

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
May 23, 2007
6:45 p.m.

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on May 23, 2007 after which the Board entered into closed session.

2. Roll Call:

Board Members Present:

Howard Gustafson – President
Ken Nishi – Vice President
Bill Lee– arrived at 6:47 p.m.
Tom Moore
David Brown

Board Members Absent:

None.

Staff Members Present:

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

Audience:

Bob Holden, MRWPCA
Dick Goblirsch, City of Del Rey Oaks
Joan Reeves, El Rancho Mobile Home Park
Marshall Reeves, El Rancho Mobile Home Park
Joe Correa
Jill Anderson, City of Seaside
Ed Bennett, Project Manager, Seaside Resort
Brian True

3. Closed Session:

- A. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Directors Gustafson, Brown)
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

- B. Pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: General Manager

President Gustafson reconvened the meeting to open session at 7:00 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.

6. Oral Communications:

Mr. Marshall Reeves of El Rancho Mobile Home Park addressed the Board. He commented on the construction that would be taking place within the District's easement alongside the El Rancho Mobile Home Park. Mr. Reeves explained that there were 98 mobile homeowners that will be inconvenienced by the proposed construction and accessibility to the Mobile Home Park will be very limited. He expressed his concern over the lack of communication from the District regarding the planned sewer line construction. Mr. Reeves asked the Board for an answer as to why there weren't plans for an alternate route for the additional sewer lines for the Ord Community Developments. He added that between June 15 and July 15, three new manufactured homes were scheduled to be delivered to the Park. They are wider than the construction would allow and there are costs for having the manufacturer hold them in the factory until the District construction is done, as well as disgruntled homeowners.

Mr. Bob Holden, Monterey Regional Water Pollution Control Agency (MRWPCA), read aloud a letter dated May 21, 2007 from the MRWPCA to the District and was distributed to the Board. The letter speaks to Closed Session item A and requests the Board to postpone approval of the Agreement until after the business terms are resolved and there is a mutually acceptable agreement.

7. Presentation:

- A. Consider Adoption of Resolution No. 2007-35 in Recognition of Joe Correa, Systems Operator II, and Award a Plaque and Gift Certificate for 15 Years of Service to the Marina Coast Water District:

Director Moore made a motion to adopt Resolution No. 2007-35 recognizing Joe Correa and awarding a plaque and gift certificate for 15 years of service to the Marina Coast Water District. 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 | | | |

President Gustafson presented Mr. Correa with a plaque and gift certificate.

8. Consent Calendar:

Director Moore asked to pull items B and F from the consent calendar. Vice President Nishi asked to pull item D from the consent calendar.

Director Brown made a motion to approve the consent calendar consisting of items A) Adopt Resolution No. 2007-36 to Approve a Professional Services Agreement with Cornerstone Earth Group for Design-Level Geotechnical Investigation for the A1/A2 Reservoir and B/C Booster Pump Station Project; C) Approve the Draft June 2007 Newsletter; and, E) Approve the Draft Minutes of the Special Board Workshop of May 5, 2007. 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 | | | |

- B. Adopt Resolution No. 2007-37 to Approve the Infrastructure Agreement between Seaside Resort Development, LLC and MCWD for the Seaside Resort Development:

Director Moore asked what the equivalent dwelling units were for this project. Mr. Andrew Sterbenz, Schaaf & Wheeler Consultant, answered that there were 330 hotel rooms, 170 time shares, 125 residential homes planned for this project, for a total of 625 residences. The water demand for the project is just over 161 AFY which does not require a water supply assessment.

Director Moore asked for language to be added to Section 5.1 of the Infrastructure Agreement to allow the District to change the point in time when the capacity charges must be paid.

Agenda Item 8-B (continued):

Director Moore asked if there were any Exhibit E (Notice to Buyers of Water & Surcharge Payments) samples from any of the other developments that are already in progress. Mr. Marc Lucca, General Manager, answered that those developments will soon be ready and the District should see the Exhibit E's soon. Mr. Sterbenz answered he would talk to the developers within the next week and would remind them at that time of the requirement.

Mr. Lowrey suggested adding language to the second sentence in Section 5.1 so that it reads, "...due when the first building permit is issued or at such other time as the District may provide by Ordinance from time to time.

Vice President Nishi questioned if the Agreement locked the District into the capacity charges mentioned in Section 5.1. Mr. Lowrey answered that the suggested change to Section 5.1 would allow the District to adjust those fees. Vice President Nishi asked if the Agreement has language that speaks to recycled water. Mr. Sterbenz answered it did in Section 6.2 of the Agreement. Vice President Nishi asked if there was a conflict between the Districts's Resolution and the City of Seaside's Resolutions, who would prevail. Mr. Lowrey answered that it depended on what the differences are. He added that if the developer decides to add more residences which would require more water, the Agreement would likely have to be amended along with CEQA review.

Director Moore voiced his concern that the project, which is currently at 161.4 AFY and did not require a Water Supply Assessment (WSA), may go over 165 AFY which does require a WSA and it would be difficult to keep track of the water demand. Mr. Lucca stated that the District provides quarterly reports which track water use in all jurisdictions. That report is provided to both the District Board and to FORA who allocates water in the Ord Community.

Vice President Nishi asked if language could be added to the Resolution that states the District will only provide 161.4 AFY of water and no more. Mr. Lowrey answered that the District's role is a reporting role, not an enforcement role. Enforcement is FORA's responsibility.

Director Moore asked what would happen if the Board approved this Agreement and passed this Resolution tonight and then later finds out that there was a clerical error and the water demand is over the 165 AFY which requires the District to perform a WSA. Mr. Lowrey stated that when the Environmental Impact Report (EIR) was done, any mistakes would have been discovered at that time.

Mr. Lowrey stated that he would like to add another WHEREAS to the Resolution.

Agenda Item 8-B (continued):

The language suggested by Mr. Lowrey is as follows:

WHEREAS, the requirements of CEQA for water and sewer infrastructure installation and service have been satisfied by the City of Seaside as set forth in Resolutions 05-43 and 05-44.

Mr. Lucca clarified that Director Moore would like to see the detailed calculations. President Gustafson directed staff to provide Director Moore with the calculations and bring this item back on the consent calendar next meeting. Mr. Sterbenz commented that Mr. Bennett was hoping to get the Agreement approved this evening because he is trying to close the project the following day.

Vice President Nishi made a motion to approve Resolution No. 2007-37 with the additional whereas as suggested by Mr. Lowrey, the calculations requested by Director Moore and the additional language in Section 5.1 of the Agreement as suggested by Mr. Lowrey. 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. Approve the Draft Minutes of the Regular Board Meeting of April 25, 2007:

Vice President Nishi requested that the words “No additional information was provided.” be removed from the second paragraph on page 9 of the minutes.

Vice President Nishi made a motion to approve the draft minutes of the regular Board meeting of April 25, 2007 with the correction mentioned. Director Lee seconded the motion. The motion was passed.

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

F. Approve the Draft Minutes of the Special Board Meeting of May 14, 2007:

Director Moore requested that the minutes show his was an excused absence as he was ill that evening.

Agenda Item 8-F (continued):

Director Brown made a motion to approve the draft minutes of the special Board meeting of May 14, 2007. Vice President Nishi 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 Second Reading of Ordinance No. 45 to Amend Section 2.08.020 of the District Code:

Mr. Lowrey pointed out that on page 66 of the packet, Section 2.08.030 Appeals, is not being removed from the Code, only the Variance request.

Director Brown asked if an individual who was denied a variance by the Board had a specific time frame in which to seek judicial review. Mr. Lowrey answered that they would have a standard amount of time as defined in the Code. He added that he would research the Code to see if there was anything different.

Vice President Nishi made a motion to adopt Ordinance No. 45 amending Section 2.08.020 of the District Code and if Legal Counsel found any information that is relevant to time frames, he add it to the Ordinance. Director Brown seconded the motion. Director Moore stated for the record that he was voting no because he was satisfied with the previous appeals process. The motion was passed.

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

- B. Consider Adoption of Resolution Nos. 2007-38 (Ord Community Compensation Plan), 2007-39 (Capital Elements of Ord Community Plan), and 2007-40 (District Budget) to Adopt the District Budget and Ord Community Compensation Plan for FY 2007-2008:

Mr. Suresh Prasad, Director of Finance, introduced this item.

Vice President Nishi asked several clarifying questions regarding operations and maintenance/capital costs for the Ord Community that impacts Central Marina. Mr. Lucca stated the costs were booked to the separate cost centers and detailed in the transmittal when a project is considered for approval.

Agenda Item 9-B (continued):

Vice President Nishi stated he still had concerns that the capital component charge is included in the water rates of the Ord Community.

Following clarifying questions, Vice President Nishi requested a breakdown of capacity fees and capital component charges in the Ord Community Capacity Fee investment fund.

Director Moore requested an additional line be added to the District Investment sheet showing the Bond arbitrage as of the same dates with the other items on the page.

Vice President Nishi requested to remove the O&M Supervisor and Deputy General Manager/District Engineer positions from the authorized positions list even though they are not funded. If they need to be filled at a later date, it can be brought back to the Board at that time. Mr. Lucca stated he would like to keep them in the listing to keep the job descriptions alive. Vice President Nishi stated removing the positions would give the Board more flexibility if another position was needed.

Vice President offered his congratulations to the two employees who filled the System Operator III positions.

President Gustafson stated he would like keep the O&M Supervisor and Deputy General Manager/District Engineer positions on the authorized positions list.

Vice President Nishi questioned why the District Engineer is paid more than the Deputy General Manager/District Engineer position and asked for documentation showing how and when the increase was approved. Mr. Lucca answered that the documentation would be provided to the Board.

Vice President Nishi asked that the Description and Justifications have another column to show the projected year amount next to the proposed amounts. Mr. Prasad stated that these are computer generated reports and that he would do his best to get the requested information included as well.

Director Moore requested the budget summary, line 28, be renamed to say "INTEREST EXPENSE (new financing FY ----)" for clarification. He also asked line 63, CIP GENERAL, be renamed for clarification. Director Moore cautioned putting infrastructure in the ground too soon before there are paying customers.

Mr. Lowrey commented that on the second page of Resolution No. 2007-39, the eighth WHEREAS needs to remove the words "the rates, fees and charges" so that it reads, "...capacity charges and capital charges are adopted under the authority of..."

Agenda Item 9-B (continued):

Director Brown made a motion to approve all three Resolutions. Mr. Lowrey suggested approving the Resolutions separately.

Director Lee made a motion to approve Resolution No. 2007-38 (Ord Community Compensation Plan). Director Moore seconded the motion. The motion was passed.

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

Director Brown made a motion to approve Resolution No. 2007-39 (Capital Elements of Ord Community Plan). Director Lee seconded the motion. The motion was passed.

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

Director Moore made a motion to approve Resolution No. 2007-40 (District Budget). Director Lee seconded the motion. The motion was passed.

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

10. Informational Items:

A. General Manager's Report:

Mr. Lucca informed the Board he would be out of town the rest of the week attending a Special District Institute seminar. He also informed them that he went to Sacramento recently to see if there was available funding from Prop. 84 and as the District meets all the criteria to be considered, the chances are greatly improved. Mr. Lucca reported that the District has been invited to participate in a national American Water Works Association Research Foundation Study (AWWARF) proposal on desalination and if it is accepted by AWWARF the District will be part of a team and get national recognition for its work in desalination.

B. Counsel's Report:

Mr. Lowrey reported that there was a decision involving Pajaro Valley Water Management and that the local appellate court changed its decision on ground water charges regarding that agency.

Agenda Item 10-B (continued):

Mr. Lowrey emphasized that the courts are taking Prop. 218 seriously, as based on the decision by the California court last week against Pajaro Valley Water Management Agency.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Lee stated that the meeting was not held as there was not a quorum.

2. Joint City-District Committee:

Director Brown stated that at the last meeting there was a lot of interest in the progress of the FOG program.

3. MRWPCA Board Member:

Vice President Nishi commented the meeting was boiler plate with a presentation on the third Amendment.

4. LAFCO Liaison:

Vice President Nishi commented that there was discussion on the reconsideration of the Greenfield issue and LAFCO's proposed fee increase. He stated there was also discussion on increasing the sphere of influence.

5. JPIA Liaison:

Director Moore had nothing to report.

6. Monterey Bay Regional Water Authority:

Mr. Lucca stated the Public Utilities Commission meeting is next week.

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 May 31, 2007.

10. Ord Community Ad Hoc Committee:

Director Moore stated he had received direction from the OCAC to report their accomplishments to the Board and get clarification on the objective of the committee. After the Board received handouts of the governance matrix the OCAC has been working on, Vice President Nishi asked to agendaize this item for the next meeting to allow time to review the matrix and provide direction. President Gustafson agreed and directed staff to agendaize this item for the next meeting.

11. Special Districts Association (SDA) Liaison:

President Gustafson stated there was nothing to report.

D. Director's Comments:

Vice President Nishi asked to have the El Rancho Mobile Home issue on the next agenda. He added that the special range in the budget for the administrative assistant did not show a 0.33% increase. Mr. Lucca stated staff would look into it.

11. Staff Reports:

A. Receive Report on Hydrant Maintenance and System Flushing:

Mr. Jim Dowless, Operations and Maintenance Superintendent, introduced this item. Director Moore suggested reusing the water from hydrant flushing instead of wasting it, i.e. the District getting a large portable tank or letting someone else collect the water for other use. Vice President Nishi voiced his concern at the possibility of the hydrants breaking due to poor maintenance and asked for documents on when the District last had a program for hydrant maintenance or, if it will be covered in the Asset Management Program, specific details of how they will be maintained. He added that the Fire Chief asked that the hydrant lids be painted different colors to differentiate different flows. Mr. Lucca answered that staff would bring back a more specific staff report and asked Vice President Nishi what specifics he wanted included in the report. Vice President Nishi stated he wanted to know when the District last did a preventative maintenance on the hydrants. President Gustafson directed staff to provide Vice President Nishi a list of the hydrants and when they were last painted, keep them up to date on when they were last flushed.

B. Receive Report on Recycled Water Availability from Additional Sources:

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

12: Planning Workshop:

A. 2006 Strategic Plan – Board Housekeeping:

President Gustafson asked the Board members to notify the General Manager via email of items they may want to discuss.

President Gustafson recessed the meeting from 8:46 – 8:51 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 Negotiator (General Manager, Directors Gustafson, Brown)
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

B. Pursuant to Government Code Section 54957

Public Employee Performance Evaluation
Title: General Manager

President Gustafson reconvened the meeting to open session at 9:31 p.m.

5. Possible Action on Closed Session Items:

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

13. Adjournment:

The meeting was adjourned at 9:50 p.m.

Regular Board Meeting
May 23, 2007
Page 12 of 12

APPROVED:

Howard Gustafson, President

Date

ATTEST:

Marc A. Lucca, General Manager