

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
January 10, 2007
6:45 p.m.

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on January 10, 2007 after which the Board entered into closed session.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None

Staff Members Present:

Marc Lucca, General Manager
Lloyd Lowrey, Legal Counsel – arrived at 6:50 p.m.
Andrew Sterbenz, Interim District Engineer
Suresh Prasad, Director of Finance
Joan Warren, Management Services Administrator
Ken Demmons, Project Engineer
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

LaTonya Olivier, TPO Human Resources
Bob Schaffer, Marina Community Partners
Tom Kouretas, MRWPCA
Trang Tu-Nguyen
Mr. Russ Avila, Specialty Construction, Inc.

The Board entered into closed session at 6:46 p.m.

3. Closed Session:

- A. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator
Property: Proposed Corporation Yard
Negotiating Parties: MCWD and City of Marina
Under Negotiation: Price and Terms
- B. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator
Property: Communications Site Lease
Negotiating Parties: MCWD and Nextel
Under Negotiation: Price and Terms
- C. Pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: General Manager
- D. 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 Gustafson reconvened the meeting to Open Session at 7:17 p.m.

4. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

5. Possible Action on Closed Session Items:

President Gustafson stated that no action was taken in closed session but that there may be action taken after the Board returns from closed session at the end of the meeting.

6. Oral Communications:

No comments.

7. Presentations:

A. Consider Adoption of Resolution No. 2007-01 in Recognition and Appreciation of Director David W. Brown's Service as Board President During 2006:

Vice President Nishi made a motion to adopt Resolution No. 2007-01 recognizing and appreciating Director David W. Brown's service as Board President during 2006. Director Moore seconded the motion. Vice President Nishi stated he would like to add language to the second WHEREAS of the Resolution so that it reads "...and maintained integrity and set the example for dedication to both the Board of Directors and to the District..." He also added language to the third WHEREAS of the Resolution so that it reads "...experience to the Board when there was turmoil on the Board and acted at all time in support of the District." Mr. Lloyd Lowrey, Legal Counsel, clarified the language to be added. Director Moore stated his second included the change. The motion was passed.

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

B. Consider Adoption of Resolution No. 2007-02 in Recognition and Appreciation of Charles H. Scholl:

Director Moore made a motion to adopt Resolution No. 2007-02 recognizing and appreciating Charles H. Scholl. Director Brown seconded the motion. President Gustafson read the resolution into the record. The motion was passed.

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

8. Consent Calendar:

Director Moore requested that item A (Adopt Resolution No. 2007-03 to Approve an Infrastructure Agreement between Marina Community Partners, LLC and MCWD for the University Villages Development, Phases 1B and 1C) be pulled from the consent calendar. Vice President Nishi requested that item B (Adopt Resolution No. 2007-04 to Approve a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for General Engineering Services) be pulled from the consent calendar. Mr. Marc Lucca, General Manager, requested that item D (Approve Draft Minutes of the Regular Board Meeting of December 13, 2006) be pulled from the consent calendar.

Agenda Item 8 (continued):

Director Brown made a motion to approve the consent calendar consisting of item C (Approve Expenditures for the Month of December 2006). President Gustafson seconded the motion. The motion was passed.

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

- A. Adopt Resolution No. 2007-03 to Approve an Infrastructure Agreement between Marina Community Partners, LLC and MCWD for the University Villages Development, Phases 1B and 1C:

Director Moore asked when Exhibit E (Notice to Homeowners of Water & Sewer Surcharge Payments) would be populated. Mr. Andrew Sterbenz, Interim District Engineer, answered that the notice would be completed within 60 days.

Director Moore made a motion to adopt Resolution No. 2007-03 approving an Infrastructure Agreement between Marina Community Partners, LLC and MCWD for the University Villages Development, Phases 1B and 1C. Director Brown seconded the motion. The motion was passed.

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

- B. Adopt Resolution No. 2007-04 to Approve a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for General Engineering Services:

Vice President Nishi commented that he agreed with staff that there is a discrepancy with but wasn't sure what the solution was. Director Nishi stated that he would like to see the Board make a policy decision on whether to outsource or continue to try to fill the Engineering positions and questioned the need for all these engineering positions when the redevelopment slows down. Mr. Lucca explained the role of the engineering department will change over the next several years.

Director Moore asked if the District could send as much or as little work to Schaaf & Wheeler, therefore not requiring a minimum of work to be outsourced. Mr. Lucca answered that there is no minimum amount of work to be sent to Schaaf & Wheeler, it would be on an as needed basis only.

Agenda Item 8-B (continued):

Mr. Andrew Sterbenz, Interim District Engineer, stated that when the engineering positions are filled, staff will meet with Schaaf & Wheeler to discuss modifications to the contract.

Director Nishi stated that his main concern was not knowing the final cost. Discussion followed.

Director Moore made a motion to adopt Resolution No. 2007-04 approving a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for general engineering services. Director Brown seconded the motion. The motion was passed.

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

D. Approve Draft Minutes of the Regular Board Meeting of December 13, 2006:

Mr. Lucca stated that a revised page 5 of the minutes was handed out prior to the meeting. The words “and Mr. Lucca” were added to the forth sentence of item 11 to read, “...commented that he and Mr. Lucca met on December 12, 2006...”

Director Brown made a motion to approve the draft minutes of the regular Board meeting of December 13, 2006. President Gustafson seconded the motion. The motion was passed.

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

9. Action Items:

A. Consider Director Appointments to Standing Committees of the Board and to Outside Agencies for 2007:

President Gustafson handed out a listing of his recommendations for Committee appointments. Director Brown questioned why the Outreach Committee now had two members when before it had only one. President Gustafson stated that he thought it might be prudent to have two members on the committee with all the changes going on within the District, especially a business owner who might be able to reach out to other business owners and bring a different point of view back to the Board. President Gustafson’s recommendations are as follows:

Agenda Item 9-A (continued):

<u>Committee</u>	<u>Director</u>	<u>Alternate(s)</u>
Joint City/District	Gustafson, Brown	Nishi, Moore
MRWPCA	Nishi	Brown
MRWPCA Negotiating Team	Gustafson, Nishi	Brown
FORA	Nishi	Brown, Moore
LAFCO	Nishi	Lee
JPIA	Moore	Lee

<u>Committee</u>	<u>Director</u>	<u>Alternate(s)</u>
WCC	Lee	Moore
SDA	Gustafson	Moore
Executive Committee	Gustafson, Nishi	
Community Outreach	Gustafson, Lee	
Ord Community Ad Hoc	Moore, Lee	
MBRWA	Gustafson	Brown

Director Moore commented that he would like to continue to be the District's representative to the SDA. He added that Resolution No. 2003-26 states the SDA representative shall be the same as the LAFCO representative. President Gustafson stated that he understood Director Moore's concern, but, as President, he would like to be involved in these key committees. Director Moore commented that he would like to see two representatives on the SDA instead of one, which would mean that one would have to serve on the LAFCO as well. President Gustafson commented that he would like to keep the FORA, LAFCO and MRWPCA representative the same because of all the issues involved. Director Moore asked Mr. Lowrey for clarification on whether a new resolution was needed to change the actions of Resolution No. 2003-26. Mr. Lowrey answered that it can be included specifically in this motion to change the action of the prior resolution. Vice President Nishi asked why that action has not been followed in previous years. President Gustafson stated that he was going to change the action of Resolution No. 2003-26 by inclusion of the change in this motion as well as increasing Community Outreach members to two. Vice President Nishi stated that the Board doesn't have the authority to change the number of representatives to the SDA. Mr. Lowrey agreed, but added that they did have the authority to change the action of Resolution No. 2003-26 and not require that the same representative serve on both LAFCO and SDA.

Vice President Nishi made a motion to approve the Director appointments to Standing Committees of the Board and to outside agencies for 2007. Mr. Lowrey asked if the motion included changing the action of Resolution No. 2003-26 and not requiring that the same representative serve on both LAFCO and SDA; and, that the Community Outreach is increased to two members. Vice President Nishi stated that those recommendations were

Agenda Item 9-A (continued):

included in the motion as long as they were allowable. Mr. Lowrey stated that he preferred to have the motion include the specifics as Vice President Nishi had done. Director Brown seconded the motion. Mr. Lucca clarified that the motion was to accept the proposed committees; to amend prior Board action of Resolution No. 2003-26 to include LAFCO and SDA as separate District Board representatives; and to increase the Community Outreach to two Board members. Vice President Nishi agreed that was his motion. Director Brown commented that if these assignments don't work out they can always be revisited at a later date, just as they have in the past.

Director Moore commented that he did not think certain committees would work out very well and was disappointed in his assignments with only one committee and the rest as alternate. Director Brown commented that he only had one committee as well and didn't feel that he was being slighted. Director Moore stated that he still was not satisfied with his assignments and was concerned that certain committees would not work out in the District's best interest.

The motion was passed.

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

B. Consider Approving the Succession Plan and Training Gap Analysis Report:

Ms. Joan Warren, Management Services Administrator, introduced this item and Ms. LaTonya Olivier, TPO Human Resources. Ms. Warren stated that there were two changes to the report and revised pages 88 and 89 of the Board packet were handed out for review. Ms. Olivier gave a brief review of the steps the District will have to take with a Succession Plan and training to hire and retain quality personnel. Vice President Nishi complimented Ms. Olivier on a good report.

Director Brown made a motion to approve the Succession Plan and Training Gap Analysis report. President Gustafson seconded the motion. Vice President Nishi stated that other agencies were facing the same difficulties in hiring personnel as the District, and the need to be patient because there may be someone wanting to relocate to this area. Director Moore suggested looking into a co-op program where students can learn first hand what it is like to work with the District and the District can scope out future hires. Director Lee commented that perhaps the District could look into low cost employee housing as CSUMB has done with their students.

Agenda Item 9-B (continued):

The motion was passed.

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

C. Consider Adoption of Resolution No. 2007-05 to Approve a Salary Increase for the District Engineer and Capital Projects Manager Positions:

Ms. Warren introduced this item. Vice President Nishi stated that the Board needs to decide which way to go i.e. outsource the work or continue trying to fill the engineer positions. Vice President Nishi had several questions on the salary ranges. Mr. Suresh Prasad, Director of Finance, explained why there were special salary ranges for certain positions.

Mr. Lucca stated that combining the salary ranges could be looked at when preparing the upcoming budget.

Director Moore made a motion to adopt Resolution No. 2007-05 to approve a salary increase for the District Engineer and Capital Projects Manager positions. Director Brown seconded the motion. The motion was passed.

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

D. Consider Adoption of Resolution No. 2007-06 to Authorize the Construction of the Marina Sewer Improvements Project and Amending the FY 2006/2007 Budget:

Mr. Ken Demmons, Project Engineer, introduced this item. Director Lee asked if this project included removing the water tower at the Marina Airport. Mr. Demmons answered that the water tower was part of the next project, agenda item 9-E. Vice President Nishi asked where the shortage in the budget would come from. Discussion on budget and capital project schedules followed.

Mr. Lucca stated that he would like to add a WHEREAS to the resolution stating, "WHEREAS, on February 22, 2006, the Board adopted Resolution No. 2006-14 approving the CEQA EIR Addendum for the San Pablo Lift Station; and,"

Agenda Item 9-D (continued):

Director Moore made a motion to adopt Resolution No. 2007-06 to authorize the construction of the Marina Sewer Improvements Project and amending the FY 2006/2007 Budget. Director Brown seconded the motion. The motion was passed.

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

E. Consider Adoption of Resolution No. 2007-07 to Authorize the Construction of the Ord Reservoirs “D” and “E” Replacement Project and Amending the FY 2006/2007 Budget:

Mr. Demmons introduced this item and Mr. Russ Avila, Specialty Construction, Inc. Mr. Lucca added that this is a refurbishment & repair project. Vice President Nishi had several questions regarding budget. Discussion followed. Mr. Lucca stated that this was a time sensitive project due to potential hazards with some of the existing infrastructure.

Director Moore made a motion to adopt Resolution No. 2007-07 to authorize the construction of the Ord Reservoirs “D” and “E” Replacement Project and amending the FY 2006/2007 Budget. Director Brown seconded the motion. The motion was passed.

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

F. Consider Conducting 2007 Strategic Plan:

Mr. Lucca introduced this item. He explained that the 2006 Strategic Plan is still current but the Board can do additional strategic planning to reflect the new Board member.

Vice President Nishi made a motion to engage TPO Human Resources to facilitate a brief strategic plan and goal setting session. Director Brown seconded the motion. The motion was passed.

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

10. Staff Reports:

A. Review District Variance Process:

Mr. Lucca introduced this item. Director Lee commented that the feedback he had received was that the business owners felt the General Manager was making the decisions regarding variances without Board knowledge. He added that the proposed language is more palatable to the business owners. Director Lee asked the definition of a “food service establishment”. Mr. Lucca answered that the requirements and description of a “food service establishment” was adopted with Ordinance No. 38 which has been codified into the District Code. President Gustafson commented that the District needs to be proactive and patient with the public regarding this new requirement.

Vice President Nishi requested to amend revising Section 2.08.020 –Variances of the District Code. He then asked if the District offices had a grease trap installed in the kitchen. Mr. Lucca answered that there was no stove in the kitchen so there was no cooking done in the kitchen, but stated that he would have Mr. Dowless look into seeing if the District would require a grease trap, and that one would be installed if it met District requirements. Director Brown commented that he believes a food service establishment is one that prepares and sells food to the public. Discussion followed.

Mr. Lowrey read the description of a food service establishment as described in the District Code.

“Food Service Establishment” is an establishment that prepares and/or sells food for consumption either on or off the premises, including but not limited to, restaurants, sandwich shops, delicatessen’s, bakeries, or pizzerias. The term as used in this chapter does not refer to food stores or establishments that do not prepare food on the premises, or process food in a manner so as to contribute grease to the sewer system.

Director Moore asked for clarification on Vice President Nishi’s request to amend the variance issue. Discussion followed.

Mr. Lucca clarified that a draft ordinance would be brought back to the Board revising Section 2.08.020 – Variances, of the District Code.

B. Review Draft Reimbursement Agreement for Water, Sewer and Recycled Water Facilities between East Garrison Partners I, LLC and Marina Coast Water District:

Mr. Sterbenz introduced this item. Director Lee asked why the District can’t require developers to build infrastructure to meet everyone’s needs and leave it at that. Why does there have to be a reimbursement agreement. Director Lee asked what benefit was it to the District to manage these agreements. He questioned if it was in the District’s best interest

Agenda Item 10-B (continued):

to try to manage these agreements. Mr. Sterbenz gave a brief explanation of how developers may be required to upsize infrastructure within their development for the benefit of other developments therefore the other developers must pay a portion of the upsizing. President Gustafson explained that it was beneficial to developers if they upsize infrastructure ahead of time as it saves time and money. Mr. Lucca commented that if the Board wants, the District could require developers to put in whatever infrastructure the District says it needs but that is a matter for the Board to decide. He added that this staff report was intended to allow discussion of how the District wants to handle this in the future. Mr. Lowrey added that when he first started with the District in 1986, he was against the District taking on the difficulty of trying to manage reimbursement, but since then there has been some legal pushback. With millions of dollars tied up in these developments, there is more potential for legal pushback and Mr. Lowrey recommends the District looking at reimbursement agreements. Director Moore asked how the District could be guaranteed that the developer is getting the lowest price for the infrastructure work. Mr. Sterbenz answered that the developer is bidding this work in parallel with other work for the development and should be looking for the best price from the contractor, but the District also has to agree on a project by project and facility by facility basis. The District has to agree to the terms in the master agreement and the price for each scope-of-work. Director Moore asked where that is stated in the agreement. Mr. Sterbenz stated it was in Article 1.1 of the agreement. Director Moore stated that he is uncomfortable with the wording “scope and estimate”.

Mr. Sterbenz answered that the wording could be changed to “scope and price”. Director Moore agreed with the wording change. He added that the second sentence in Article 1.2.1 would fit better in Article 1.2. Mr. Lucca answered that staff would look into it. Director Moore commented that it was difficult to determine how payments are done because there are three different cases. Mr. Sterbenz answered that it is done on a case by case basis as they are not all the same. Director Moore suggested that if there are more than three cases, there needs to be a section for each case with a description of the case and the conditions of the case, followed by a description of how they will be reimbursed.

Vice President Nishi had questions on the recommended infrastructure in the East Garrison development. He questioned what would happen if larger infrastructure was put in and the new eastern well field didn't get approved thus changing the direction of water flow. Discussion followed.

President Gustafson recommended bringing this back as an action item.

11. Discuss Possible Agenda Items for the January 24, 2007 Planning Workshop and Provide Direction to Staff:

No comments.

12. General Manager's Comments:

Mr. Lucca gave a brief update on the responses received regarding representation on the OCAC.

City of Del Rey Oaks:	Primary - Joe Russell,	Secondary - Jerry Edelen
City of Marina:	Primary - Ila Mettee-McCutchon,	Secondary - Gary Wilmot
CSUMB:	Primary - John McCutchon,	Secondary - Mehul Mody
*FORA:	Primary – Ralph Rubio	Secondary – Chuck Della Sala

* recommended but not yet approved by FORA Board.

Mr. Lucca commented that on January 31, 2007 the PUC is scheduling a meeting of agencies to discuss the Coastal Water Project. Mr. Lucca stated that he has a call in to the PUC to see why the District was not invited. President Gustafson directed Mr. Lucca to notify the PUC that the District will be participating because it is a major player in this project.

Mr. Lucca noted that staff has requested a meeting with Assemblyman John Laird's office on Friday, January 19, 2007 from 10 – 11 am to discuss projects and possible access to Prop. 84 funds. President Gustafson commented that as Community Outreach he would be available to talk with Mr. Laird.

Mr. Lucca commented that a lawsuit was posed against the Cypress Knolls project.

13. Director's Comments:

Director Moore welcomed Director Lee to the Board. He welcomed back President Gustafson and wished Director Brown and Vice President a Happy New Year. Director Moore commented that at the LAFCO meeting when the MRWPCA provided a letter with several misleading issues, and he was disappointed the District's LAFCO representative didn't speak up and clarify the issue.

Vice President Nishi commented that Director Moore was on vacation during the last meeting where he did report the misleading letter. Vice President Nishi stated that at the next MRWPCA meeting he spoke with Mr. Keith Israel, General Manager, requesting him to put on the agenda the fact that they would do something like this without Board approval.

Regular Board Meeting

January 10, 2007

Page 13 of 14

The Board returned to Closed Session at 9:49 p.m.

3. Closed Session:

- A. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator
Property: Proposed Corporation Yard
Negotiating Parties: MCWD and City of Marina
Under Negotiation: Price and Terms
- B. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator
Property: Communications Site Lease
Negotiating Parties: MCWD and Nextel
Under Negotiation: Price and Terms
- C. Pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: General Manager
- D. 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

The Board returned to open session at 10:06 p.m.

5. Possible Action on Closed Session Items:

President Gustafson stated that there was action taken only on item 3-A following discussion in closed session.

Director Lee made a motion to direct the General Manager to sign the proposed Corporation Agreement based on direction given in closed session. Director Brown seconded the motion. The motion was passed.

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

14. Adjournment:

The meeting was adjourned at 10:08 p.m.

APPROVED:

Howard Gustafson, President

Date

ATTEST:

Marc A. Lucca, General Manager