

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
April 25, 2007
6:45 p.m.

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:46 p.m. on April 25, 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
Andrew Sterbenz, Schaaf & Wheeler Consultant
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Bob Holden, MRWPCA
Lyndel Melton, RMC Water and Environment
Stephanie Hughes, RMC Water and Environment

3. Closed Session:

- A. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager)
Property: Easements, Rights-of-Way, Pipelines and Appurtenances, and Water Rights
Negotiating Parties: MCWD and Seaside County Sanitation District
Under Negotiation: Price and Terms

B. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Directors Nishi, Gustafson)
Property: Easements, Rights-of-Way, Pipelines and Appurtenances, and Water Rights
Negotiating Parties: MCWD and Monterey Regional Water Pollution Control Agency
Under Negotiation: Price and Terms

C. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiators (General Manager)
Property: Rights-of-Way, 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 7:09 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 direction was given to staff on items 3A and 3C. Agenda item 3B will be discussed in closed session after the meeting.

6. Oral Communications:

None.

7. Consent Calendar:

Vice President Nishi asked to pull item 7-C from the consent calendar.

Director Moore made a motion to approve the consent calendar consisting of items A) Consider Adoption of Resolution No. 2007-31 to Approve the District Technology Plan Appendix for FY 2006-2007 and FY 2007-2008; and, B) Approve the Draft Minutes of the Regular Board Meeting of March 28, 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			

C. Approve the Draft Minutes of the Regular Board Meeting of April 11, 2007:

Vice President Nishi stated that his was an excused absence from the April 11, 2007 Board meeting and would like the minutes to reflect that.

Director Moore made a motion to approve the draft minutes of the regular Board meeting of April 11, 2007 with the correction mentioned.

President Gustafson stated the draft minutes of March 28, 2007 should show Director Brown with an excused absence as well.

Director Moore made a motion to reconsider item 7-B (Approve the Draft Minutes of the Regular Board Meeting of March 28, 2007). Director Lee seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Absent, the motion to reconsider item 7-B was passed.

B. Approve the Draft Minutes of the Regular Board Meeting of March 28, 2007:

Director Moore made a motion to approve the draft minutes of the regular Board meeting of March 28, 2007 with the correction showing Director Brown's was an excused absence. Director Lee seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Absent, the motion was passed.

President Gustafson returned to agenda item 7-C.

C. Approve the Draft Minutes of the Regular Board Meeting of April 11, 2007:

Director Moore's motion to approve the draft minutes of the regular Board meeting of April 11, 2007 with the correction showing Vice President Nishi's was an excused absence was still on the floor. Director Lee seconded the motion. With a vote of 3-Ayes, 0-Noes, 1-Absent, 1-Abstention, the motion was passed.

8. Action Items:

A. Consider Second Reading of Ordinance No. 45 to Amend Section 2.08.020 of the District Code:

Mr. Lucca introduced this item. Vice President Nishi suggested the following changes:

Ordinance Section 2 B – Delete first sentence; and, add “as in the past” to the end of the second sentence.

Agenda Item 8-A (continued):

Section 2.08.020 B – Add “schedule permitting” to the end of the last sentence.

Section 2.08.020 C – Delete second to the last sentence. And, change the word “may” to “will” in the last sentence.

Section 2.08.020 E – In the last sentence, reinsert the words “in writing”.

President Gustafson asked that this item be brought back to the May 9, 2007 Board meeting.

B. Consider Approval of Variance Form-Letter:

Mr. Lucca introduced this item. Vice President Nishi stated he had concerns with putting an affidavit on the form. Following discussion, the Board agreed to remove items 2 and 3 under the affidavit on the Variance Form-Letter. Mr. Lloyd Lowrey, Legal Counsel, suggested striking the word “affidavit” and putting check-boxes in front of items 1 and 4.

Director Lee made a motion to strike the word “affidavit” from the form; striking items 2 and 3 from the affidavit section; and putting check-boxes in front of items 1 and 4. President Gustafson seconded the motion. The motion was passed.

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

C. Consider Adoption of Resolution No. 2007-32 to Approve a Reimbursement Agreement for Water, Sewer and Recycled Water Facilities between Cypress Marina Heights, L.P. and Marina Coast Water District:

Mr. Andrew Sterbenz, Schaaf & Wheeler Consultant, introduced this item. Director Moore asked if the District could place the reimbursement as a credit towards capacity charges that will be paid by the developers at a later date. Mr. Suresh Prasad, Director of Finance, commented that the financial modeling needs to show revenue and expenditures as it makes sounder auditing of the financial records. Director Moore commented that the risk is shifted to the District if the developer doesn't pull building permits for several years after the District paid for the infrastructure. Discussion followed.

Vice President Nishi made a motion to adopt Resolution No. 2007-32 to approve a Reimbursement Agreement for Water, Sewer and Recycled Water Facilities between Cypress Marina Heights, L.P. and Marina Coast Water District. President Gustafson seconded the motion.

Agenda Item 8-C (continued):

Director Moore made a motion to amend the motion and “make one small change to this agreement. That small change would be that when we cut the check, and issue it to pay for this work, [it be on] on the same date that the building permits are pulled that provide sufficient capacity charges to cover the cost of that check.” Director Lee seconded the motion. Vice President Nishi asked if the District could hold the checks until building permits are pulled. Mr. Lowrey answered that legally the District could. Mr. Lucca added that based on current capacity charges, it would be about 400 homes, or half of the Marina Heights development, before the District would cut checks for reimbursement.

Vice President Nishi called for the question.

The motion to amend the previous motion failed.

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

The original motion to adopt Resolution No. 2007-32 to approve a Reimbursement Agreement for Water, Sewer and Recycled Water Facilities between Cypress Marina Heights, L.P. and Marina Coast Water District was passed.

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

D. Consider Modifying the District’s Board Manual to Circulate Draft Board Meeting Agendas to the Board’s Executive Committee:

Mr. Lucca introduced this item. Vice President Nishi asked why the Board Policy Manual needed to be amended just to send draft agendas to the Executive Committee. Mr. Lucca commented that the Board Policy Manual, which stipulates the Board President would receive draft agendas, was adopted in 2002 and thus became Board policy. To change that would require Board approval. Mr. Lowrey stated that it is not the purview of the staff to interpret the Board’s policy without Board input. Vice President Nishi stated he had concerns that this is being made into a big deal and asked if legal counsel thought the Board Policy Manual needed to be changed so the Executive Committee could receive draft agendas. Mr. Lowrey answered that if the Board’s interpretation of the Policy Manual is that it is not required, nothing needed to be changed. Director Moore commented that he did not feel the Board Policy Manual needed to be changed.

Agenda Item 8-D (continued):

Vice President Nishi made a motion to modify the District's Board Manual and ask that the draft board agenda be sent to the Executive Committee. President Gustafson seconded the motion.

Director Lee made a motion to amend the previous motion for the Board to affirm the Board Policy Manual did not need to be amended and that the Executive Committee receive copies of draft agendas. Vice President Nishi seconded the amended motion. The motion was passed.

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

Vice President Nishi withdrew his previous motion.

10. Informational Items:

A. General Manager's Report:

Mr. Lucca announced that the Board received a CD on water wise gardening put together by the District and the Water Awareness Committee.

Mr. Lucca commented that LAFCO was still reviewing their budget and it would be open for comments until May 21, 2007. Vice President Nishi commented that there were concerns over the increases and comments were made at the LAFCO Budget and Personnel Committee regarding the high increases.

Mr. Lucca stated that handouts for the upcoming Board workshop were sent via email and hard copies provided to all Board members.

Mr. Lucca commented that there is a workforce housing trust being proposed in the area and an update would be brought to the Board within the next couple months.

Mr. Lucca commented that the District engineering department was doing a good job and taking advantage of opportunities when they present themselves. The Board voiced their appreciation over the hard work of the engineering department.

B. Counsel's Report:

Mr. Lowrey commented that AB 1260 is a new bill that has been proposed to change the process of Prop. 218 and suggested the Board place it on a future agenda for discussion.

Agenda Item 10-B (continued):

Mr. Lowrey highlighted that pursuant to the ethics training the Board received during the last year, the fundamental precept is that the Board serves on the Board to the benefit of all of the members of the community and not for personal gain and that any conflict needed to be reported.

Vice President Nishi commented that if the Board is approached by the press, they should be referred to Legal Counsel for legal issues and to the General Manager for operation and maintenance issues.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Lee commented that the WCC discussed the water wise gardening CD and that City of Marina staff is unable tell customers the District's requirements. He suggested the City and District work together and provide each other with requirements to assist customers with new development and remodels.

2. Joint City-District Committee:

President Gustafson stated the last meeting was cancelled. Mr. Lucca added that Director Brown confirmed that he would be available for the next meeting in May. President Gustafson added that the time was changed to 5:30 PM. Mr. Lucca stated he had not heard back from the City of Marina yet on the time change but would follow-up and get a confirmation.

3. MRWPCA Board Member:

Vice President Nishi stated that the next meeting was April 30, 2007.

4. LAFCO Liaison:

Vice President Nishi stated that the General Manager gave an update already and the big concern was the increase of fees. He added that LAFCO receives all their fees at the same time of the year and commented that they should think of collecting the fees periodically during the year so they don't run short at yearend.

5. JPIA Liaison:

Director Moore commented that the next meeting is in May 2007 in Sacramento.

6. Monterey Bay Regional Water Authority:

President Gustafson stated they met earlier that day. Mr. Lucca commented that the meeting was actually an offshoot of the MBRWA that is tied with the Coastal Water Project and the Regional Water Authority. Vice President Nishi added that a major part of the meeting discussion was between non-growth supporters and growth supporters with a presentation by Mr. Lucca

7. FORA:

Vice President Nishi stated that the meeting was boiler plate.

8. Executive Committee:

President Gustafson commented that the Committee did not meet.

9. Community Outreach:

President Gustafson commented that the next meeting would be soon. Mr. Lucca commented that they would be meeting quarterly and was in the process of scheduling a meeting.

10. Ord Community Ad Hoc Committee:

Director Moore stated that staff did excellent work in responding to previous requests of the Committee members. The Committee members had asked for a list of possible alternatives and Mr. Lucca and Mr. Lowrey developed a list with 15 alternatives and issues that dealt with the alternatives. Those alternatives and issues were discussed and will be further discussed at the next meeting. Director Moore stated that Supervisor Jerry Smith is probable to be present at the next meeting.

11. Special Districts Association (SDA) Liaison:

Director Lee commented that several members commented on the fees being charged by LAFCO and discussion on Measure A. President Gustafson commented that he has been questioning the value of the SDA. Director Lee stated that others had commented the same thing and what was said is that if an individual entity has a problem with anyone else, the SDA will bear the full brunt of the financial obligation.

D. Director's Comments:

Vice President Nishi asked for a progress report on the reservoir fund status. President Gustafson also asked for a status report on the salamander lizards.

Agenda Item 10-D (continued):

Vice President Nishi asked that the District flagpole get a fresh coat of paint and the broken ring on the flagpole be fixed.

Vice President Nishi asked that the agenda item from April 11, 2007, Discuss Modifying Board Policy permitting Board Members to Direct or Request Information from District Counsel, be brought back to the next meeting for further discussion because it was not what he had originally requested for discussion. President Gustafson directed staff to bring back the item to the next meeting.

Vice President Nishi commented on the sewer construction work taking place on Carmel Avenue across from Crumpton School. He suggested that the construction should have taken place during summer so as not to interfere with school drop-off and pick-up.

Vice President Nishi commented “you have places where you take water samples, around town, in the District. The way they installed it, people can get free water. Basically you have two valves with the mechanism to shut that off and then they put a ‘T’ in there and ran a flexible hose or pipe to where they take the water. Now all I have to do is shut the water off, cut the flexible hose, put in a ‘T’ and run a pipe to my house and I have free water.”

Director Lee asked if the District was considered a redevelopment agency and if the Brownfield funds would be available to the District. The District is not considered a redevelopment agency.

Director Moore commented that Vice President Nishi asked to have the April 11th agenda item brought back because it was not what he had originally requested, and asked what exactly Vice President Nishi was asking to have brought back if it wasn't what he wanted in the first place? President Gustafson directed staff to bring the item back as requested and further discussion can take place at the meeting.

President Gustafson recessed the meeting from 8:30 until 8:34 p.m.

10. Staff Report:

A. Receive Update on Regional Urban Water Augmentation Project – Preliminary Desalination Plant Design:

Mr. Jeff Cattaneo, District Engineer, introduced this item. Mr. Lyndel Melton, RMC Water and Environment, gave a brief presentation to the Board on the recently completed Basis of Design Report for the 1,500 AFY Desalination Facility portion of the Regional Urban Water Augmentation Project. The Board asked several clarifying questions.

Agenda Item 11-A (continued):

Vice President Nishi asked if there was redundancy in the system. Mr. Melton answered there was through the wells in the rest of the system.

Vice President Nishi commented that there was a presentation at CSUMB in which brine was sent straight back to the ocean without dilution and after passing through a certain object, it was the same TDS as the ocean water. Mr. Melton asked if Vice President Nishi could provide a name, he would check into it. Vice President Nishi answered that the group said they had the contract for the Monterey Marketplace Desalination Contract on Cannery Row.

Director Lee commented that dilution water wouldn't be needed if the District could discard the brine through the MRWPCA's outfall and asked what the savings would be. Mr. Melton answered it could save millions of dollars.

Director Lee observed that surface water is less expensive to treat than desalinated water and it doesn't make sense how 150 AFY of the Salinas River can go straight to the bay when it can be used in the County.

Mr. Lucca commented that these costs have been discussed with FORA staff and they are troubled with the cost and as a result, staff will revisit other options.

Vice President Nishi commented that although the cost is expensive, the District should keep moving forward.

Director Moore stated that the project is continuing to move forward, but the General Manager is making sure that this is the best direction to take.

Mr. Lucca commented that as soon new information is received it will be brought back to the Board.

11. Planning Workshop:

A. Board Housekeeping – Update on the Duties of the Board of Directors:

Mr. Lucca introduced this item. There were no questions or comments from the Board.

The Board re-entered into closed session at 9:18 p.m.

3. Closed Session:

- A. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager)
Property: Easements, Rights-of-Way, Pipelines and Appurtenances, and Water Rights
Negotiating Parties: MCWD and Seaside County Sanitation District
Under Negotiation: Price and Terms

- B. Pursuant to Government Code Section 54956.8
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- C. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiators (General Manager)
Property: Rights-of-Way, 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 10:00 p.m.

5. Possible Action on Closed Session Items:

Mr. Lowrey stated that direction was given to the negotiators and no action was taken in closed session.

Vice President Nishi made a motion to continue the meeting until 10:15 p.m. Director Moore seconded the motion. With a vote of 3-Ayes, 1-No, 1-Absent, the motion was passed.

The Board re-entered into closed session at 10:02 p.m.

President Gustafson reconvened the meeting to open session at 10:15 p.m.

Vice President Nishi made a motion to continue the meeting until 10:25 p.m. Director Moore seconded the motion. With a vote of 3-Ayes, 1-No, 1-Absent, the motion was passed.

The Board re-entered into closed session at 10:15 p.m.

President Gustafson reconvened the meeting to open session at 10:25 p.m.

5. Possible Action on Closed Session Items:

Mr. Lucca stated that direction was given to the negotiators and no action was taken in closed session.

13. Adjournment:

The meeting was adjourned at 10:25 p.m.

APPROVED:

Howard Gustafson, President

Date

ATTEST:

Marc A. Lucca, General Manager