25, 2006  
6:45 p.m.

**Minutes**

1. Call to Order:

President Brown called the meeting to order at 6:45 p.m. on October 25, 2006.

Board Members Present:

David Brown – President  
Howard Gustafson – Vice President  
Tom Moore – arrived at 6:46 p.m.  
Ken Nishi  
Charles Scholl – arrived at 6:46 p.m.

Board Members Absent:

None.

Staff Members Present:

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

Audience:

Jeanne Loe, Catering Magik  
LaTonya Olivier, TPO Human Resources  
Bob Holden, MRWPCA  
Stephenie Hughes, RMC Water & Environment  
Ralph Marcello, Nicholson and Olson  
Salvador Lopez-Ramos, Bamboo Pavilion  
Allison Imamura, Denise Duffy & Associates

3. Action Item:

- A. Consider Adoption of Resolution No. 2006-83 to Approve a Professional Services Agreement with TPO Human Resources to Facilitate the General Manager's Performance Evaluation for CY 2006:

Director Moore made a motion to approve a Professional Services Agreement with TPO Human Resources to facilitate the General Manager's performance evaluation for CY 2006. Director Scholl seconded the motion. Vice President Gustafson asked Director Scholl to elaborate on his comment from the last meeting regarding criteria for the performance evaluation. Director Scholl answered that there were many ways to evaluate a person's performance and this evaluation doesn't have to be structured only around the Strategic Plan. The motion was passed.

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

The Board entered into closed session at 6:50 p.m.

4. Closed Session:

- A. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: General Manager
- 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 Negotiators  
Property: Armstrong Ranch Reserved Area and Easements  
Negotiating Parties: MCWD and Armstrong Family  
Under Negotiation: Price and Terms
- D. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiators  
Property: Pipelines and Related Appurtenances  
Negotiating Parties: MCWD and California American Water  
Under Negotiation: Price and Terms

- E. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiators  
Property: Proposed Corporation Yard Site  
Negotiating Parties: MCWD and City of Marina  
Under Negotiation: Price and Terms

President Brown reconvened the meeting to Open Session at 7:02 p.m.

5. Pledge of Allegiance:

Everyone present participated in the pledge of allegiance.

6. Possible Action on Closed Session Items:

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

7. Oral Communications:

Mr. Salvador Lopez-Ramos, Bamboo Pavilion, voiced his concern over the grease trap requirements being enforced on the business owners of Marina. He added that the financial burden of upsizing the current grease traps was causing concern as well.

Mr. Lloyd Lowrey, Legal Counsel, commented that under "Oral Communications" members of the public are allowed to make comments to the Board, but the Board cannot discuss those comments unless the issue is agendaized. President Brown asked if he could ask clarifying questions on the comments heard. Mr. Lowrey answered that since these concerns were brought to the Board's attention, it would be better for the Board to agendaize the matter for a future meeting so there can be further discussion and the ability to ask clarifying questions.

Following discussion, President Brown requested to have the grease trap requirements placed on the November 15, 2006 agenda.

Ms. Jeanne Loe, Catering Magik, stated that the Association of Marina Food Service Providers for Sensible Grease Collection System Requirements provided a letter to the Board that voiced the concerns of local businesses regarding the requirements and time constraints to install the grease traps. President Brown stated that those concerns would be addressed at the next meeting on November 15, 2006 where this item would be agendaized. In the meantime, he added, the local merchants should meet with the General Manager to voice their concerns and the results of that meeting would be discussed on November 15, 2006.

8. Consent Calendar:

Director Moore requested to pull item E (Adopt Resolution No. 2006-91 to Certify a CEQA Addendum for the District's Regional Urban Water Augmentation Project and Authorize Filing a Notice of Determination); Director Nishi requested to pull item A (Adopt Resolution No. 2006-88 to Approve a Professional Services Agreement with Bartle Wells & Associates to Prepare a Five-Year District Rate Study and Financial Plan); and, Mr. Marc Lucca, General Manager, requested to pull item D (Adopt Resolution No. 2006-90 to Authorize the General Manager to Accept Water, Sewer and Recycled Water Easements under the Terms of Board-Approved Infrastructure Agreements) from the consent calendar.

Vice President made a motion to approve the consent calendar consisting of items; B) Consider Second Reading and Approve Ordinance No. 43 to Maintain Separate Cost Centers; C) Adopt Resolution No. 2006-89 to Approve a Professional Services Agreement with Creegan + D'Angelo for Design Phase Services for the General Jim Moore Boulevard Phase IV Project and to Amend the FY 2006/2007 Budget; F) Approve the Draft Minutes of the Regular Board Meeting of September 27, 2006; and G) Approve the Draft Minutes of the Regular Board Meeting of October 11, 2006. President Brown seconded the motion. The motion was passed.

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

A. Adopt Resolution No. 2006-88 to Approve a Professional Services Agreement with Bartle Wells & Associates to Prepare a Five-Year District Rate Study and Financial Plan:

Director Nishi commented that he pulled this item because he would like to receive proposals from other firms. Mr. Suresh Prasad, Director of Finance, commented that the District has used Bartle Wells many times in the past and Bartle Wells put together the Rate Study and Financial Plan for the District in 2001 which was well-received. He added that Bartle Wells familiarity with the District's systems is an asset that results in a lower cost than the 2001 study.

President Brown asked when the last time the District contacted the Southern California firm, Don Owen & Associates. Mr. Lucca answered it was in 1995. Mr. Lowrey stated that the individual has since retired and the rate study was specifically for Fort Ord. President Brown asked if there is anyone else who could do this study. Mr. Prasad answered that there were other individuals qualified to perform rate studies. Director Nishi commented that the District had trouble originally with Bartle Wells. Mr. Lowrey stated that it was with one individual and Bartle Wells CEO stepped in and took over. Director Nishi stated that he would like to see proposals from other firms for comparison and go with the best deal. Director Moore asked how the Board would judge the not-yet-received product from a possible consultant to the product previously received from Bartle Wells.

Agenda Item 8-A (continued):

Director Nishi commented that the Board would need to check references of work performed by the consultant with other firms. Mr. Prasad commented that Bartle Wells can use the same tables they used before and they would only need to update the figures which would save time and money. He added that there was a time factor in which the District would need to meet to complete the Prop 218 requirements in order to have the rates in place on July 1, 2007. President Brown asked if the time constraint prevented the ability to go out for bids. Mr. Prasad stated that to meet the July timeframe, it did. Director Nishi voiced his concern over staff waiting until too late to bring this before the Board. Discussion followed.

Director Scholl made a motion to Adopt Resolution No. 2006-88 approving a Professional Services Agreement (PSA) with Bartle Wells & Associates to prepare a five-year District Rate Study and Financial Plan. Director Moore seconded the motion. Mr. Lowrey commented that in a PSA, it is typical to base a review or comparison on a qualification based process which varies from the process used in a construction bid. The motion was passed.

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

D. Adopt Resolution No. 2006-90 to Authorize the General Manager to Accept Water, Sewer and Recycled Water Easements under the Terms of Board-Approved Infrastructure Agreements:

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

Vice President Gustafson made a motion to adopt Resolution No. 2006-90 authorizing the General Manager to accept water, sewer and recycled water easements under the terms of Board-approved infrastructure agreements. 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			

President Brown requested to return to item 8-A. President Brown stated he was asking for reconsideration because he would like to see the District go out for bid.

President Brown made a motion to reconsider agenda item 8-A. Director Nishi seconded the motion. With a vote of 3-Ayes, 1-No, 1-Abstain, the motion to reconsider agenda item 8-A (Adopt Resolution No. 2006-88 to Approve a Professional Services Agreement with Bartle Wells & Associates to Prepare a Five-Year District Rate Study and Financial Plan) was passed.

- A. Adopt Resolution No. 2006-88 to Approve a Professional Services Agreement with Bartle Wells & Associates to Prepare a Five-Year District Rate Study and Financial Plan:

Vice President Gustafson made a motion that the District request proposals from a minimum of three consultants including a proposal from Bartle Wells & Associates. Director Nishi seconded the motion.

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

- E. Adopt Resolution No. 2006-91 to Certify a CEQA Addendum for the District's Regional Urban Water Augmentation Project and Authorize Filing a Notice of Determination:

Mr. Sturbenz stated that there was an amendment to Appendix A of the report that needed to be added to the appendices. Director Moore asked several clarifying questions.

- 1) Page 47 of the Board packet, Section 4.4-R4, second sentence was missing wording. Ms. Allison Imamura, Denise Duffy & Associates, answered that the sentence should read, "...outside of the project construction within the project site...".
- 2) Page 48 of the Board packet, Section 4.4-R18, why were the "coast horned lizards and globose dune beetles" removed from the text. Ms. Imamura stated that it was due to the realignment of the pipelines.
- 3) Page 49 of the Board packet, Section 4.8-R2, why "work will be stopped immediately" and "all personnel evacuated" were removed from the text. Ms. Imamura answered that the Army has new language requirements which is included in the first bullet, "MCWD and their contractors shall immediately suspend actions which may affect the item."
- 4) Page 50 of the Board packet, Section CUM-R3, the removal of "and/or MRWPCA". Ms. Imamura answered that the actions within the mitigation measures, within the District's service area, are controlled by the District and actions outside the District's service area are controlled by the lead agency.

Vice President Gustafson made a motion to adopt Resolution No. 2006-91 certifying a CEQA addendum for the District's Regional Urban Water Augmentation Project and authorize filing a Notice of Determination. Director Moore seconded the motion. Mr. Lucca clarified that the motion included the corrections and additions mentioned. Vice President Gustafson and Director Moore agreed. The motion was passed.

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

9. Action Items:

A. Consider Accepting the FY 2005/2006 Audit Report:

Mr. Prasad introduced this item. Director Nishi inquired where compensated absences were reflected in the audit report. Mr. Prasad answered it was included under noncurrent liabilities. Director Nishi commented that customers have told him their automatic payments were being withdrawn later than they should be and the District was late in refunding deposits. He asked if Mr. Ralph Marcello, Nicholson and Olsen, noticed late refunds or payment withdrawals in his audit. Mr. Marcello stated that he did not notice any late refunds or withdrawals. Mr. Prasad announced that there were several software upgrades and software issues that did delay some refunds in November and December 2005. Director Nishi asked Mr. Marcello if they could look for late refunds or withdrawals in the next audit. Mr. Marcello answered that the type of audit the District has contracted his firm to do is a financial audit not a performance audit.

Director Moore made a motion to accept the FY 2005/2006 Audit Report. 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	-	Yes			

B. Consider Receiving the Public Review Draft Municipal Services Review for the Monterey Peninsula and Direct the General Manager to Submit a Comment Letter:

Mr. Lucca introduced this item. Director Moore stated that he would like to see the citation in the table in Section 2 of the report to go back to its original source and commented that he believes the population projection is on the high side. Mr. Lucca stated a comment could be added that asks the most recent numbers regarding population be used. Mr. Lucca also commented that in the revised comment letter (version 2) provided to the Board for review, comment number four had redundant language and suggested removing the redundant language. Discussion followed.

Director Nishi made a motion to receive the Public Review Draft Municipal Services Review for the Monterey Peninsula and direct the General Manager to submit a Comment Letter (version 2) as provided to the Board. 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	-	Yes			

C. Consider Adoption of Resolution No. 2006-84 to Approve an Amendment to the Professional Services Agreement with Byron Buck & Associates for an Annual Update to the 2005 Urban Water Management Plan:

Mr. Sterbenz introduced this item. Mr. Lucca stated that this work was covered under the blanket agreement the Board previously approved for Byron Buck & Associates, but the funding was not allocated at that time.

Director Moore made a motion to adopt Resolution No. 2006-84 approving an amendment to the Professional Services Agreement with Byron Buck & Associates for an annual update to the 2005 Urban Water Management Plan. Director Scholl seconded the motion. The motion was passed.

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

10. Staff Report:

A. Receive 3<sup>rd</sup> Quarter 2006 Water Consumption Report:

Mr. Lucca introduced this item. Director Nishi commented that this report should be presented to the Water Conservation Commission so they can see the great job they are doing in conservation.

11. Informational Items:

A. General Manager's Report:

Mr. Lucca commented that AB2951 was signed by the Governor and does not affect the settlement agreement between the District and CSUMB, and that the Director's should now provide any additional comments before the agreement is signed.

B. Counsel's Report:

Mr. Lowrey commented that AB2951 requires that any anyone who provides water to a government agency needs to do a study every ten years to show the rates are not discriminatory. He added that any capital component charge, implicit in the General Managers comments, included in normal rates are not subject to negotiation.



C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Scholl stated that he had no comments.

2. Joint City-District Committee:

President Brown commented that the meeting was cancelled. Vice President Gustafson commented that these meetings were important and there needed to be more effort to attend.

3. MRWPCA Board Member:

Director Nishi stated the next meeting is October 30, 2006.

4. LAFCO Liaison:

Director Nishi commented that the incorporation of Carmel Valley provided helpful information for when the District goes through the LAFCO process.

5. JPIA Liaison:

Director Moore stated that he had no comments.

6. Special Districts Association (SDA) Liaison:

Director Moore commented that there was a speaker from the California Special Districts Association who gave a brief presentation and recommended voting against Prop. 90. Discussion followed.

7. FORA:

Director Nishi stated that the meeting was cancelled due to lack of agenda items.

8. Executive Committee:

President Brown stated that the committee members met and discussed various issues.

9. Community Outreach:

Director Scholl stated that he had no comments.

D. Director's Comments:

Vice President Gustafson stated that he looks at all the Propositions and decides which ones would cost the property owners the most and informs renters to vote no on that Proposition to keep their rents from going up.

President Brown recessed the meeting from 8:19 until 8:35 p.m.

12. Planning Workshop:

A. 2006 Strategic Plan – Board Housekeeping: Conflict of Interest:

Mr. Lowrey gave a brief presentation on Conflict of Interest. He explained the types of conflicts i.e. Political Reform Act, Government Code Section 1090, campaign contributions and gifts, incompatible employment or office, leaving office and common law. Mr. Lowrey gave a detailed explanation on the different conflicts and answered clarifying questions posed by the Board.

13. Correspondence:

No comments.

The Board re-entered into closed session at 9:06 p.m.

4. Closed Session:

A. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: General Manager

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  
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Conference with Real Property Negotiators  
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D. Pursuant to Government Code Section 54956.8  
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Negotiating Parties: MCWD and California American Water  
Under Negotiation: Price and Terms

E. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiators  
Property: Proposed Corporation Yard Site  
Negotiating Parties: MCWD and City of Marina  
Under Negotiation: Price and Terms

President Brown reconvened the meeting to Open Session at 7:02 p.m.

6. Possible Action on Closed Session Items:

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

14. Adjournment:

The meeting was adjourned at 9:15 p.m.

APPROVED:

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David Brown, President

Date

ATTEST:

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Marc A. Lucca, General Manager