

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
March 28, 2007
6:45 p.m.

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on March 28, 2007 after which the Board entered into closed session.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

David Brown - excused

Staff Members Present:

Marc Lucca, General Manager
Lloyd Lowrey, Legal Counsel
Jeff Cattaneo, District Engineer
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Tom Buell, MRWPCA
Jill Anderson, City of Seaside
Dick Goblirsch, City of Del Rey Oaks
Bill Dendy, Dendy & Associates
Dave McCall, City of Marina

3. Closed Session:

- A. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiators
Property: Rights-of-Way, Pipelines and Related Appurtenances
Negotiating Parties: MCWD and California American Water
Under Negotiation: Price and Terms

- B. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator
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President Gustafson reconvened the meeting to open session at 7:09 p.m.

4. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

5. Possible Action on Closed Session Items:

Mr. Marc Lucca, General Manager, stated that direction was given on how to move forward on item 3-A; and, items 3-B and 3-C will be discussed in closed session at the end of the meeting.

6. Oral Communications:

None.

7. Public Hearing:

- A. Consider First Reading of Draft Ordinance No. 45 to Amend Section 2.08.020, Delete Section 2.08.030, and Amend Appendix E of the District Code and Direct Staff to Schedule a Second Reading on April 11, 2007:

Mr. Lucca introduced this item.

Agenda Item 7 (continued):

Vice President Nishi stated he didn't recall asking staff to contact agencies to see how they handle variances, they were asked to contact other agencies for a form letter for variances. In regards to the form, Vice President Nishi suggested deleting the first paragraph as it is abrasive. He also suggested that only the property owner should be allowed to request a variance. Vice President Nishi added that the paragraph above the signature line is also abrasive. He offered the variance forms he collected from other agencies be used as examples. Vice President Nishi stated he could support the Ordinance but not the Appendix which consists of the variance form.

Director Moore asked if the variance form needs to be part of the Ordinance. Mr. Lloyd Lowrey, Legal Counsel, stated it could be separate from the Ordinance. Mr. Lucca commented that if the Board wanted to adopt the Ordinance without the variance form, the variance form could be included in the District's Standards and Policies.

President Gustafson opened the Public Hearing at 7:28 p.m. Hearing no comments from the public, President Gustafson closed the Public Hearing at 7:29 p.m.

Vice President Nishi made a motion to approve the first reading of Ordinance No. 45 and direct staff to schedule the second reading on April 11, 2007 and bring back the variance form letter as a separate item to be included in the District's Standards and Policies. Director Moore commented that he is in agreement with modifying the form to make it more user friendly, but not in agreement with the Ordinance as he feels the current procedure is fine as is. Director Lee seconded the motion.

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

8. Consent Calendar:

Director Moore made a motion to approve the consent calendar consisting of items A) Adopt Resolution No. 2007-27 to Approve the Hourly Pay Rate Increase for the Student Intern Position; B) Approve the Draft Minutes of the Regular Board Meeting of February 28, 2007; and, C) Approve the Draft Minutes of the Special Board Workshop of March 7, 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	-	Absent			

9. Action Items:

- A. Consider Adoption of Resolution No. 2007-28 to Approve a Memorandum of Understanding (MOU) between Seaside County Sanitation District (SCSD) and Marina Coast Water District (District) Regarding Sanitary Sewer Operations:

Mr. Jeff Cattaneo, District Engineer, introduced this item.

Director Lee commented that the timeframes are relatively short and asked if staff could comply with the short timeframe. Mr. Cattaneo commented that if the Board concurred, he would be more comfortable with changing the timeframe in Section 4(a) to 120 days. Director Lee also suggested changing Section 5 from 90 to 120 days.

Director Moore suggested extending the timeframe in Section 8 from twelve months to 24 months.

Vice President Nishi inquired about Exhibit A showing the proposed extensions which was not included in the Board packet. He voiced his concern that this MOU did not protect the District. Vice President Nishi said there should be language in the MOU that states should the MOU not be extended; there should be some form of compensation for the infrastructure upgrades expended by the District.

Director Moore questioned Section 4 where it states, "SCSD will reimburse MCWD for costs of improvements to SCSD's sewer system that will benefit SCSD customers..." and asked if that was anticipated to be for the proposed extensions. Mr. Cattaneo answered affirmatively. Following discussion, Mr. Lucca suggested putting a period after SCSD in the fourth sentence of Section 4 and deleting the rest of the sentence so that it reads, "SCSD will reimburse MCWD for costs of improvements to SCSD's sewer system that will benefit SCSD customers in proportion to projected flows from MCWD and SCSD." "for five years from the date of completion of the improvements" will be deleted.

Director Moore suggested having timing projections put on Exhibit A. Mr. Lowrey commented that this document was a planning and finance document and as such the Board cannot get into a level of detail to commit the District to spend a specified level of money or do anything that would affect the environment. In order to comply with CEQA the Board is entering into a planning and financing MOU with Section 4 defining the more definitive things. Mr. Lowrey added that subsequent MOU will include actual facilities; costs and commitments; and will have the CEQA compliance associated projects.

Mr. Lucca suggested adding language to speak to the fact that if SCSD decides to terminate the MOU as it gets close to the twenty year term and there is still service life left in the pipelines there will be compensation to MCWD for the installation of the facilities.

Agenda Item 9-A (continued):

Vice President Nishi stated he wanted language in the MOU to say the wastewater flows from the portion of Del Rey Oaks, Seaside and Monterey on the former Fort Ord belong to MCWD. Mr. Lucca commented that this MOU has been before the Board several times and it was agreed that the wastewater flows and who owns them is a topic for discussion between the Monterey Regional Water Pollution Control Agency (MRWPCA) and the MCWD. Mr. Lucca added that the wastewater flows do not include nor are they affected by this agreement. He added that it was agreed by this Board and the SCSD Board to remove that particular condition provided this agreement in no way affected the MCWD's ability to continue discussions with the MRWPCA regarding this topic. Vice President Nishi stated he cannot support the agreement without this language.

Ms. Jill Anderson, City of Seaside, commented that the suggested changes will be brought back to the SCSD Board for review and added that additional changes may be brought back to the MCWD Board for consideration. She added that the SCSD recognizes that this is an opportunity to work regionally; and with both agencies having infrastructure improvements that need to be made this is an opportunity for savings to customers and ratepayers.

Mr. Lucca asked to reiterate the suggested changes and added that he and Mr. Lowrey would work on language to speak to Vice President Nishi's concern. Mr. Lucca stated he would like to bring this item back with the Board's suggested changes and any suggested changes from SCSD for Board review. Following review of the revised MOU, it would be sent back to SCSD for possible approval.

The suggested changes to the MOU are as follows:

- 1) Section 4, first paragraph, fourth sentence shall read, "SCSD will reimburse MCWD for costs of improvements to SCSD's sewer system that will benefit SCSD customers in proportion to projected flows from MCWD and SCSD." "for five years from the date of completion of the improvements" will be deleted.
- 2) Section 4(a), first sentence: change 60 days to 120 days.
- 3) Section 5, fourth sentence: change 90 days to 120 days.
- 4) Section 8, first sentence: change twenty years to thirty years.
- 5) Section 8, last sentence: change twelve months to 24 months.
- 6) Add to Section 8 or add new paragraph to read: If SCSD terminates this MOU, SCSD shall pay to MCWD an amount equal to the initial cost of the facilities ensconced by MCWD, adjusted by the Engineering Record Index (ENR), multiplied by the remaining projected useful life of the facilities agreed to by SCSD and MCWD in the subsequent MOU required by Section 4(a) of this MOU.

Vice President Nishi stated he would be more comfortable discussing this in closed session.

Agenda Item 9-A (continued):

Mr. Lucca stated SCSD's comments could be discussed in closed session if the Board desires. Director Moore commented that he didn't see the need to discuss this in closed session. President Gustafson stated he didn't see the need for closed session either.

Mr. Dick Goblirsch, Del Rey Oaks, commented that they would prefer a lesser time than 120 days and would recommend 90 days for Section 4(a).

Director Moore made a motion that staff to take this MOU with the suggested changes in draft form back to the SCSD Board. Director Lee seconded the motion. The motion was passed.

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

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

Mr. Lucca introduced this item. Vice President Nishi suggested doing this through emails as one member is absent. He asked that the emails show dates, times and who is available to attend. Vice President Nishi also asked that staff notify the President if there is a problem getting a director to respond.

Vice President Nishi commented that he didn't feel department heads need to be involved in the Plan and Goals session. Mr. Lucca answered that at the Strategic Plan update session, he would like to see the department heads participate. The two Board Goal sessions should only be Board members, Legal Counsel, and the General Manager. Vice President Nishi disagreed.

10. Informational Items:

A. General Manager's Report:

Mr. Lucca stated that March 20, 2007 the State Water Resources Control Board adopted a compromised proposal for a Prop 50 application and the District should be receiving several million dollars in grant funds.

Mr. Lucca shared that in San Luis Obispo, there was a 50,000 gallon sewer spill which was due to a back-up of sewer grease in the system and they will likely be fined by the Regional Water Quality Control Board. San Luis Obispo is now looking into implementing a more aggressive sewer maintenance program.

B. Counsel's Report:

No comments.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

No comments.

2. Joint City-District Committee:

Mr. Lucca stated that the next meeting was April 12, 2007. President Gustafson stated the last meeting held general discussion on various items.

3. MRWPCA Board Member:

Vice President Nishi stated that a Strategic Planning session was scheduled for March 30, 2007.

4. LAFCO Liaison:

Vice President Nishi stated that the City of Greenfield annexation was discussed.

5. JPIA Liaison:

No comments.

6. Monterey Bay Regional Water Authority:

President Gustafson stated they met earlier that day and they were still trying to figure out Order 95-10.

7. FORA:

Vice President Nishi stated that prevailing wage was discussed.

8. Executive Committee:

President Gustafson commented that the Committee did not meet.

9. Community Outreach:

President Gustafson commented that he would like to see the next meeting in the Ord Community.

10. Ord Community Ad Hoc Committee:

Director Moore stated that the next meeting is scheduled for March 29, 2007. Supervisor Smith will be absent from the meeting due to his hospitalization and as of yet there is no alternate for him.

11. Special Districts Association (SDA) Liaison:

President Gustafson stated the SDA will meet in April.

D. Director's Comments:

Director Lee commented that the economic trends for 2007 don't look very good.

Vice President Nishi asked if flowers were sent to Supervisor Smith. Mr. Lucca answered they have not. Vice President Nishi asked the General Manager to add to the next agenda an item on Board members needing General Manager's approval to contact Legal Counsel when it would exceed the hourly fee; and, an item so that members of the Executive Committee get copies of the draft agendas. Vice President Nishi also commented that Governor Swartznegger wants to spend \$5 billion on reservoirs and the District should jump on the bandwagon to get funds for the District's proposed reservoir site.

President Gustafson asked that staff get flowers to Supervisor Smith.

11. Planning Workshop:

A. Revisit Strategic Plan Goals and Objectives Quarterly:

Mr. Lucca stated he had no update other than what is in the Board packet.

Mr. Lowrey stated that before the Board go into closed session he wanted to clarify the negotiating parties for the closed session items. Item A – negotiating parties are the General Manager and California American Water; Item B – negotiating parties are the General Manager, Vice President Nishi, President Gustafson and MRWPCA; and, Item C – negotiating parties are the General Manager, Bill Dendy, Lloyd Lowrey and Clark Colony Water Company.

President Gustafson recessed the meeting from 8:29 until 8:32 p.m. after which the Board re-entered into closed session.

3. Closed Session:

- 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

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President Gustafson reconvened the meeting to open session at 9:07 p.m.

5. Possible Action on Closed Session Items:

No action was taken in closed session.

12. Adjournment:

The meeting was adjourned at 9:07 p.m.

APPROVED:

Howard Gustafson, President

Date

ATTEST:

Marc A. Lucca, General Manager