

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
February 14, 2007
6:45 p.m.

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on February 14, 2007 after which the Board entered into closed session.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None.

Staff Members Present:

Marc Lucca, General Manager
Lloyd Lowrey, Legal Counsel
Andrew Sterbenz, Schaaf & Wheeler Consultant
Jeff Cattaneo, District Engineer
Suresh Prasad, Director of Finance
Richard Youngblood, Conservation Coordinator
James Derbin, Operations Engineer
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Bob Holden, MRWPCA
Dick Goblirsch, Del Rey Oaks
Justina Walsh
Kristie Riemer, Federal Development
John Infantino, Federal Development
Allison Imamura, Denise Duffy & Associates
Francisco Santana, CSUMB Student
Quyen-Thi Nguyen, CSUMB Student

3. Closed Session:

- A. 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

- 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 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

- 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

President Gustafson reconvened the meeting to open session at 7:15 p.m.

4. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

5. Possible Action on Closed Session Items:

Mr. Lloyd Lowrey, Legal Counsel, stated that direction was given to negotiators.

6. Oral Communications:

Ms. Justina Walsh, Marina resident, asked for an update on the formation of a Special Assessment District and contact information. Mr. Marc Lucca, General Manager, asked Ms. Walsh to contact the District in the morning and he would give her the information she requested.

Agenda Item 6 (continued):

Mr. Lucca introduced Mr. Francisco Santana, a CSUMB student in attendance for a class assignment in public policy.

7. Public Hearing:

- A. Consider First Reading of Ordinance No. 44 to Establish Procedures for Issuance of Emergency Proclamations; Repeal Section 6.04.020(B) and Amend Appendix E of the District Code; and Direct Staff to Schedule a Second Reading on February 28, 2007:

Mr. Lucca introduced this item and explained that Appendix E was also being amended to remove language addressing rates, fees and charges. He explained that the language was being removed because if the Board adopts new rates, fees or charges, the Board may have to adopt a new Ordinance to update Appendix E of the Code and by removing the language from Appendix E that would no longer be the case.

Vice President Nishi asked if the District had previously passed an emergency procedure. Mr. Lucca answered that in 1989, the District passed a Resolution specific to that emergency.

Director Brown made a motion to schedule a second reading on February 28, 2007 for adoption of Ordinance No. 44. Director Lee seconded the motion. The motion was passed.

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

8. Consent Calendar:

Vice President Nishi requested to pull item E (Adopt Resolution No. 2007-17 to Approve a Professional Services Agreement with Bartle Wells Associates to Prepare a Five-Year Water, Wastewater and Recycled Water Financial Plan and Rate Study) from the consent calendar. Director Moore requested to pull item G (Approve a Thank You Letter to Businesses for Compliance with the Fats, Oil & Grease Program) from the consent calendar.

Director Moore made a motion to approve the consent calendar consisting of items A) Adopt Resolution No. 2007-13 to Authorize a Construction Contract with Maggiora Brothers Drilling for Replacement of Well No. 10 Mechanical and Electrical Equipment and Amending the FY 2006/2007 Budget; B) Adopt Resolution No. 2007-14 to Approve the Infrastructure Agreement between Federal / JER Associates I, LLC and MCWD for the Resort at Del Rey Oaks Development; C) Adopt Resolution No. 2007-15 to Approve a Professional Services Agreement with Carollo Engineers for Engineering Services; D) Adopt Resolution No. 2007-16 to Accept the Central Marina Water System Master Plan and Update to the Ord Community Water System

Agenda Item 8 (continued):

Master Plan; F) Election of LAFCO Commissioner; H) Approve the Draft March 2007 Newsletter; I) Approve Expenditures for the Month of January 2007; and J) Approve the Draft Minutes of the Regular Board Meeting of January 24, 2007. Director Lee seconded the motion. The motion was passed.

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

- E. Adopt Resolution No. 2007-17 to Approve a Professional Services Agreement with Bartle Wells Associates to Prepare a Five-Year Water, Wastewater and Recycled Water Financial Plan and Rate Study:

Vice President Nishi asked why staff didn't recommend the lowest bidder for the Financial Plan and Rate Study. Mr. Suresh Prasad, Director of Finance, answered that the firm was from out-of-state and just opened an office in California. The firm did not provide any referrals for work performed in California. Vice President Nishi stated that he was uncomfortable with working with one firm for too long and preferred to use a new firm.

Director Moore made a motion to approve a Professional Services Agreement with Bartle Wells Associates to prepare a five-year water, wastewater and recycled water Financial Plan and Rate Study. 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			

- G. Approve a Thank You Letter to Businesses for Compliance with the Fats, Oil & Grease Program:

Director Moore asked if the District was sending letters to individual businesses, and if not, suggested doing so. Director Lee asked if congratulating the businesses that did comply would create any legal problems for those that didn't comply. Mr. Lowrey answered it would not. Director Moore asked if letters would be sent and published for the other businesses when they comply. Mr. Lucca affirmed that letters would be sent and published for the other businesses when they complied.

Director Moore made a motion to approve publication of the Thank You letter and directed staff to send individual thank you letters to all the businesses in compliance. Director Lee seconded the motion.

Agenda Item 8-G (continued):

The motion was passed.

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

Vice President Nishi complimented staff on the March 2007 Newsletter.

9. Action Items:

A. Reconsider District's Appointment to Special District's Association:

President Gustafson introduced this item and gave a brief explanation of why he requested this item to be on the agenda. Director Moore thanked President Gustafson for the affirmative vote when he was elected President of the Special District's Association (SDA). President Gustafson stated he didn't vote in the election. Director Moore read from the draft SDA January 16th minutes which stated the election was approved unanimously. President Gustafson commented that when the SDA neglected to inform the new President of their intentions, it was not proper. He added that he wanted to be the point person, which is the purpose of the assignment and the current situation would interfere with his ability to be the point person.

Director Brown asked for further clarification of why President Gustafson wanted to change alternates. President Gustafson clarified that the SDA elected the District's alternate member as the President of the Association for 2007. Discussion followed. Director Moore read an excerpt from the January 24, 2007 Board minutes regarding this item. He added that the results of the nominating committee were made the night of the SDA meeting and there was no prior discussion.

President Gustafson made a motion to appoint Director Lee as the alternate to the SDA. Vice President Nishi seconded the motion. The motion failed.

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

Director Brown asked for more time to consider this item and requested this item be brought back to the next meeting. President Gustafson gave direction to have this item brought back to the February 28, 2007 meeting.

B. Receive Draft Budget for FY 2007-2008 and Review Budget Schedule:

Mr. Prasad introduced this item. Vice President Nishi asked what was presented to the Water Wastewater Oversight Committee (WWOC) at the meeting earlier that day. Mr. Prasad answered they were given a copy of the budget and a presentation. Mr. Lucca stated that staff walked through the budget with the WWOC and answered any questions they had. Director Nishi voiced his concerns over the WWOC receiving the budget before the Board has a chance to look and comment on it.

Mr. Lloyd Lowrey, Legal Counsel, explained that under the Water/Wastewater Agreement between the District and FORA, there is a parallel process for reviewing the budget. The reason for doing it that way is because the District is operating under contract as it does not have legal jurisdiction on the Ord Community. Mr. Lowrey stated that the Agreement provides for the WWOC to review and recommend on operating and capital budgets, and the District must provide the proposed budget for review by March 30th of each year with FORA responding back to the District within three months of receiving the proposed budget.

Vice President Nishi voiced his concern over the District presenting the proposed budget to the WWOC before it needs to and before the District Board has a chance to review it. Director Moore stated that the District has followed this format for years and sees nothing wrong with getting ahead of the curve as it has been successful over the years. President Gustafson commented that the budget should be pretty straight forward and asked if FORA really needs that much time to review it. Vice President Nishi stated that the CIP is much different than it used to be and now there are major commitments. He added that at the FORA Administrative Committee meeting, the General Manager cautioned that the District may have trouble paying for the infrastructure in the ground because there are not enough paying customers. Mr. Lucca commented that the District Board has authority in many forms and ultimately has the final say on projects. He stated that the Master Plan is the District's guide to the CIP and the budget is a work in process. Mr. Lucca added that there are many checks and balances throughout the process before funds are spent on projects and the Board has the authority to pass or deny any project. Vice President Nishi commented that the political situation is changing and the pressure is going to come on who gets the water first. President Gustafson agreed there would be concerns the closer the projects get to being completed.

Mr. Lucca stated that the Board needed to decide on a date in which to hold the budget workshop. Mr. Prasad commented that the workshop was traditionally held the first week of March. Following discussion the Board agreed to hold the budget workshop on March 7, 2007 at 6:30 p.m.

- C. Consider Adoption of Resolution No. 2007-18 to Adopt *Addendum No. 2 to the Certified Environmental Impact Report for the Regional Urban Water Augmentation Project* and Resolution No. 2007-19 to Approve Revisions to the Recycled Water Project, to Approve the Updated Mitigation Monitoring and Reporting Program, and to Authorize Filing a Notice of Determination:

Mr. Andrew Sterbenz, Schaaf & Wheeler Consultant, introduced this item.

Director Brown made a motion to adopt Resolution No. 2007-18 to adopt *Addendum No. 2 to the Certified Environmental Impact Report for the Regional Urban Water Augmentation Project* and Resolution No. 2007-19 to approve revisions to the Recycled Water Project, to approve the updated Mitigation Monitoring and Reporting Program, and to authorize filing a Notice of Determination. Director Moore seconded the motion. Mr. Lowrey stated that the Resolutions should be voted on separately. Directors Brown and Moore withdrew their motions.

Director Brown made a motion to adopt Resolution No. 2007-18 to adopt *Addendum No. 2 to the Certified Environmental Impact Report for the Regional Urban Water Augmentation Project*. Director Moore seconded the motion. The motion was passed.

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

Director Brown made a motion to adopt Resolution No. 2007-19 to approve revisions to the Recycled Water Project, to approve the updated Mitigation Monitoring and Reporting Program, and to authorize filing a Notice of Determination. Director Moore seconded the motion. The motion was passed.

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

- D. Consider Adoption of Resolution No. 2007-10 to Approve a Revised Memorandum of Agreement with the FORA, Monterey County, City of Seaside, City of Marina, Monterey Peninsula College, Transportation Agency of Monterey County, and Monterey-Salinas Transit Regarding the Allocation of Self-Insured Retention:

Mr. Lucca introduced this item.

Agenda Item 9-D (continued):

Director Moore made a motion to adopt Resolution No. 2007-10 to approve a revised Memorandum of Agreement with the FORA, Monterey County, City of Seaside, City of Marina, Monterey Peninsula College, Transportation Agency of Monterey County, and Monterey-Salinas Transit regarding the allocation of Self-Insured Retention. Director Lee seconded the motion. The motion was passed.

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

E. Consider Approval of Dates to Conduct a 2007 Board Plan and Goals Session:

Mr. Lucca introduced this item. Following discussion, Mr. Lucca stated that staff would email the Directors to get a date that everyone was available.

President Gustafson recessed the meeting from 8:10 until 8:15 p.m. after which the Board re-entered into closed session.

3. Closed Session:

- A. 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 Gustafson reconvened the meeting to open session at 8:27 p.m.

5. Possible Action on Closed Session Items:

President Gustafson stated that direction was given to the General Manager.

Director Moore made a motion to direct the General Manager to sign an agreement with the City of Marina based on the changes discussed 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			

10. Staff Reports:

A. Review Revisions to District Code Regarding Variance Approval:

Mr. Lucca introduced this item. Mr. Lowrey stated that according to the District Code, staff could recommend approval or denial of a variance to the Board and only the Board can grant a variance. If staff recommends an approval it comes before the Board. If staff recommends a denial, it only comes before the Board if it is appealed. Vice President Nishi commented that he would prefer all variance requests to come before the Board. Discussion followed. Director Moore stated that as the Code is written now, the Board relies on the judgment of the General Manager. More discussion followed.

President Gustafson directed staff to bring back a Draft Ordinance revising section 2.08.020 of the District Code's on Variance's. The revision shall state that the General Manager will make recommendations on all variance requests to the Board and they will hear and act on all such variance requests.

B. Update on Surface Storage at Armstrong Ranch:

Mr. Lucca introduced this item. He announced that funding has been made available at the state level for surface storage and that District staff has begun pursuing those funds as well as other opportunities.

11. Discuss Possible Agenda Items for the February 28, 2007 Planning Workshop and Provide Direction to Staff:

President Gustafson stated that several items from this meeting were to be continued to the next meeting. Mr. Lucca commented that Board Housekeeping from the 2006 Strategic Plan would be brought to the next meeting for discussion in April.

12. General Manager's Comments:

Mr. Lucca commented that last year the District was part of a Prop. 50 Grant request with several other agencies. The group did not make the first cut of the grant. Staff from several agencies went to Sacramento asking for reconsideration and as a result, SWRCB staff is recommending the group get about \$12.5 million in grant funds.

Mr. Lucca stated there was a CPUC meeting on January 31st which he, President Gustafson and Vice President Nishi attended with a follow-up meeting on February 28, 2007.

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13. Director's Comments:

14. Adjournment:

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

APPROVED:

Howard Gustafson, President

Date

ATTEST:

Marc A. Lucca, General Manager