

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
December 13, 2006
6:45 p.m.

Minutes

1. Call to Order:

President Brown called the meeting to order at 6:45 p.m. on December 13, 2006.

2. Roll Call:

Board Members Present:

David Brown – President
Howard Gustafson – Vice President
Ken Nishi
Bill Lee

Board Members Absent:

Tom Moore

Staff Members Present:

Marc Lucca, General Manager
Lloyd Lowrey, Legal Counsel – arrived at 6:50 p.m.
Andrew Sterbenz, Interim District Engineer
Jim Dowless, Operations and Maintenance Superintendent
James Derbin, Operations Engineer
Suresh Prasad, Director of Finance
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

LaTonya Olivier, TPO Human Resources
Bob Holden, MRWPCA
Michael Shaw, Cypress Knolls
Craig Spencer, Marina Resident
Renee Bailey, Community Banking Manager, Rabobank
Lindsay Alexander, Federal Development
Kristie Reimer, Federal Development
Jill Anderson, City of Seaside

President Brown noted for the record that on an earlier date, Director Lee was previously sworn in.

3. Declare the Election of Directors to the Marina Coast Water District:

A. Consider Adoption of Resolution No. 2006-94 to Declare the Election of Directors to the Marina Coast Water District:

President Brown made a motion to adopt Resolution No. 2006-94 to declare the election of Directors to the Marina Coast Water District. Vice President Gustafson seconded the motion. The motion was passed.

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

4. Administer Oath of Office:

Mr. Marc Lucca, General Manager, administered the Oath of Office to Vice President Gustafson.

President Brown requested to move to item 6 (Closed Session) before item 5 (Election of Board President and Vice President). He added that Director Moore had requested postponement of item 6-B until his return in January. Director Nishi stated he would like to have both items available for comment during closed session. The Board agreed to have both items available for discussion in closed session.

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

6. 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

President Brown reconvened the meeting to open session at 7:20 p.m.

8. Possible Action on Closed Session Items:

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

7. Pledge of Allegiance:

President Brown led everyone present in the pledge of allegiance.

5. Election of Board President and Vice President:

President Brown opened the floor for nominations for Board President. Director Brown nominated Director Gustafson for Board President. No other nominations were forthcoming.

With a vote of 4-Ayes, 0-Noes, 1-Absent, the nomination was passed.

President Gustafson asked for nominations for Vice President.

Director Brown nominated Director Nishi for Vice President. No other nominations were forthcoming.

With a vote of 3-Ayes, 0-Noes, 1-Abstained, 1-Absent, the nomination was passed.

9. Oral Communications:

Mr. Craig Spencer, Marina resident, stated that he has been a long time MCWD customer and will be relocating to the Ord Community military housing that has recently been made available to the public. He voiced his concern over the flat water rate being charged to those customers in the Ord Community military housing section who don't have water meters. President Gustafson asked Mr. Spencer to contact Mr. Lucca for more information on rates. Director Brown explained that the public is invited to make comments under Oral Communications, but the Board is not allowed to respond or ask questions because the Board can only discuss what is specifically agendaized. Any further discussion would violate the Brown Act.

10. Consent Calendar:

Director Nishi requested to pull item A (Adopt Resolution No. 2006-95 to Authorize On-Call Services Agreements with Monterey Peninsula Engineering and Don Chapin Company) from the consent calendar. Mr. Lucca requested that item B (Adopt Resolution No. 2006-96 to Approve an Agreement for Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between the City of Del Rey Oaks and the Marina Coast Water District) be pulled from the consent calendar.

Agenda Item 10 (continued):

Director Brown made a motion to approve the consent calendar consisting of items; C) Approve the Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2007; D) Receive the Quarterly Financial Statements for July 1, 2006 to September 30, 2006; E) Approve Expenditures for the Month of October 2006; and F) Approve the Draft Minutes of the Regular Board Meeting of November 15, 2006. President Gustafson seconded the motion. The motion was passed.

Director Moore	-	Absent	Vice President Nishi	-	Yes
Director Lee	-	Abstained	President Gustafson	-	Yes
Director Brown	-	Yes			

A. Adopt Resolution No. 2006-95 to Authorize On-Call Services Agreements with Monterey Peninsula Engineering and Don Chapin Company:

Vice President Nishi questioned the Resolution showing MPE as the primary contractor and Don Chapin as the secondary contractor. He voiced his concern over stating that MPE was chosen as primary because they were less expensive than Don Chapin. Mr. Lucca stated that Don Chapin was aware of staff's recommendation and did not object.

Director Brown made a motion to adopt Resolution No. 2006-95 authorizing on-call service agreements with MPE and Don Chapin Company. Director Lee seconded the motion. The motion was passed.

Director Moore	-	Absent	Vice President Nishi	-	No
Director Lee	-	Yes	President Gustafson	-	Yes
Director Brown	-	Yes			

B. Adopt Resolution No. 2006-96 to Approve an Agreement for Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between the City of Del Rey Oaks and the Marina Coast Water District:

Mr. Lucca stated that this item was pulled because there were discrepancies in the staff report and project description, and staff will continue working with the developer to bring this item back in January 2007. Vice President Nishi asked if the Developer paid for connecting to the wastewater system currently under construction on General Jim Moore Blvd. Mr. Andrew Sterbenz, Interim District Engineer, stated that the construction on General Jim Moore Blvd was a California American Water Company pipeline to connect to its ASR pilot project. Vice President Nishi asked if the developer was going to pay for sewer connection from their property to the Seaside County Sanitation District (SCSD).

Agenda Item 10-B (continued):

Mr. Lucca answered that negotiations are still being discussed with SCSD and their legal counsel regarding an agreement and once final it will be brought before the Board for review and discussion. Vice President Nishi questioned if a pump station needed to be put in to convey flows to the main sewer trunkline, would the developer pay for it. Mr. Lucca answered that the scenario Vice President Nishi just mentioned was not included in the current CIP and if it happened there would be two choices that would be brought before the Board; 1) the developer would pay the entire cost to run a sewer line to the main trunkline as part of the out-of-track improvement that they would be required to pay, or 2) the capacity charge would be modified and the cost would spread across all of the jurisdictions. Mr. Lucca added that the decision hasn't been made because at this point the project doesn't exist, as well as, a more cost effective way was identified by going through SCSD. Vice President Nishi stated that the agreement needs to clarify that if the negotiations with SCSD should not go through, the developer must pay for the improvements to connect to the sewer trunkline. Mr. Lucca answered that the agreement is still being modified and discussions with the developer will specifically address Vice President Nishi's question. This item will return for Board review in January 2007.

11. Action Items:

A. Consider Formation of the Ord Community Ad Hoc Annexation Committee:

Mr. Lucca introduced this item. He explained that Mr. Keith Israel, Monterey Regional Water Pollution Control Agency (MRWPCA), delivered a letter (provided in the Board packet) to the Local Agency Formation Commission (LAFCO) at its December 4, 2006 hearing that mentioned several issues they had with the Municipal Services Review (MSR). Those issues were noted and did not affect the MSR. Mr. Lloyd Lowrey, Legal Counsel, commented that he and Mr. Lucca met on December 12, 2006 with Mr. Elliot Mulberg, LAFCO, and with Mr. Israel to review the language of the MSR and address the issues Mr. Israel had raised.

Vice President Nishi wanted to add to the third paragraph of the transmittal that he, as the Board liaison to LAFCO, was also present at the December 4, 2006 meeting. He added that he spoke with Mr. Israel at that meeting and another one after that and told him that currently, the MCWD does treat, provide, or operate a recycled water system or service due to the fact that the District has the right to the first 2000 afy coming out of the plant even though the District hasn't pursued it yet. Vice President Nishi voiced his concerns that Mr. Israel sent the letter to LAFCO without first contacting the District. He expressed that delivery of the letter is not good faith negotiations relative to the recycled water project.

Vice President Nishi stated that he was in favor of forming an Ord Community Ad Hoc Annexation Committee (OCAC) and that the District should be involved but not as the Chair.

Agenda Item 11-A (continued):

Vice President Nishi stated he would like the OCAC to select its own Chair. Vice President Nishi stated he preferred Option 2 and would like to see the Army, UCMBEST, and CSUMB as members as well, but wasn't sure if FORA should be included. President Gustafson said FORA should be included.

Mr. Lucca commented that he is looking for Board action on four items that are listed in the transmittal. The items are: 1) Does the Board want to consider/direct the formation of the OCAC; 2) Answer the four questions regarding formation of the Committee; 3) Direct the General Manager to send the draft letter provided in the Board packet to the distribution list provided requesting names of participants; and, 4) Direct staff to schedule the initial meeting for the end of January 2007. The Board provided the following responses/actions to the items aforementioned:

1. Yes, the Board does want to form the Ord Community Ad Hoc Annexation Committee.
2. a. The Board agreed that the goal of the OCAC shall be to make recommendations to the District Board of Directors regarding annexation of the Ord Community to the District.
- b. The Board selected Option 2 revised as follows: The OCAC will be made up of two elected members of the land use jurisdictions within the Ord Community (Cities of Seaside, Marina, Del Rey Oaks, and Monterey; County of Monterey; CSUMB, UCMBEST and US Army, and a representative from the FORA Board, one member and one alternate, including two members of the District's Board of Directors, one member and one alternate. The District's General Manager will serve as the secretary to this committee. Duties generally include scheduling meetings, preparing agendas, noticing meetings as appropriate, and providing meeting minutes.
- c. The Board selected Option 2 – Let the OCAC select its own Committee Chair.
- d. The Board directed the OCAC may establish its own timeline in which to provide final recommendations.
3. The Board directed the General Manager to send the draft letter to the distribution list provided with the correction that it be sent to the FORA Chair instead of the Executive Officer.
4. The Board directed the General Manager to schedule the first meeting in late January 2007 unless the new members of the OCAC request it be scheduled in early February 2007.

Agenda Item 11-A (continued):

Mr. Lucca reviewed for accuracy the answers/direction provided to the staff by the Board.

Vice President Nishi made a motion to approve the direction provided to the General Manager regarding the OCAC. Director Brown seconded the motion. The motion was passed.

Director Moore	-	Absent	Vice President Nishi	-	Yes
Director Lee	-	No	President Gustafson	-	Yes
Director Brown	-	Yes			

B. Consider Adoption of Resolution No. 2006-97 to Accept the Central Marina Water System Master Plan and Update to the Ord Community Water System Master Plan:

Mr. Sterbenz introduced this item.

Director Brown made a motion to accept the Central Marina Water System Master Plan and update to the Ord Community Water System Master Plan. President Gustafson seconded the motion. Director Nishi asked several clarifying questions and pointed out several discrepancies in the document. He added that the Armstrong Ranch reservoir is not included in the Master Plan. Discussion followed.

Director Brown withdrew his motion. President Gustafson requested this item be postponed until staff and the consultant discuss changes to the document and advised the Board if they have any other comments to contact staff.

C. Consider Conducting 2007 Strategic Planning Session:

Director Brown requested that this item be postponed until all Board members are present. President Gustafson postponed this item until January 10, 2007.

12. Staff Reports:

A. Discuss Contracting for Legislative Assistance:

Mr. Lucca introduced this item and asked the Board for direction. Vice President Nishi suggested Mr. Lucca contact Bill Dendy for legislative assistance.

B. Fats, Oil and Grease Program and Financing Alternative – Update

Mr. Lucca introduced this item. He explained the two financing opportunities provided by local banks and explained that a revised proposal from Rabobank was provided to the Board and public for review.

Director Brown stated that he thought the business owners had questions other than financing ones i.e. if the business owner has two grease traps that equal more than eighty gallons, why do they have to get a new one; and, how do they apply for a variance. Director Brown asked if those questions have been answered. Mr. Lucca answered that two variance requests have been received and both were not approved. He explained that in the District's response, they were given a chance to appeal to the Board. One business owner stated that they were going to take out their old smaller grease trap and replace it with the proper size one, and the other request was verbally withdrawn with the owner stating that they would install the proper sized grease trap, but needed a time extension.

Mr. Lowrey clarified the terms of a variance. He read an excerpt from the District Code, Section 2.08:

A. Any person affected by this code may, at any time, apply in writing for a variance from the strict application of this code. A written application for the variance shall be filed with the district.

B. Within five calendar days after a request for a variance is filed with the district, the general manager or the general manager's designee shall make a written determination of the interpretation and application of this code and recommendation for action on the variance request, and mail the written determination and recommendation to the address supplied by the applicant.

C. Within ten calendar days after mailing of the written determination, the applicant may file a written request with the district for a hearing of the variance application by the board. If no such request is filed, and if the general manager has recommended granting a variance, the board will consider the general manager's determination and recommendation as a consent item at the next regularly scheduled board meeting. If such request is filed, the application will be heard as a separate item at the next board meeting. No variance shall be granted except by board action at a duly called and noticed open and public meeting of the board.

D. The board shall have the power, by resolution, to grant variances from the requirements of this code if the board makes the following findings:

1. The strict application of the code would result in unfair or unequal treatment, undue hardship, or an emergency condition exists which requires that the variance be granted; and

2. Granting the variance will not cause a significant adverse effect on the water supply or on service to other persons served by the district; and

Agenda Item 12-B (continued):

3. The variance is in the best interests of the district.

E. In granting a variance, the board may impose any conditions in order to ensure that the variance is consistent with the purpose of the requirement from which the variance is granted. The granting of a variance and any conditions imposed upon such variance shall be set forth in writing.

Discussion followed. Vice President Nishi asked to agendaize variance letters on the next agenda and staff to provide the two letters that were sent denying the variance requests. Following discussion, President Gustafson asked staff to agendaize the variance process and provide copies of the two letters sent for discussion on how to format future letters.

Mr. Lucca added that as of December 13th, the number of businesses not in compliance has dropped from 35 to 4 and the number planning to come into compliance is now 31. He added that the FOG program has made some great strides and people are beginning to understand the importance of compliance. Vice President Nishi asked if the District checked to see if the MRWPCA has a low interest financing program to help businesses comply with the requirements. Mr. Jim Dowless, Operations and Maintenance Superintendent, stated the MRWPCA does not have a financing program for businesses.

13. Informational Items:

A. General Manager's Report:

Mr. Lucca stated that he would be on vacation from December 20 through January 2, 2007.

B. Counsel's Report:

Mr. Lowrey stated that he had nothing to report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

No comments.

2. Joint City-District Committee:

President Gustafson commented that the next meeting was scheduled for December 14, 2006.

3. MRWPCA Board Member:

Vice President Nishi stated that he had already commented on what happened at the meeting.

4. LAFCO Liaison:

Vice President Nishi stated that he had already commented on what happened at the meeting.

5. JPIA Liaison:

No comments.

6. Special Districts Association (SDA) Liaison:

No comments.

7. FORA:

Vice President Nishi stated that the 150 afy temporarily given to certain land use jurisdictions was made permanent and UCSC voiced their concerns that they didn't get the same considerations.

8. Executive Committee:

President Gustafson commented that transitional items were discussed.

9. Community Outreach:

No comments.

D. Director's Comments:

Vice President Nishi welcomed Director Lee to the Board and thanked the rest of the Board for having confidence in his abilities to serve as Vice President. He added that the Board needed to get their Committee assignment requests to the President for consideration at the next meeting.

President Gustafson reiterated that Committee assignment requests needed to be turned in to him for consideration at the next meeting.

Vice President Nishi stated that a list of Committees with the dates and times they are held be sent to each Director for their review and to help with the selection.

President Gustafson also welcomed Director Lee to the Board.

14. Planning Workshop:

A. Board Update on the Duties of the Board President and Vice President:

Mr. Lucca reviewed the duties as listed in the Board Procedures Manual in Sections 9 and 10.

15. Adjournment:

The meeting was adjourned at 8:50 p.m.

APPROVED:

Howard Gustafson, President

Date

ATTEST:

Marc A. Lucca, General Manager