

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
May 12, 2009  
6:00 p.m.

**Minutes**

1. Call to Order:

President Gustafson called the meeting to order at 6:00 p.m. on May 12, 2009.

2. Roll Call:

Board Members Present:

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

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  
Suresh Prasad, Director of Finance  
Evelina Adlawan, Water Quality Manager  
Rich Youngblood, Conservation Coordinator  
Susan Kiefert, Customer Service Specialist  
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Vienna Moore, Marina Resident  
Jan Shriner, Green Party  
Tony Kelsey, Marina Resident  
Joshua Kelsey, Marina Resident

The Board entered into closed session at 6:01 p.m.

3. Closed Session:

- A. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator (General Manager, Legal Counsel)  
Property: Second and Imjin  
Negotiating Parties: MCWD, FORA, AMBAG  
Under Negotiation: Price and Terms
- B. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator (General Manager, Legal Counsel)  
Property: D/E Reservoir Site  
Negotiating Parties: MCWD and City of Seaside  
Under Negotiation: Lease Agreement
- C. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator (General Manager, Legal Counsel)  
Property: 11 Reservation Road  
Negotiating Parties: MCWD, California State Parks  
Under Negotiation: Price and Terms
- D. Pursuant to Government Code Section 54956.8  
Conference with Real Property Negotiator (General Manager, Legal Counsel)  
Property: Lonestar Property  
Negotiating Parties: MCWD and CEMEX  
Under Negotiation: Price, Terms, and Conditions
- E. Pursuant to Government Code Section 54957.6  
Conference with Labor Negotiator  
Agency Negotiator: General Manager  
Employee Organizations: Teamsters Local 890 and Unrepresented Employees
- F. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: General Manager

The Board ended closed session at 7:12 p.m. and President Gustafson recessed the meeting from 7:12 until 7:17 p.m. President Gustafson reconvened the meeting to open session at 7:17 p.m.

4. Possible Action on Closed Session Items:

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

Agenda Item 4 (continued):

Director Burns made a motion to move Closed Session Agenda Item 3-A for action as Item 9-F. Vice President Lee seconded the motion. The motion was passed.

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

5. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

6. Oral Communications:

None.

7. Presentation:

- A. Consider Adoption of Resolution No. 2009-27 in Recognition of Susan Kiefert, Customer Service Specialist, and Awarding a Plaque and Gift Certificate for 25 Years of Service to Marina Coast Water District:

Director Moore made a motion to adopt Resolution No. 2009-27 recognizing Susan Kiefert, Customer Service Specialist, and Awarding a Plaque and Gift Certificate for 25 Years of Service to Marina Coast Water District. Vice President Lee seconded the motion. The motion was passed.

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

President Gustafson read the narration and presented Ms. Kiefert with a plaque and gift certificate. Mr. Jim Heitzman, General Manager, commended Ms. Kiefert on her tenure with the District.

8. Consent Calendar:

Director Burns requested to pull item B from the Consent Calendar.

Agenda Item 8 (continued):

Director Moore made a motion to approve the Consent Calendar consisting of items; A) Adopt Resolution No. 2009-14 to Approve a Green Sustainable Practice Policy for the District; C) Receive the Quarterly Financial Statements for January 1, 2009 to March 31, 2009; D) Approve Expenditures for the Month of April 2009; and, E) Approve the Draft Minutes of the Special Board Meeting of March 31, 2009. Director Burns seconded the motion. The motion was passed.

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

B. Adopt Resolution No. 2009-28 to Approve the Amended District Salary Schedules:

Director Burns asked for clarification on why this item was brought back to the Board. Mr. Heitzman explained that in February, when the Board adopted the revised salary schedules, the incorrect schedules were included in the Board packet. The schedules included in this packet are the ones the Board and staff thought were being adopted in February. Mr. Heitzman stated that this was just to clarify the correct salary schedule being implemented.

Director Burns made a motion to adopt Resolution No. 2009-28 approving the amended District salary schedules. Director Moore seconded the motion. The motion was passed.

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

9. Action Items:

A. Consider Adoption of Resolution No. 2009-29 to Approve a Professional Services Agreement with Denise Duffy & Associates for General Environmental Services:

Mr. Brian True, Interim District Engineer, introduced this item.

Director Moore made a motion to adopt Resolution No. 2009-29 approving a Professional Services Agreement with Denise Duffy & Associates for General Environmental Services. Director Burns seconded the motion. The motion was passed.

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

B. Consider Adoption of Resolution No. 2009-30 to Approve a Professional Services Agreement with RMC Water and Environment for Program Management and Initial Planning and Design Services Within the Regional Urban Water Augmentation Project and to Amend the FY 2008/2009 Budget:

Mr. True introduced this item. Director Moore inquired what would happen if FORA sunsets before the District is reimbursed. Mr. Heitzman stated that reimbursement is written in the agreements and documents and whomever takes over after FORA sunsets will have to abide by those agreements. Mr. Lloyd Lowrey, Legal Counsel, added that there is a process set-up for LAFCO to determine who is responsible for what and who gets what. That is for LAFCO and its constituents to figure out. The District will be reimbursed, if not from FORA, then someone else. Mr. Lowrey stated that the Agreement with FORA provides that the District doesn't provide any service for which it doesn't get reimbursed.

Director Nishi made a motion to adopt Resolution No. 2009-30 approving a Professional Services Agreement with RMC Water and Environment for Program Management and Initial Planning and Design Services Within the Regional Urban Water Augmentation Project and to amend the FY 2008/2009 Budget. Director Burns seconded the motion. The motion was passed.

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

C. Consider Adoption of Resolution No. 2009-31 to Approve a Professional Services Agreement with Carollo Engineers for Final Design and Bidding Services for Recycled Water Pipeline and Blackhorse Reservoir and for On-Call Services for the Regional Urban Water Augmentation Project and to Amend the FY 2008/2009 Budget:

Mr. True introduced this item.

Director Nishi made a motion to adopt Resolution No. 2009-31 approving a Professional Services Agreement with Carollo Engineers for Final Design and Bidding Services for Recycled Water Pipeline and Blackhorse Reservoir and for On-Call Services for the Regional Urban Water Augmentation Project and to Amend the FY 2008/2009 Budget. Director Burns seconded the motion. The motion was passed.

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

D. Consider Adoption of Resolution No. 2009-32 to Approve a Brackish Source Water Planning Agreement Between Monterey County Water Resources and Marina Coast Water District:

Mr. Heitzman introduced this item. Director Moore asked for clarification of Section 5.3 the last sentence. Mr. Heitzman answered that it should read, "...should be published annually and evaluated every five years."

Director Moore asked if the concerns listed in the letter received from Landwatch were addressed in this agreement. Mr. Lowrey answered that language in sections 4 and 5 are intended to clarify issues of concern. Director Nishi voiced his appreciation for the District Attorney and General Manager in taking the time to make sure public concerns were recognized.

Director Nishi made a motion to adopt Resolution No. 2009-32 approving a Brackish Source Water Planning Agreement Between Monterey County Water Resources and Marina Coast Water District. Director Moore seconded the motion. The motion was passed.

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

E. Consider Adoption of Resolution No. 2009-33 to Approve a Retention Agreement with Friedman Dumas & Springwater LLP:

Mr. Heitzman stated that Mr. Fogelman, Friedman Dumas & Springwater LLP, is highly recommended attorney and experienced with the California Public Utilities Commission. Mr. Fogelman is conscientious of the fact the District is a public entity and aware that the District will do as much of the work as possible to save money. Mr. Lowrey will be overseeing the work done by Mr. Fogelman.

Director Nishi made a motion to adopt Resolution No. 2009-33 approving a Retention Agreement with Friedman Dumas & Springwater LLP. Vice President Lee seconded the motion. The motion was passed.

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

President Gustafson recessed the meeting from 7:45 until 7:53 p.m. to allow staff to prepare Agenda Item 9-F.

10. Staff Report:

A. Receive a Report on the processing of a Variance Request and Provide Direction to Staff:

Mr. True explained that the applicant paid capacity fees in April 2008 and has yet to connect to the system. MCWD Code Section 6.08.090 states that if a connection is not made to the District's water system within one year from the date a capacity charge is paid, the difference between the amount of the capacity charge paid and the amount of the revised capacity charge in effect at the time of the connection shall be paid to the District before the connection is installed. Mr. True added that the utility drawings are still pending and consequently, a meter has not been installed.

Director Burns asked if there is an information sheet provided to customers when they pay capacity fees explaining the rules and regulations of the District. Mr. True answered that staff did not give out an information sheet, but verbally lets the applicant know throughout the process of the deadlines.

Director Nishi questioned the actual location of the property and the size of the main line. He asked for more information on the assessments for parcel number 223 and 225 because the planning department doesn't have 225 listed. Vice President Lee inquired about connection fees paid when the lot was first developed and the difference of what is owed for what is now being developed.

President Gustafson asked that this item be postponed until next meeting so staff can provide answers to the Boards questions.

B. Receive a Report on the Formation of an Employee Organization for the Unrepresented Employees:

Ms. Jean Premutati, Management Services Administrator, explained that the unrepresented employees have waited the requisite one-year after decertifying from SEIU Local Chapter No. 521 and are notifying the Board that they are now ready to establish an Employees Association of the Marina Coast Water District. The formal request will be brought before the Board next month.

C. Receive a Report on Amendment No. 1 to Agreement for Legal Services Special Counsel:

Mr. Heitzman stated that the District has had an agreement with Richards, Watson & Gerson since 1997. The amendment only adjusts the fees for services and the other terms and provisions remain the same.

9. Action Items:

- F. Consider Adoption of Resolution No. 2009-34 to Approve the Imjin Office Park Purchase Agreement and Lease and Authorize Filing a Notice of Determination:

Mr. Lowrey commented that on the Office Lease Summary, Option 9 should be removed. There is no "Option to Extend". He explained that the District will purchase the property and lease part of the building back to FORA for a term of 57 months. Mr. Lowrey stated that the Board will be entering into this as a financing and planning arrangement. The environmental work and approvals have already been obtained.

Director Moore inquired if the share of the parking lot has been paid. Mr. Heitzman answered that it had not been paid. Director Moore asked if the District will still have to pay for the parking lot on top of the purchase. Mr. Heitzman answered that the District will have to pay for the parking lot, but the permits have already been paid to the City of Marina.

Mr. Lowrey stated that Exhibit E describes the fees that are to be paid.

Mr. Heitzman commented that this will be a Silver LEED building when built.

Director Nishi made a motion to adopt Resolution No. 2009-34 approving the Imjin Office Park Purchase Agreement and Lease and authorize filing a Notice of Determination. President Gustafson seconded the motion. The motion was passed.

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

11. Informational Items:

- A. General Manager's Report:

Mr. Heitzman stated he had nothing to report.

- B. District Engineer's Report:

Mr. True stated he had nothing to report.

- C. Counsel's Report:

Mr. Lowery stated he had nothing to report.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Lee stated that the WCC took a tour of Chartwell School. Chartwell is the first complete educational campus in the country to be LEED Platinum certified.

2. Joint City-District Committee:

No comments.

3. MRWPCA Board Member:

Director Nishi reported that the meeting was boiler-plate and there was a Strategic Planning Session with Marilyn Snider set for Friday, May 15, 2009.

4. LAFCO Liaison:

Director Moore reported that LAFCO met and approved the work plan for the next several years.

5. JPIA Liaison:

No comments.

6. Monterey Bay Regional Water Authority:

President Gustafson asked that this Committee be removed from the list.

7. FORA:

Vice President Nishi commented the meeting was boiler-plate and that Mr. Heitzman gave a presentation on the Regional Project and the budget.

8. Executive Committee:

No comments.

9. Community Outreach:

President Gustafson stated that there were several ideas for Community Outreach, including the adoption of the District's green status.

10. Ord Community Ad Hoc Committee:

No comments.

11. Special Districts Association Liaison:

President Gustafson stated there was no report. Director Moore commented that he attended and could give a report. President Gustafson answered that Director Moore could put the report in writing and give it to the Board.

E. Director's Comments:

Director Burns asked if the Budget Workshop was still scheduled.

12. Correspondence:

No comments.

13. Adjournment:

The meeting was adjourned at 8:27 p.m.

APPROVED:

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Howard Gustafson, President

ATTEST:

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Jim Heitzman, General Manager