

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
October 14, 2008  
6:45 p.m.

**Minutes**

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on October 14, 2008.

2. Roll Call:

Board Members Present:

Howard Gustafson – President  
Ken Nishi – Vice President  
Tom Moore – arrived at 6:51 p.m.  
Dan Burns  
Bill Lee

Board Members Absent:

None.

Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Jean Premutati, Management Services Administrator  
Brian True, Interim District Engineer  
Richard Youngblood, Conservation Coordinator  
Suresh Prasad, Director of Finance  
Jim Dowless, Operations and Maintenance Superintendent  
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Leif Coponen, Schaaf & Wheeler  
Bob Holden, Monterey Regional Water Pollution Control Agency  
Jim Arnold, Fort Ord Reuse Authority  
Jan Shriner, Resident  
Maren Jaramillo, CSUMB Student

3. Closed Session:

A. Pursuant to Government Code Section 54956.95

Liability Claims

Claimant: El Rancho Mobile Home Park and Shopping Center

Agency Claimed Against: Marina Coast Water District

B. 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

The Board came out of closed session at 6:55 p.m.

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

4. Possible Action on Closed Session Items:

President Gustafson stated that no direction was given and no action was taken.

5. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

6. Oral Communications:

None.

7. Consent Calendar:

Director Burns requested to pull items B and F, and Director Moore requested to pull items G, H, and K from the Consent Calendar.

Director Burns made a motion to approve the Consent Calendar consisting of items A) Adopt Resolution No. 2008-43 to Approve the Vehicle Purchase/Replacement Policy and Amend the FY 2008-2009 Budget; C) Adopt Resolution No. 2008-46 to Authorize a Reduction in the Bond Coverage for the East Garrison Development; D) Adopt Resolution No. 2008-47 to Authorize a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for On-Call Construction Support on the D & E-Zone Reservoir Replacement Project; E) Adopt Resolution No. 2008-48 to Amend the Professional Services Agreement for General Engineering Services with Schaaf & Wheeler Consulting Civil Engineers to Provide Construction Inspection Services

Agenda Item 7 (continued):

for the D & E-Zone Reservoir Replacement Project; I) Approve Expenditures for the Month of September 2008; and J) Approve the Draft Minutes of the Regular Board Meeting of August 27, 2008. Director Moore seconded the motion. The motion was passed.

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

B. Adopt Resolution No. 2008-45 to Accept the In-Tract Infrastructure Installed by the Seaside Resort Development:

Director Burns inquired if the punch list was complete. Mr. Brian True, Interim District Engineer, answered that it was complete.

Director Burns made a motion to adopt Resolution No. 2008-45 accepting the In-Tract Infrastructure Installed by the Seaside Resort Development. 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 |                      |   |     |

F. Adopt Resolution No. 2008-49 to Approve a Professional Services Agreement with Ron Allen to Provide Consultant Services for the Water Education Program:

Director Burns asked what services the District would get from Mr. Allen. Mr. Richard Youngblood, Conservation Coordinator, explained that Mr. Allen manages the Water Education Program, works with local teachers, and schedules the in-school Water Education classroom instruction. This contract covers time and materials of which Mr. Allen has never used the entire budgeted amount. Director Burns asked if Mr. Allen was a consultant or a temporary employee. Mr. Youngblood answered that Mr. Allen was a consultant. Director Burns asked if Mr. Allen has Liability Insurance that meets the District's standards. Mr. Youngblood affirmed that he did. Director Burns asked what the checks and balances were in this program to ensure the children are learning about conservation. Mr. Youngblood answered that each classroom teacher and school principal provides feedback to Mr. Allen regarding the program and outcome of the classes. The feedback has always been positive and continuing education is encouraged.

Agenda Item 7-F (continued):

Director Moore made a motion to adopt Resolution No. 2008-49 approving a Professional Services Agreement with Ron Allen to provide consultant services for the Water Education Program. Director Lee seconded the motion. The motion was passed.

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

G. Adopt Resolution No. 2008-50 to Amend the Associate Engineer Position by Eliminating the Term Employee Provision:

Director Moore commented that this position was a term position to deal with the high engineering workload during the redevelopment of the former Fort Ord. As the workload has substantially decreased, why not extend the term instead of making it a permanent position. Ms. Jean Premutati, Management Services Administrator, answered that the workload has not decreased due to the vacancies in the engineering department. Director Moore asked if it was anticipated to reduce the engineering staffing level once the Ord Community redevelopment occurred. Mr. Jim Heitzman, General Manager, commented that currently the District has one full-time and one part-time engineer on staff. When the development on the Ord Community is complete, there will still be enough work for the engineering department to require two to three engineers on staff and the possibility of contracting out some work. Ms. Premutati stated that during recruitment, it was easier to fill the position if it is a regular position rather than a term position.

Vice President Nishi commented that it was more cost efficient to do the work in-house rather than contracting it out.

Director Burns made a motion to adopt Resolution No. 2008-50 amending the Associate Engineer position by eliminating the term employee provision. Director Moore seconded the motion. The motion was passed.

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

H. Adopt Resolution No. 2008-51 to Adopt the Identity Theft Prevention Program:

Director Moore stated that he had spoken with the General Manager regarding comments on the program and asked if the General Manager wanted to postpone this item.

Agenda Item 7-H (continued):

Mr. Heitzman stated that he reviewed the program with Mr. Suresh Prasad, Director of Finance, and several of the comments made by Director Moore were already covered in the program. He added that the District already had a policy on ID verification and it would be included.

Director Moore made a motion to adopt Resolution No. 2008-51 adopting the Identity Theft Prevention Program. 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 |                      |   |     |

K. Approve the Draft Minutes of the Regular Board Meeting of September 9, 2008:

Director Moore asked that the notation be made on page 3 of the minutes, that the motion on item 5-B died for lack of a second. Mr. Heitzman stated that he did not have time to follow up on Director Moore's request before the meeting but would have Ms. Riso listen to the tape and make any corrections if needed.

Director Moore made a motion to approve the draft minutes of the regular Board Meeting of September 9, 2008 with the correction he requested. Mr. Heitzman suggested amending the motion to approve the draft minutes amended as per what was on the tape. Director Moore amended his motion to approve the draft minutes amended as per what was on the tape. 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 |                      |   |     |

8. Action Items:

- A. Consider Adoption of Resolution No. 2008-52 to Authorize an Amendment to the Professional Services Agreement with RMC Water & Environment for Program Management and Preliminary Design of the Regional Urban Water Augmentation Project for the Preliminary Design of Desalination Treatment Facilities Within the Regional Urban Water Augmentation Project:

Mr. Heitzman introduced this item explaining that this amendment is to begin work on the desalination portion of the hybrid water augmentation project that ties into the regional plan.

Agenda Item 8-A (continued):

Director Burns made a motion to adopt Resolution No. 2008-52 authorizing an amendment to the Professional Services Agreement with RMC Water & Environment for program management and preliminary design of the Regional Urban Water Augmentation Project for the preliminary design of desalination treatment facilities within the Regional Urban Water Augmentation Project. 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 |                      |   |     |

- B. Consider Adoption of Resolution No. 2008-53 to Authorize Expenditure of the District's Share of Construction Costs to Install a 30-inch Potable Waterline Within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase IV Improvement Project Alignment:

Mr. Brian True, Interim District Engineer, introduced this item. Director Burns asked if the bid was near the engineers estimate. Mr. Jim Arnold, Fort Ord Reuse Authority, commented that the bid was under the engineers estimate. Director Moore inquired what developments the pipeline was serving. Mr. True answered that the pipeline would serve the southwestern portion of the former Fort Ord that includes the City of Seaside's property, east of General Jim Moore Blvd. for the City of Del Rey Oaks development, parts of the City of Monterey and Monterey County. Director Moore asked the forecast as to when customers would be on line to help fund this pipeline. Mr. True answered that construction could start at the end of 2010 with customers on line by 2011 or 2012.

Director Lee made a motion to adopt Resolution No. 2008-53 authorizing expenditure of the District's share of construction costs to install a 30-inch potable waterline within the Fort Ord Reuse Authority's General Jim Moore Boulevard Phase IV Improvement Project Alignment. 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 |                      |   |     |

- C. Consider Rescheduling the Meeting Date for the November 11, 2008 Board Meeting:

Director Lee made a motion to reschedule the meeting date for the November 11, 2008 Board meeting to November 18, 2008. Director Burns seconded the motion. Director Moore commented that Tuesday's were difficult for him as he teaches class until 6:00 pm. The motion was passed.

Agenda Item 8-C (continued):

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

9. Staff Reports:

A. Receive Report on Harassment Issue:

Mr. Heitzman stated that at the August Board meeting there was a complaint regarding certain comments that were made. Staff investigated the complaint, following the procedures and policies of the District, a determination and recommendation were made. Mr. Lloyd Lowrey, Legal Counsel, stated that if the recommendation is followed, no further action would be necessary. If the recommendation is not followed, a report will be brought back to the next Board meeting.

B. Receive Report on MCWD Enforcement of Water Use Quantities from Water Supply Assessments or Other Allocations Assigned to Developments:

Mr. True introduced this item. Mr. Heitzman stated that in 2005, the City of Marina was requested to provide a concept to ensure the water allocation for their Ord Community developments is not exceeded. Monterey County Water Resources Agency (MCWRA) has informally asked the District for some kind of action ensuring that water allocation is not exceeded or they would be forced to write a letter.

Director Moore asked, if even though the District can't enforce Water Supply Assessments (WSA), could they enforce Written Verification of Sufficient Water Supply (WV)? Mr. Lowrey answered that the District's responsibility to provide WSA's is part of the California Environmental Quality Act (CEQA) document that is required of land-use-jurisdictions (LUJ) for new developments. A WV is information the District gives to a LUJ for their use as a permit to approve the development. The WV is a condition of the permit confirming the development has only a certain amount of water, and enforcement of the development permit is the LUJ responsibility.

Mr. Lowrey stated that the initial agreement with the Fort Ord Reuse Authority (FORA) contended that MCWD was the water supplier and not the "water cop". FORA allocates water to the LUJ's and then the LUJ's sub-allocate water to the developments within their jurisdiction. If a LUJ uses all their water allocation, the District would not be able to give a positive WV for any future developments within their jurisdiction. Mr. Lowrey opined that if a development is exceeding their allocation, it is the responsibility of the LUJ and FORA to do something about it.

Agenda Item 9-B (continued):

Mr. Lowrey stated that the LUJ's, FORA and the District could all meet and develop an enforcement protocol. Vice President Nishi asked what the liability of the District is if the potable (6,600 AF) and recycled water (3,400 AF) limit is exceeded. Mr. Lowrey answered that if the District exceeds the total amount of water agreed upon, the MCWRA could get an injunction against the District or take some kind of enforcement action.

Vice President Nishi commented that it is the responsibility of the District to refuse water meters when a LUJ gets close to or exceeds their water allocation. Mr. Lowrey stated that in his opinion, the responsibility for making and enforcing allocations within the former Fort Ord is on FORA. Outside of the Ord Community, the District could advise the City when they are getting close to their water limit that they will not be allocated any more water. If all the water is allocated, and a development uses more than its share, the District could either find more water to serve them, or invoke an emergency/shortage and refuse to issue meters.

C. Receive Redlined Version of the Board Procedures Manual for Review:

Mr. Heitzman stated that the Board Procedures Manual (BPM) has been updated at the staff level and asked that each Director review, comment, make notations and return the BPM to staff to make the suggested changes and return for another review in early 2009.

10. Informational Items:

A. General Manager's Report:

Mr. Heitzman commented that staff is continuing work with the LUJ's regarding capacity charges.

B. District Engineer's Report:

Mr. True stated that he had nothing to report.

C. Counsel's Report:

Mr. Lowrey commented that there are ongoing proceedings in Sacramento and San Francisco regarding Cal American and their ability to provide water from the Carmel River to the Peninsula. He will keep the Board advised as the proceedings continue.

D. Committee and Board Liaison Reports:



1. Water Conservation Commission:

No comments.

2. Joint City-District Committee:

Mr. Heitzman commented that the Committee met to discuss artificial turf and the staffs will work together to bring back a suggestion to the Board. The Committee also discussed capacity fees and an enforcement policy for water allocation.

3. MRWPCA Board Member:

Vice President Nishi stated that at the September 29, 2008 meeting, following Closed Session, a statement was made stating the different cities did not approve the REPOG project and all the facts or projects weren't in the REPOG project. Under Director's Comments, Jeff Haferman, City of Monterey, announced that the City of Monterey held a meeting and supported the REPOG project. Vice President Nishi added that the representative for Moss Landing Harbor District stepped down and Chris Orman, North County Fire Protection District, took over as the representative.

4. LAFCO Liaison:

Vice President Nishi stated the Marina Station's annexation to MCWD and MRWPCA was passed unanimously and the "Cornnuts Annexation" was continued. Director Moore asked when the annexation would take effect. Mr. Lowrey answered it would take several weeks.

5. JPIA Liaison:

No comments.

6. Monterey Bay Regional Water Authority:

No comments.

7. FORA:

Vice President Nishi stated there were two meetings held since the last MCWD Board meeting. September 12, 2008, was Colonel Martis' last meeting as the US Army's representative as she was going to Afghanistan. Capacity charges were discussed and it was agreed to continue to review them. Jim Feeney, FORA, gave a positive report on the REPOG project. At the October 10, 2008 meeting, action on capacity charges was deferred until November or December.

8. Executive Committee:

No comments.

9. Community Outreach:

President Gustafson stated that information was being gathered for a potential newsletter.

10. Ord Community Ad Hoc Committee:

No comments.

11. Special Districts Association Liaison:

The next meeting is October 21, 2008.

E. Director's Comments:

Director Moore stated he had a confidential memo to distribute. Mr. Lowrey advised against distributing it in an open meeting, rather schedule a closed session to distribute and discuss it then.

Vice President Nishi complimented staff on a job well done for providing enough information in the transmittals to facilitate efficient meetings.

President Gustafson also complimented staff on a job well done.

11. Adjournment:

The meeting was adjourned at 7:59 p.m.

APPROVED:

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Howard Gustafson, President

ATTEST:

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Jim Heitzman, General Manager