

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
May 14, 2008  
7:00 p.m.

**Minutes**

1. Call to Order:

President Gustafson called the meeting to order at 7:00 p.m. on May 14, 2008.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None.

Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Jeff Cattaneo, District Engineer  
Suresh Prasad, Director of Finance  
Brian True, Capital Projects Manager  
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Garrett Haertel, MRWPCA  
Leif Coponen, Schaaf & Wheeler  
Bob Schaffer, Marina Community Partners  
Doug Yount, City of Marina  
Jim Brezack, RBF Consulting  
Dick Goblirsch, City of Del Rey Oaks

3. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

4. Oral Communications:

None.

5. Presentation:

A. Receive Presentation by RMC Water and Environment on *Water for Monterey County*:

Mr. Jim Heitzman, General Manager, announced that the presentation was postponed until next meeting due to an unforeseen circumstance.

6. Consent Calendar:

Mr. Jeff Cattaneo, District Engineer pointed out that there was a change to Resolution No. 2008-17 as indicated in the handout. The Resolution was changed to reflect that this was Amendment "8" not "7" as was included in the Board packet.

Director Burns made a motion to approve the consent calendar consisting of items A) Adopt Resolution No. 2008-17 to Authorize Amendment No. 7 to the Professional Services Agreement for the 2005 Marina Sewer Improvements Project with Winzler & Kelly to Complete the Design Phase Services for the Clark and Cosky Lift Stations; B) Adopt Resolution No. 2008-19 to Amend the Schaaf & Wheeler Professional Services Agreement for General Engineering Services for the Design Phase of the General Jim Moore Boulevard (Phase IV) Pipelines project within the Ord Community; C) Adopt Resolution No. 2008-20 to Approve Amending the Professional Services Agreement with Creegan + D'Angelo for Design Phase Services for the General Jim Moore Boulevard (Phase IV) Pipelines Project; D) Adopt Resolution No. 2008-21 to Approve a Professional Services Agreement with Denise Duffy and Associates for Preparation of the Environmental Documentation for the 220 Acres Annexation for the Regional Urban Water Augmentation Project; E) Approve the Draft June 2008 Newsletter; F) Approve Expenditures for the Month of April 2008; and, G) Approve the Draft Minutes of the Regular Board Meeting of April 23, 2008 with the change to Resolution No. 2008-17. Director Lee seconded the motion. The motion was passed.

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

7. Action Items:

- A. Consider Adoption of Resolution No. 2008-22 to Authorize the Change Order with Specialty Construction, Inc. for the Construction of the Ord Reservoir “D” Steel Tank:

Mr. Cattaneo introduced this item. He explained that since the last meeting, the cost of steel has increased significantly bringing the cost of the project to approximately \$1,300,000. Mr. Cattaneo also noted that the City of Seaside staff is recommending to their City Council approval of moving the Nextel tower. The tower relocation has been holding up work on the “D” reservoir tank.

President Gustafson made a motion to adopt Resolution No. 2008-22 authorizing the change order with Specialty Construction, Inc. for the construction of the Ord Reservoir “D” Steel Tank. Director Burns seconded the motion. The motion was passed.

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

- B. Discuss Agreement for the Existing Desalination Facility and Associated Water Rights and Consider Providing Direction to Staff:

Mr. Lloyd Lowrey, Legal Counsel, introduced this item. Mr. Lowrey briefly went over the terms of the Desalination Agreement that was approved and signed in May 2006.

According to the Agreement, payments were to be made by the three entities involved, with the first payment being non-refundable. Subsequent payments would be refundable under certain conditions.

An assessment was to be performed on the cost of getting the desalination plant ready for production. If the assessment turned out to be over a certain amount, the three entities would be notified to see if they want to continue with the Agreement.

Two Ordinances were to be adopted within a certain time frame.

Mr. Lowrey stated that of those terms, one or more parties has defaulted on their payments; the assessment has just been completed and the District is getting ready to bill the three entities for the assessment; and, due to the delay in completing the assessment, the Ordinances have not been adopted.

Mr. Lowrey noted that if any or all three entities fail to make their payments, the Agreement goes into suspension. With the agreement in suspension, the District can’t certify that water for

Agenda Item 7-B (continued):

the developments exist, and the City of Marina cannot rely on that water for the developments.

Mr. Lowrey stated that at this point, in addition to sending out the assessment notice informing the entities the results of the assessment and the cost, staff recommends a letter be sent to the defaulting party advising them of the suspension, and copying the City of Marina and the other entities, letting them know they are not in compliance and need to get into compliance. This would allow a meet and confer with all the parties involved.

Mr. Lowrey also noted that one condition of refunding payments is if the Ordinances don't get adopted within the time frame set forth in the contract. Since the Ordinances did not get adopted within the time frame, payments made since August 2006 could be subject to refund.

Mr. Lowrey stated that staff is recommending the Board authorize sending a letter advising the entities of the assessment and asking them to get together and discuss it; sending a letter to the defaulting party, with copies to the other parties involved, advising them the Agreement is in suspension and inviting them to a meet and confer.

Director Moore advised against refunding payments until the assessment is paid.

Vice President Nishi stated that he was unsure what is being requested of the Board because there was insufficient information provided in the transmittal. President Gustafson clarified that the Board was being asked to direct staff to send a letter to the entities involved. Vice President Nishi asked who was in default. Mr. Jim Heitzman, General Manager, announced that Front Porch was in default of their payments. Discussion followed.

Director Burns asked if this could be postponed until the next meeting so staff could give a more complete report. Mr. Lowrey stated that he could give a written report with all the updated information.

Vice President Nishi asked how the District could terminate the Agreement. Mr. Lowrey answered that the Agreement was not set up so the District could terminate it because the developers relied on the water for their projects. It was set up so the District could suspend the Agreement if the terms were not met to allow the entities the right to cure. Discussion followed.

President Gustafson stated direction was given to staff to send the letters and bring back a report to the next Board meeting.

C. Consider Adoption of Resolution No. 2008-23 to Approve the Five-Year Water and Wastewater Financial Plan and Rate Study:

Mr. Suresh Prasad, Director of Finance, introduced this item and explained that the title would change to Receive and Accept the Five-Year Water and Wastewater Financial Plan and Rate Study. The Board would not be adopting a resolution to approve the rate study. Mr. Prasad gave a brief presentation of the Five-Year Water and Wastewater Financial Plan and Rate Study.

Vice President Nishi commented that the graphs should all have the same agencies as well as local agencies represented.

Mr. Prasad reviewed the next steps and timelines in the Prop. 218 processes.

Director Burns made a motion to receive and accept the Five-Year Water and Wastewater Financial Plan and Rate Study. Director Lee seconded the motion. The motion was passed.

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

D. (1) Consider First Reading of Ordinance No. 51 Approving New District Rates, Fees & Charges for Marina Water and Wastewater and (2) Approve Public Notice and Set Date, Time and Location for Public Hearing for Proposed Changes in Rates, Fees, and Charges for Marina and Ord Community Service Areas:

Mr. Prasad introduced this item and explained that the Board is requested to consider the first reading of Ordinance No. 51, approve the public notice and set the date, time and location for the public hearing. Staff recommends sending the notice with a joint Marina Coast Water District (MCWD) / Fort Ord Reuse Authority (FORA) meeting date set for July 11, 2008 at 4:30 pm.

Mr. Heitzman clarified that staff is only asking for a two-year Prop. 218 due to economic instability.

Mr. Doug Yount, City of Marina, thanked staff for the information they provided per his request and then distributed a handout with potential funding assistance programs for water, sewer, and recycled water facilities. He added that the City of Marina is prepared to assist looking at all sorts of funding sources. Mr. Heitzman added that District and City staffs are meeting on Thursday to discuss possible other funding sources and assistance.

Agenda Item 7-D (continued):

Director Lee made a motion to consider First Reading of Ordinance No. 51 approving new District Rates, Fees & Charges for Marina Water and Wastewater; approving the Public Notice; and setting the joint MCWD/FORA meeting date for July 11, 2008 at 4:30 pm at the FORA Board Room for the Public Hearing for Proposed Changes in Rates, Fees, and Charges for Marina and Ord Community service areas. Director Burns seconded the motion. The motion was passed.

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

8. Staff Report:

- A. Receive 1<sup>st</sup> Quarter 2008 Water Consumption Report and Ord Community Sewer Flows Report:

Director Moore inquired if the report was calendar or fiscal year. Mr. Prasad answered that it was by calendar year. Director Moore asked if the East Garrison construction water was, or should be, included in the County construction water. Mr. Prasad stated he would check into the numbers.

Vice President Nishi asked if the summary could show the same quarter numbers from the previous year next to the current year consumption for comparison. Director Moore suggested putting an "as of" date next to the current year.

9. General Manager's/District Engineer's/Legal Counsel's Comments:

Mr. Heitzman announced that staff is still gathering information regarding new construction and fire flow requiring a 1" meter per a letter received from a concerned customer. When staff has acquired the information, it will be brought before the Board.

District Engineer had nothing to report.

Legal Counsel had nothing to report.

10. Director's Comments:

Director Burns commented that the District should keep in mind building infrastructure with the ability to handle additional capacity when needed in the future. He complimented Mr. Prasad on a job well done with the Rate Study.

Agenda Item 10 (continued):

Director Moore also complimented Mr. Prasad on a marvelous job.

Vice President Nishi asked to discuss in the future low-cost water fees for the low-cost housing occupants. He added that the information provided by Mr. Yount might make low-cost water fees possible.

Vice President Nishi asked for a piece of wood on the dais for President Gustafson to bang the gavel on.

11. Adjournment:

The meeting was adjourned at 8:12 p.m.

APPROVED:

---

Howard Gustafson, President

Date

ATTEST:

---

Jim Heitzman, General Manager