

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

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

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on July 25, 2007.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None.

Staff Members Present:

Marc Lucca, General Manager
Lloyd Lowrey, Legal Counsel – arrived at 6:50 p.m.
Jeff Cattaneo, District Engineer
Rich Youngblood, Conservation Coordinator
Andy Sterbenz, Schaaf & Wheeler Consultant
Suresh Prasad, Director of Finance
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Bob Holden, MRWPCA

The Board entered into closed session at 6:45 p.m.

3. Closed Session:

- A. Pursuant to Government Code Section 54957.6
Conference with Labor Negotiators
Agency Designated Representatives: Howard Gustafson and Ken Nishi
Unrepresented Employee: General Manager

- B. Pursuant to Government Code Section 54957
Public Employee Appointment
Title: General Manager
- C. Pursuant to Government Code Section 54956.9 (c)
Deciding Whether to Initiate Litigation
- D. 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 7:10 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 the negotiators.

6. Oral Communications:

None.

7. Public Hearing:

- A. Consider Adopting an Interim Authorization and First Reading of Ordinance No. 46 to Add New Code Sections Including an Expiration Term to Capacity Charges paid by District Customers and Modifying the Definitions of "Water Service Connection":

Mr. Marc Lucca, General Manager, introduced this item and asked that the Board do two things; 1) consider a first reading of Ordinance No. 46; and, 2) adopt this Ordinance effective immediately on an urgency basis as an interim authorization for a 30-day period. Mr. Lucca added that as requested at the last Board meeting, Legal Counsel provided information of another agency who adopted a similar ordinance: Winnaman v. Cambria Community Services District (1989) 208 Cal.App.3d.49.

Agenda Item 7-A (continued):

Vice President Nishi suggested waiting until the new General Manager was on board before moving forward on this as there are a lot of things not finished within the District i.e. the backflow program, capital component charges, documentation for charges on Marina Heights sewer fees. Vice President Nishi's stated he was concerned on how the District would enforce this Ordinance. Mr. Lucca answered that as capacity charges are paid, a timeline will be associated with receipt of those funds. If building permits are pulled after one-year of receipt of capacity charges, the developer shall pay the difference, if any, between the original charges paid and the cost of charges at the time building permits are pulled.

Director Brown asked what was behind the urgency basis for needing the Board to act on the Ordinance this evening. Mr. Lucca answered that the Board has authorized a rate study from which preliminary information is scheduled to be presented to the Board on August 8, 2007. When the information is made public and if it should include a capacity charge increase, that may cause the developers, if they are financially able, to rush to pay their capacity charges at the current lower rate even though they may not be ready to build for several more years. Mr. Lucca noted that the District's mission is provide a healthy, clean water supply and to convey sewage from its customers' homes. Completion of proposed capital projects permits it to satisfy that mission. Mr. Lucca added that by locking in an expiration date on capacity charges, it ensures the District has the funds for CIP projects.

Director Lee commented that University Villages has been pulling building permits and that Marina Heights would be ready to start pulling them around December.

Director Moore commented that if the rate study shows that the District really does need to raise the capacity charge fees, then the District would know how much needs to be collected in capacity charges to fund the CIP projects. He wouldn't want the scenario Mr. Lucca described with developers rushing to pay capacity charges while they are at a lower rate, if the District should decide to raise capacity charges.

Vice President Nishi commented that he feels this is occurring because he had asked that the recycled project reservoir be included in the rate study. That is the only thing not in the capital projects, everything else is in there. Vice President Nishi stated he has asked for the reservoir to be included several times and this is just an answer. If the costs are going up that much, then maybe there should be a rate study every year. Vice President Nishi said he didn't think the costs were going up that much. He didn't think it was appropriate to have the rate study finished after the budget was approved.

Mr. Lucca noted that the cost of capital projects has increased significantly due to the effects of Hurricanes Katrina and Rita, as well as due to the market conditions in this area.

Director Moore stated that he thought this was done because of his concerns over putting too much infrastructure in the ground too soon and the fact that capacity charges are not collected until building permits are pulled. He added that this should be done to prevent revenue leakage.

Vice President Nishi commented that the housing market was slowing down and he didn't think a large number of homes would be built so soon and they wouldn't have the extra funds to pre-pay capacity charges.

Director Brown commented that Vice President Nishi's comment about the housing market slowing down validates Director Moore's comments about having infrastructure in the ground before there is anyone to pay for it.

President Gustafson commented that Marina Heights, in the near future, is planning on pulling forty building permits for phase one, and University Villages is going to expand and begin their first phase of housing soon as well.

Vice President Nishi said that what the developers are doing now is costing a great deal of money and with the housing market not moving right now, he didn't think they would have the funds to pay ahead for capacity charges.

Director Moore commented that whether the developers are going to pre-pay capacity charges or not is irrelevant. The District needs to protect itself and this Ordinance protects the District in an appropriate way.

Director Moore moved to approve the first reading of Ordinance No 46; immediately adopt the Ordinance on an urgency basis as an interim authorization; and, schedule a second reading of the Ordinance for regular adoption on August 8, 2007. Director Brown seconded the motion. Vice President Nishi stated that it would be an emergency if the housing market was booming, but it is not moving right now. The motion was passed.

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

8. Consent Calendar:

Mr. Lucca requested to pull item B from the consent calendar. Vice President Nishi asked to pull item C from the consent calendar.

Director Brown made a motion to approve the consent calendar consisting of item A) Adopt Resolution No. 2007-51 to Update Authorized Signatures for the Local Agency Investment Fund (LAIF) Account. Director Moore seconded the motion. The motion was passed.

Agenda Item 8 (continued):

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

B. Adopt Resolution No. 2007-52 to Accept the New 18-inch Sewer Main in Abrams Drive:

Mr. Andrew Sterbenz, Schaaf & Wheeler Consultant, introduced this item and announced that the punch list items were not completed as expected when the packet was assembled. He noted that a revised resolution was distributed with the following change to the last WHEREAS, "...and District staff and Developer are reviewing final punch list, which when complete, will satisfy all of the closeout conditions..."; and a change to the RESOLVED section, "...Directors of the District, pending staff's final acceptance of all items, do hereby accept...". Vice President Nishi asked if the District routinely pays or approves everything before the punch list is done. Mr. Sterbenz answered that the District did not routinely pay or approve anything before the punch list is complete. Staff had anticipated the punch list being completed when preparing the transmittal for this packet.

Vice President Nishi stated he did not want to set a precedent with this project.

Vice President Nishi made a motion to continue this item to the next meeting. 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			

President Gustafson asked that this item be brought back to the next meeting.

C. Adopt Resolution No. 2007-53 to Amend the Professional Services Agreement for General Engineering Services with Schaaf & Wheeler Consulting Civil Engineers for Engineering Design and Bid Phase Services to Construct Well No. 34 Facilities and Associated Pipeline:

Vice President Nishi voiced his concern over perforating two aquifers with one well which could allow leakage between aquifers. Mr. Jeff Cattaneo, District Engineer, commented that perforation in the two aquifers will allow maximum water extraction. Vice President Nishi asked how much production would be pumped from the 400' aquifer. Mr. Cattaneo answered approximately twelve to thirteen hundred gallons per minute. Vice President Nishi asked how much production would be pumped from the 900' aquifer. Mr. Cattaneo answered approximately seven to eleven hundred gallons per minute.

Agenda Item 8-C (continued):

Vice President Nishi inquired on the extraction limits the agreement with FORA specifies. Mr. Cattaneo answered that the agreement limits the extraction in the 180' and 400' aquifers, and any excess water needed would have to be extracted from the 900' aquifer. Mr. Sterbenz added that the District's agreement for Zones 2 and 2A allows the existing Ord agreement to be combined with the District's agreement and allows all of the deep aquifer pumping from the Marina wells. Mr. Lloyd Lowrey, Legal Counsel, commented that there are two active agreements here; the Monterey County Water Resources Agency (MCWRA)/ US Army agreement, and the MCWRA/MCWD agreement. The District fell heir to the MCWRA/Army agreement which allows up to 6,600 af to be extracted with 5,200 af from the shallow aquifers and 1,400 af from the deeper aquifer. The MCWRA/MCWD agreement allows 4,420 af for Central Marina, which allows 1,400 af for the Lonestar and Armstrong Ranch properties. Mr. Lowrey stated that there is no restriction on which aquifer it is extracted from.

Director Moore asked how the District would measure water extraction from each aquifer if they are co-mingled. Mr. Cattaneo answered that a spinner log could be used which measures the velocity of the water. Director Moore asked if the limit in the 400' aquifer is close to being met, how can you shut off the 400' screen on that well. Mr. Cattaneo answered that you can go back down in the casing and pack it or seal it off. Director Moore asked why not just drill a 900' well. Mr. Cattaneo answered that drilling in both aquifers was to maximize capacity.

Director Brown commented that if there was seawater intrusion in the 400' aquifer, the water from the 900' aquifer could possibly dilute it enough for an acceptable level.

Vice President Nishi stated he could support this if the Board gets a presentation from Martin Feeney, hydrogeologist, on this proposal. Mr. Cattaneo answered that the District already has a contract with Mr. Feeney to drill this well and he has already done an evaluation on this well.

Director Moore asked if it was feasible to drill two wells. Mr. Cattaneo stated that it would be about twice the cost. There would be minimal savings on the mobilization and housing of the wells, but there would still be two casings, two motors, two controllers and so on.

Director Moore made a motion to amend the Professional Services Agreement for general engineering services with Schaaf & Wheeler Consulting Civil Engineers for Engineering Design and Bid Phase Services to Construct Well No. 34 Facilities and Associated Pipeline, and have Martin Feeney speak to the Board in a timely manner so that it doesn't delay Schaaf & Wheelers work on design. President Gustafson seconded the motion. The motion failed.

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

9. Action Items:

- A. Consider Adoption of Resolution No. 2007-54 to Approve a Professional Services Agreement with RMC Water & Environment to Perform a Feasibility Study of Seasonal Storage of Recycled Water at the Armstrong Ranch Site, and Amend the FY 2007/2008 CIP Budget to Reflect the Addition of the Requested Study:

Mr. Cattaneo introduced this item. Vice President Nishi asked not to limit the storage to 3,000 af as he would like to see larger storage and see it available for Phase I to serve near-term needs. Vice President Nishi voiced his concerns over moving funds from the Recycled Water construction line item and asked that staff be creative in looking for funds elsewhere. Mr. Lucca stated that the Resolution reflects completing a feasibility study of recycled water seasonal storage at Armstrong Ranch and asked if the Board would like to remove the words “at the Armstrong Ranch Site” to allow the study to look at other nearby sites as well. Vice President Nishi commented that he didn’t want to delay the feasibility study. Mr. Lucca answered that the studies could be done simultaneously so as not to cause a delay.

Director Moore made a motion to adopt Resolution No. 2007-54 approving a Professional Services Agreement with RMC Water & Environment to perform a Feasibility Study of Seasonal Storage of Recycled Water, and amend the FY 2007/2008 CIP budget to reflect the addition of the requested study and strike the words “at the Armstrong Ranch Site” from the Resolution’s fourth WHEREAS and Number 1 of the RESOLVED section. 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			

- B. Receive Update on Well No. 33 Exploratory Test Hole and Direct Staff to File a Notice of Exemption:

Mr. Cattaneo introduced this item. Vice President Nishi inquired on the proposed location. Mr. Cattaneo answered that it was on Bureau of Land Management land near Davis Road.

Director Brown made a motion to direct staff to file the Notice of Determination. 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			

10. Staff Reports:

- A. Receive Report on the Marina Sewer Improvements Project within the El Rancho Mobile Home Park:

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

- B. Receive 2nd Quarter 2007 Water Consumption Report and Ord Community Sewer Flows Report:

Mr. Lucca introduced this item and explained that sewer flows are now included in the report. Director Moore asked to see a graph for each Land Use Jurisdiction (LUJ) showing usage and allocation. Vice President Nishi stated the reports should be shared with FORA and then all the LUJ's can see their usage themselves. Mr. Lucca commented that in January, the reports will have been going to FORA for two years. Director Lee commented that CSUMB has installed artificial turf in their ball fields and saved 25 afy of water.

11. Informational Items:

- A. General Manager's Report:

Mr. Lucca stated that a notice was received in the mail regarding a transfer of property from the North Monterey County School District to the Monterey Peninsula Unified School District. He reminded the Board that they had voted in favor of the transfer earlier this year. Mr. Lucca also stated that an RFP will be coming out for wastewater collection services in Moss Landing from the County and will be brought to the Board to see if/how they want to proceed.

- 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 there was nothing to report.

- 2. Joint City-District Committee:

Mr. Lucca stated they discussed the FOG program and backflow design.

3. MRWPCA Board Member:

Vice President Nishi commented the meeting was boiler plate.

4. LAFCO Liaison:

Vice President Nishi commented that the meeting was boiler plate and it started at 3:00 pm due to a closed session.

5. JPIA Liaison:

Director Moore stated there was nothing to report.

6. Monterey Bay Regional Water Authority:

President Gustafson commented that they were setting the stage to address the MOU.

7. FORA:

Vice President Nishi stated that the meeting was boiler plate and there were legislative reports from Congressman Farr, Senator Laird and Assemblymember Caballero.

8. Executive Committee:

President Gustafson commented that the Committee did not meet.

9. Community Outreach:

President Gustafson stated the next meeting will be July 31, 2007.

10. Ord Community Ad Hoc Committee:

Mr. Lucca stated there was no meeting in July and the next meeting is August 14, 2007.

11. Special Districts Association (SDA) Liaison:

President Gustafson stated there was no meeting as there was not a quorum. Director Moore commented that at the October and January meetings there will be a series of different types of Special Districts i.e. Fire Protection District and Cemetery District with representatives to talk about their particular challenges and what they want to get out of LAFCO. Director Moore also stated that a sub-committee was selected to draft a letter asking that the Special District have more involvement in the proposed LAFCO budget process that currently involves the Cities.

D. Director's Comments:

There were no comments.

President Gustafson recessed the meeting from 8:17 until 8:23 p.m.

The Board reentered into Closed Session at 8:23 p.m.

3. Closed Session:

A. Pursuant to Government Code Section 54957.6

Conference with Labor Negotiators

Agency Designated Representatives: Howard Gustafson and Ken Nishi

Unrepresented Employee: General Manager

B. Pursuant to Government Code Section 54957

Public Employee Appointment

Title: General Manager

C. Pursuant to Government Code Section 54956.9 (c)

Deciding Whether to Initiate Litigation

D. 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 approximately 9:02 p.m.

5. Possible Action on Closed Session Items:

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

12. Adjournment:

The meeting was adjourned at 9:02 p.m.

APPROVED:

Howard Gustafson, President

Date

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ATTEST:

Marc A. Lucca, General Manager