

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
June 27, 2007
6:45 p.m.

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on June 27, 2007.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

Tom Moore - excused

Staff Members Present:

Marc Lucca, General Manager
Lloyd Lowrey, Legal Counsel
Jeff Cattaneo, District Engineer
Rich Youngblood, Conservation Coordinator
Jim Dowless, Operations and Maintenance Superintendent
Brian True, Capital Projects Manager
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Bob Holden, MRWPCA
Tony Kelsey
Thom Gammel, University Villages
Matt Huerta, South County Housing Corporation

President Gustafson asked Legal Counsel if he could add an item to the closed session regarding the General Manager's resignation. Mr. Lloyd Lowrey, Legal Counsel, answered that discussion needed to be done in open session as the item did not meet the closed session criteria. He added that if the Board made the determination that this item was either an emergency; arose since the posting of the last agenda; and, cannot wait until the next regularly scheduled meeting; they could add it to the agenda as an open session item. President Gustafson stated he would like to add an item to the end of the agenda to discuss the General Manager's resignation and possible next steps.

Director Brown made a motion to add the item to the agenda under action items. Director Lee seconded the motion. The motion was passed.

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

The Board entered into closed session at 6:48 p.m.

3. Closed Session:

A. Pursuant to Government Code Section 54956.8

Conference with Real Property Negotiator (General Manager)

Property: Water Rights

Negotiating Parties: MCWD and Clark Colony Water Company

Under Negotiation: Price and Terms

B. 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

President Gustafson reconvened the meeting to open session at 7:13 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 and direction was given to staff.

6. Oral Communications:

None.

7. Presentation:

Director Brown made a motion to adopt Resolution No. 2007-45 recognizing Jim Dowless and awarding him a plaque and gift certificate for 10 years of service to MCWD. Director Lee seconded the motion. The motion was passed.

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

President Gustafson read the narration of the resolution then presented the plaque and gift certificate to Mr. Jim Dowless.

8. Consent Calendar:

Vice President Nishi asked to pull item A from the consent calendar. Director Brown asked to pull item B from the consent calendar.

- A. Receive Update on Fats, Oil and Grease Program; Approve a Thank You Letter to Businesses for Compliance with the Fats, Oil and Grease Program; and, Approve a Non-Compliance Letter to Those Businesses Not in Compliance:

Regarding the Thank You letter, Vice President Nishi asked to remove the asterisk with the mention of businesses that moved into compliance since March 2007 and to un-bold the business names as he did not want any businesses singled out as being late in complying. On the non-compliance letter, Vice President Nishi asked to remove the sentence “Most businesses have complied.” from the second paragraph. In the third paragraph, add the words “of the District Code” to the sentence so that it reads, “...to be violating any provision of the District Code, shall be served...” Vice President Nishi questioned the fourth and fifth paragraphs and asked for clarification. Mr. Lowrey answered that he felt Section 5.08.050 required an interpretation of the District Code that the Board needs to make and not staff. This particular Section was from an Ordinance that was adopted in 1967. Mr. Lowrey stated that there were several interpretations the Board could make and recommended the Board’s interpretation should refer to new construction and not existing buildings, and suggested removing the fifth paragraph.

Vice President Nishi questioned the reference in paragraph four of “seven (7) working days from the delivery of this Notice”. He asked how to ensure the letter was received. Mr. Lowrey suggested sending the letters via Certified Mail. Vice President Nishi agreed and stated that if any business owner refused to sign for the letter, a District employee could personally deliver it.

Agenda Item 8-A (continued):

Director Brown agreed that the fifth paragraph should be removed. He also wanted to add to the third bullet on the second page of the letter so that it reads, “ Refer the violation for prosecution of the business owner and/or operator as a misdemeanor punishable by up to six months in jail and a fine, for every day of violation being a separate offense. Discussion followed.

Mr. Lowrey stated the code refers to penalty as a fine not to exceed \$100 and imprisonment not to exceed one month in jail. Director Brown agreed to add the one month in jail and to drop the \$100 fine.

Director Brown made a motion to approve the letter with the changes as discussed and authorized the General Manager to send out the letter. Mr. Lucca reviewed the changes to the non-compliant letter as being: 1) send via certified mail; 2) remove the sentence “Most businesses have complied.” from the second paragraph; 3) in the third paragraph, add the words “of the District Code” to the sentence so that it reads, “...to be violating any provision of the District Code, shall be served...”; 4) remove the entire fifth paragraph; and, 6) the third bullet on the second page of the letter to read, “ Refer the violation for prosecution of the business owner and/or operator as a misdemeanor punishable by imprisonment up to one months in jail, for every day of violation being a separate offense. Director Lee seconded the motion. The motion was passed.

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

B. Approve the Draft Minutes of the Regular Board Meeting of June 13, 2007:

Director Brown mentioned he pulled the item so that he could abstain from the vote.

Director Lee made a motion to the draft minutes of the regular Board meeting of June 13, 2007. President Gustafson seconded the motion. The motion was passed.

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

9. Action Item:

A. Consider Adoption of Resolution No. 2007-46 Granting a Variance to District Code Chapter 3.36.030.W. Metering:

Agenda Item 9-A (continued):

Mr. Jeff Cattaneo, District Engineer, introduced this item. Director Lee asked about water conservation enforcement and how the District would know if any one tenant was abusing water if the District only reads the main meters. Mr. Cattaneo answered that the individual meters would be read by the apartment manager and the District would receive annual reports of the individual apartment usage.

Vice President Nishi stated that the reason for individual metering was to enforce water conservation. He asked why the apartments couldn't be individually metered. Mr. Cattaneo explained that the apartments would have one boiler unit to supply hot water and heating to each living space in the building. Other clarifying questions followed.

Vice President Nishi asked how the Board would be able to deny the next developer who didn't want to individually meter apartments if this variance was approved. Mr. Cattaneo answered that it was up to the Board to review each individual variance request and make a decision. Mr. Cattaneo commented that in staff's opinion, this variance request met the District Code requirements. Vice President Nishi asked what the cost savings was by not individually metering the apartments. Mr. Matt Huerta, South County Housing Corporation, answered that the cost savings was approximately \$600,000. Discussion followed.

Director Brown made a motion to adopt Resolution No. 2007-46 granting a variance to District Code Chapter 3.36.030.W. Metering. Director Lee seconded the motion. Vice President Nishi stated he could not support this item. Mr. Lowrey disclosed that he was representing South County Housing on an unrelated matter and the terms of his engagement with them was not to interfere with any advice he should render to the District. The motion failed.

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

Director Brown requested that this item be agendized for the next meeting when Director Moore would be present. President Gustafson agreed to agendize this item for the next meeting.

10. Informational Items:

A. General Manager's Report:

Mr. Lucca informed the Board that the Ratepayer Advocate Public Utilities Commission met earlier that day.

B. Counsel's Report:

Mr. Lowrey stated he had nothing to report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Lee stated that the WCC toured the campus of CSUMB and the new turf baseball field which is saving 30 afy.

2. Joint City-District Committee:

Vice President Nishi stated that they discussed doing a joint project with the City and MCWD putting in a strip of turf in the median strip on Del Monte Boulevard. Vice President Nishi stated he would like to agendize it for more discussion. President Gustafson asked that a joint turf project be agendized at a future meeting.

3. MRWPCA Board Member:

Vice President Nishi commented the meeting was boiler plate.

4. LAFCO Liaison:

Vice President Nishi commented that there was a closed session and the meeting was boiler plate.

5. JPIA Liaison:

No report.

6. Monterey Bay Regional Water Authority:

Vice President Nishi commented that the meeting was held earlier that morning and that whereas the meetings started out courteous they are now getting more controversial.

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:

No meeting was held.

10. Ord Community Ad Hoc Committee:

Director Lee asked Mr. Lucca to comment on the meeting. Mr. Lucca commented that the OCAC met earlier that day and staff delivered the message that the Board did not see the need to change the charge of the Committee and that the Committee should feel free to review what they wanted to including annexation and not excluding any other options. The Committee decided to discuss the pros and cons of annexation at the next meeting scheduled for August 14, 2007.

11. Special Districts Association (SDA) Liaison:

President Gustafson stated there was nothing to report.

D. Director's Comments:

Vice President Nishi stated he was waiting for information on the inclining grade (slope) on sewer pipe in Reservation Road and information on Marina Heights paying for a portion of the El Rancho sewer pipeline upsizing. He asked to agendaize updating the District Code as was discussed earlier in the meeting.

Mr. Lucca commented that he had some of the requested information for the Directors which he then distributed.

President Gustafson recessed the meeting from 8:07 – 8:16 p.m.

11. Staff Report:

A. Receive Drat Recycled Water Use Application:

Mr. Cattaneo introduced this item. Vice President Nishi questioned why there was an application when they are required to use recycled water when it is available. Mr. Cattaneo answered that it was because there was additional information from the applicant that is required. For example, the applicant needs to appoint a recycled water supervisor who needs to be identified and that will be in the permit from the Department of Health Services. Vice President Nishi asked if this needs to be included in the District Code. Mr. Cattaneo answered that needed to be discussed with District Counsel.

Agenda Item 11-A (continued):

Vice President Nishi asked why the City of Monterey was mentioned. Mr. Cattaneo answered that part of MRWPCA's portion of recycled water might be made available to the City of Monterey.

Vice President Nishi asked that agenda items 11-B and 12-A be tabled until the next meeting. President Gustafson directed staff to agendaize items 11-B and 12-A for the next meeting.

President Gustafson then moved to the agenda item the Board voted in favor of adding.

9. Action Items:

B. General Manager's Resignation:

Vice President Nishi suggested appointing a negotiating team to meet with the General Manager so there can be an agenda item for the next meeting.

Director Brown asked Mr. Lucca if there was someone within the District who was qualified for his position. Mr. Lucca answered that he had talked with Mr. Cattaneo regarding that possibility and that he believes Mr. Cattaneo has the years of experience and water knowledge although he is new to the District. Vice President Nishi commented that he didn't feel that was giving the Board the opportunity to see what is out there.

President Gustafson appointed the Executive Committee as the negotiating team to meet with the General Manager. It was agreed by all Board members present.

Vice President Nishi asked that the search for the General Manager be started. Mr. Lucca answered that it would be wise to hire a search firm to assist with locating a General Manager. It was agreed by all Board members present.

Vice President Nishi asked to have a freeze on all new hires until the new General Manager is hired. Mr. Lucca advised against it as there were currently three positions that had excellent candidates and was close to finalizing those hires. Vice President Nishi stated that he was not concerned with the hire of the System Operator III or the Meter Reader, but would like the new General Manager to be involved with the hiring of the Human Resource/MSA position. Vice President Nishi asked to add an item to the agenda regarding the freeze of hiring management positions. Mr. Lowrey commented that the Board could add the item to the agenda providing they make the same findings as they did earlier.

Agenda Item 9-B (continued):

Vice President Nishi made a motion to add freeze on hiring of the Management Services Administrator (MSA) position to the agenda. Director Lee seconded the motion. The motion was passed.

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

C. Freeze on Hiring of Management Positions:

Vice President Nishi stated that he would like to wait until the new General Manager is on board so he could put together his team and in the interim use a consultant or hire a temp for the MSA position. Mr. Lucca commented that he has a good candidate for the MSA position and would like the opportunity to continue with this last candidate and if it fails, then hire a temp to fill the position. Vice President Nishi stated that his intention was to let the new General Manager fill the position.

Vice President Nishi made a motion to freeze hiring of the Management Services Administrator (MSA) position and hiring a temporary employee in the interim until a General Manager is hired. Director Lee seconded the motion. The motion was passed.

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

13. Adjournment:

The meeting was adjourned at 8:36 p.m.

APPROVED:

Howard Gustafson, President

Date

ATTEST:

Marc A. Lucca, General Manager