

Marina Coast Water District

Dual Locations
Country Inn & Suites
2621 Prince William Parkway
Woodbridge, VA 22192
and
District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
June 22, 2010
6:45 p.m.

Minutes

1. Call to Order:

President Nishi called the meeting to order at 6:45 p.m. on June 22, 2010.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None.

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Carl Niizawa, Deputy General Manager/District Engineer
Suresh Prasad, Director of Finance
Rich Youngblood, Conservation Coordinator
Brian True, Capital Projects Manager
James Derbin, Assistant Operations and Maintenance Superintendent
Gary Rogers, Associate Engineer
Jean Premutati, Management Services Administrator
Richard Green, Systems Operator II
Paula Riso, Executive Assistant/Board Clerk

Audience Member:

Luana Conley, Marina Resident

The Board entered into closed session at 6:46 p.m.

3. Closed Session:

- A. Pursuant to Government Code 54956.8
Conference with Real Property Negotiator (General Manager, Legal Counsel)
Property: Parcel of Land known as Sunset Place
Negotiating Parties: MCWD, Residents, City of Marina
Under Negotiation: Fee Title Ownership and Disposal
- B. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9
1 Case
- C. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)
Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County
Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and
Complaint for Declaratory Relief)

President Nishi reconvened the meeting to open session at 7:06 p.m.

4. Possible Action on Closed Session Items:

Mr. Lloyd Lowrey, Legal Counsel, reported that no action was taken and appropriate direction was given as to each item.

5. Pledge of Allegiance:

President Nishi asked Mr. Richard Green to lead everyone present in the Pledge of Allegiance.

6. Oral Communications:

Ms. Luana Conley, Marina resident, commented that the Board's Goals and Objectives Item No. 2 is to "meet customers' needs 100%". She then asked the Board of Directors to consider scheduling Board meetings on nights other than those of Marina City Council and Marina City

Agenda Item 6 (continued):

Commission so interested members of the public can attend both sets of meetings. Ms. Conley also commented that the Board should consider hiring Access Monterey Peninsula (AMP) to film and broadcast the Board meetings. Ms. Conley again asked that the Board of Directors consider rescheduling the Board meetings for a different day of the week and to have AMP film and broadcast the meetings.

7. Presentation:

- A. Consider Adoption of Resolution No. 2010-29 to Recognize Richard Green, System Operator II, and Awarding a Plaque and Gift Certificate for 10 Years of Service to the Marina Coast Water District:

Director Gustafson made a motion to recognize Richard Green, System Operator II, and awarding a plaque and gift certificate for 10 years of service to the Marina Coast Water District. Vice President Lee seconded the motion. Mr. James Derbin, Assistant Operations and Maintenance Superintendent, commented that staff was very appreciative of Mr. Green's outstanding service to the District. The motion was passed.

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

President Nishi read the narration and presented Mr. Green with a plaque and gift certificate. Mr. Green voiced his appreciation to the Board for everything and stated that he anticipated working at the District for many more years to come. Mr. Jim Heitzman, General Manager, commented that Mr. Green was a valuable worker and the District appreciated his hard work and dedication.

8. Consent Calendar:

Director Moore requested to pull items G and K from the Consent Calendar. Director Burns requested to pull item C from the Consent Calendar.

Director Gustafson made a motion to approve the Consent Calendar consisting of items A) Adopt Resolution No. 2010-30 to Authorize a Professional Services Agreement with Recommended Industrial Hygienist/Hazardous Materials Specialist Firm for the Well 32 Replacement/Eastern Distribution System Project; B) Adopt Resolution No. 2010-31 to Authorize a Professional Services Agreement with Recommended Licensed Land Surveyor Firm for the Well 32 Replacement/Eastern Distribution System Project; D) Adopt Resolution No. 2010-33 to Authorize Investment of Monies and Update Signatures for the Local Agency Investment Fund (LAIF);

Agenda Item 8 (continued):

E) Adopt Resolution No. 2010-34 Authorizing Application to the Director of Industrial Relations, State of California for a Certificate of Consent to Self-Insure Workers' Compensation Liabilities and Resolution No. 2010-35 Consenting to Enter the Joint Protection Programs of the Association of California Water Agencies (ACWA)/Joint Powers Insurance Authority (JPIA) Contingent Upon Passing a Risk Assessment and JPIA Executive Committee Authorization; F) Adopt Resolution No. 2010-36 to Approve a Change in Vendors for the Short-Term Disability (STD)/Long-Term Disability (LTD) Benefits for District Employees; H) Approve the Draft Minutes of the Special Board Meeting of April 19, 2010; I) Approve the Draft Minutes of the Regular Board Meeting of May 11, 2010; and J) Approve the Draft Minutes of the Special Board Meeting of May 27, 2010. Vice President Lee seconded the motion. The motion was passed.

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

C. Adopt Resolution No. 2010-32 to Extend the Current FY 2009-2010 District Budget:

Director Burns inquired on the Public Hearing dates for the FY 2010-2011 District Budget. Mr. Suresh Prasad, Director of Finance, answered that there will be two Public Hearings to consider the budget. August 10, 2010 will be the Public Hearing for Central Marina, and August 13, 2010 will be the Public Hearing for the Ord Community.

Director Burns made a motion to extend the current FY 2009-2010 District Budget. Vice President Lee seconded the motion. The motion was passed.

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

G. Approve the Expenditures for the Month of May 2010:

Director Moore questioned why three separate checks were issued to the Paul Davis Partnership on the same day. Mr. Prasad answered that there were about twenty invoices that were paid with those checks. Mr. Carl Niizawa, Deputy General Manager/Deputy Engineer, answered that there were different invoice dates for the three checks. Director Moore questioned why a single check wasn't written for all the invoices. President Nishi answered that there was a concern that the work wasn't getting done and invoices weren't getting paid. On May 4th, he requested that the checks get cut to get the project moving along and taking care of the economic situation of this area.

Agenda Item 8-G (continued):

Director Moore commented that he understood the reason to cut the checks, but not separate checks. President Nishi answered that large checks required two signatures and it was easier this way. He stated that he had met with Paul Davis and was going to hand deliver the checks. Mr. Prasad clarified that checks over \$25,000 require two signatures, one staff and one Director's signature. By cutting smaller checks, staff was able to sign the checks without a Director's signature. Director Moore voiced his concern that this action circumvented District policy.

Director Moore commented that Friedman Dumas received another large check from the District, this one for over \$109,000.

Director Gustafson made a motion to approve the expenditures for May 2010. Vice President Lee seconded the motion. The motion was passed.

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

20:15

K. Approve the Draft Minutes of the Special Board Meeting of June 10, 2010:

Director Moore commented that he wanted to abstain on this item since he was not present for the meeting.

Vice President Lee made a motion to approve the draft minutes of the Special Board meeting of June 10, 2010. Director Gustafson seconded the motion. The motion was passed.

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

9. Action Items:

A. Consider Adoption of Resolution No. 2010-37 to Amend the Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for Updating the 2005 MCWD Urban Water Management Plan:

Mr. Niizawa introduced Mr. Gary Rogers, Associate Engineer, and stated that Mr. Rogers would present this item. Mr. Rogers introduced this item.

Agenda Item 9-A (continued):

Vice President Lee made a motion to adopt Resolution No. 2010-37 amending the Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for updating the 2005 MCWD Urban Water Management Plan. Director Gustafson seconded the motion. The motion was passed.

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

B. Consider Adoption of Resolution No. 2010-38 to Authorize a Construction Contract and Related Expenses for Construction of the FORA Building at Imjin Office Park Building:

Mr. Niizawa introduced this item. Director Burns asked who would do the inspections on the project. Mr. Niizawa answered that a temporary staff member would be hired to perform inspections on this project.

Director Moore asked if the site improvements, allocated at \$680,000, were complete and what was the final cost. Mr. Brian True, Capital Projects Manager, answered that the improvements were about 80% complete and that cost shouldn't go much higher at completion. President Nishi asked if the improvements were for the entire site. Mr. True answered that the improvements were being completed in three phases and this was phase two. Phase three will be for the remaining buildings.

Ms. Conley questioned why the District was building this office for FORA when they will sunset in 2014, and why couldn't any of the vacant buildings in Fort Ord be used? President Nishi asked Ms. Conley to make an appointment with the General Manager and he could provide her with the answers.

Director Gustafson made a motion to adopt Resolution No. 2010-38 to authorize a construction contract and related expenses for construction of the FORA Building at Imjin Office Park Building. Vice President Lee seconded the motion. The motion was passed.

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

C. Consider Adoption of Resolution No. 2010-39 to Provide for the Creation of the Imjin Office Park Owners Association and to Appoint Two Owners Association Directors:

Mr. True introduced this item and stated that appointments can be made now or at a later time.

Agenda Item 9-C (continued):

President Nishi commented that the appointments needed to be made because there is a meeting scheduled. Mr. True answered that the meeting was tentative and if appointments were not made tonight, the meeting could be rescheduled.

President Nishi asked who would be funding the District Counsel's fees for the Imjin Office Park Owners Association (IOPOA). Mr. Lloyd Lowrey, Legal Counsel, commented that it was his understanding that since the District will have two of the four votes of the IOPOA, the District would be lending the District's Legal Counsel for the first meeting and will be reimbursed by the group as a whole. President Nishi stated that things should be in order before attending any meetings instead of doing it haphazardly.

Director Moore commented that the Board of Directors has not seen the Covenants, Conditions, Restrictions, and Reciprocal Easement Agreement (CCRs), only the suggested amendments. He would have liked to see the CCRs so the Board could better understand what the rules are. President Nishi voiced his concerns over some improvement decisions that are being made and if they are cost effective.

Director Gustafson volunteered to be appointed as an IOPOA Director and suggested that the General Manager or designee be the other.

Director Gustafson made a motion to adopt Resolution No. 2010-39 to provide for the creation of the Imjin Office Park Owners Association and to appoint Director Gustafson and the General Manager or designee as Owners Association Directors. Director Moore asked for clarification in the CCRs where they mention the tie-breaking vote will be the FORA Executive Officer. He then asked what happens when FORA sunsets? Mr. True answered that before FORA sunsets, another disinterested third party organization will be selected by the IOPOA to be the tie-breaker. Vice President Lee seconded the motion. The motion was passed.

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

- D. Consider Adoption of Resolution No. 2010-40 to Authorize the Construction Contract for CIP# OW-0207 with Monterey Peninsula Engineering for Installing Potable Water Pipelines in 3rd Avenue and 12th Street in Marina, CA Within a Not-To-Exceed Project Amount of \$176,000:

Mr. True introduced this item. Director Burns asked who would be inspecting this project. Mr. True answered that District staff would do the inspections. It was pointed out that the Resolution number needed to be corrected from 2009-40 to 2010-40 on the Resolution title.

Agenda Item 9-D (continued):

Director Moore made a motion to adopt Resolution No. 2010-40 to authorize the construction contract for CIP# OW-0207 with Monterey Peninsula Engineering for installing potable water pipelines in 3rd Avenue and 12th Street in Marina, CA within a not-to-exceed project amount of \$176,000. Director Gustafson seconded the motion. The motion was passed.

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

- E. Consider Adoption of Resolution No. 2010-41 to Authorize the Construction Contract with Maggiora Bros. Drilling, Inc. to Remove the Beach Intake Well Vault and to Cut and Cap the Well Casing Within a Not-To-Exceed Project Work Amount of \$28,000:

Mr. True introduced this item and provided the Board of Directors with a photo of the exposed intake well vault. Director Moore asked why this item had a 37% contingency amount. Mr. True answered that it was because the contract amount was small and there could be additional costs such as: 1) if the State Parks has a problem with the sand covering the vault; 2) if the Department of Public Health has any unseen inspection fees; and, 3) it is a difficult site to work on. Director Burns asked if there would be GPS coordinates of the vault. Mr. True answered that there would definitely be GPS coordinates.

Vice President Lee made a motion to adopt Resolution No. 2010-41 to authorize the construction contract with Maggiora Bros. Drilling, Inc. to remove the Beach Intake Well Vault and to cut and cap the well casing within a not-to-exceed project work amount of \$28,000. Director Gustafson seconded the motion. The motion was passed.

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

- F. Consider Adoption of Resolution No. 2010-42 to Approve an Amendment to the Professional Services Agreement with RMC Water and Environment for Program Management and Engineering Services for the Regional Water Supply Project:

Mr. Niizawa introduced this item and noted that California American Water Company (CalAm) has reviewed and agreed to the contract amendment. These services are eligible for reimbursement by CalAm.

Agenda Item 9-F (continued):

Vice President Lee made a motion to adopt Resolution No. 2010-42 to approve an Amendment to the Professional Services Agreement with RMC Water and Environment for Program Management and Engineering Services for the Regional Water Supply Project. Director Gustafson seconded the motion. The motion was passed.

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

G. Consider District's Position and Direct Staff to Prepare a Letter Regarding the Assembly Bill 155, Which Would Limit Local Government's Ability to Make Their Own Financial Decision to Declare Bankruptcy:

Mr. Prasad introduced this item. Director Gustafson commented that the District should be able to make its own financial decisions.

Director Moore made a motion to direct staff to prepare a letter regarding opposing Assembly Bill 155, which would limit local government's ability to make their own financial decision to declare bankruptcy. Director Gustafson seconded the motion. The motion was passed.

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

H. Consider Reinstating Standing Committees of the Board:

President Nishi stated that he had asked to have this item on the agenda. Director Gustafson commented that it would be good to reinstate the committees. Director Moore asked for staff's opinion. Mr. Heitzman stated that it would be valuable for staff. Mr. Lowrey suggested that since the committees have been on hiatus, it would be good for staff to bring this item back next month with the composition and charge for each committee. He added that there should be a list of what the committee does, who serves on the committee and how members are appointed.

President Nishi asked to bring this back next month with a composition and charge for each committee.

- I. Consider Adoption of Resolution No. 2010-43 to Authorize District Staff to Work with LAFCO Staff to Initiate an Annexation Process of Any or All of the Ord Community into the Marina Coast Water District at a Cost Not-To-Exceed \$100,000:

Mr. Heitzman introduced this item and explained that this would allow staff to begin CEQA work and keep moving forward in giving the Board more information for future decisions on how to proceed.

Vice President Lee made a correction to the fifth WHEREAS on Resolution No. 2010-43 in removing the word “the”.

Director Moore made a motion to adopt Resolution No. 2010-43 to authorize District staff to work with LAFCO staff to initiate an annexation process of any or all of the Ord Community into the Marina Coast Water District at a cost not-to-exceed \$100,000, as corrected. Director Gustafson seconded the motion. The motion was passed.

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

10. Informational Items:

A. General Manager's Report:

Mr. Heitzman commented that last week there were public hearings in San Francisco at the California Public Utilities Commission and all the general managers and legal counsel made their comments and gave testimony. There will be local public hearings in Monterey and Seaside on June 28th and 29th with a ruling expected in late fall. Mr. Heitzman directed the Board's attention to the correspondence and noted that he often receives compliments of staff and wanted to share an example with the Board.

B. District Engineer's Report:

No report.

C. Counsel's Report:

Mr. Lowrey commented that a special package of water bills were passed last fall and ACWA has been presenting information on those bills. Some of that legislation could impact the District or give it tools that could be useful as the scope of operations is increased.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Lee commented that they were continuing with public outreach and at the last meeting they went on a tour of the Rubber Dam.

2. Joint City-District Committee:

President Nishi stated they were meeting on Thursday, June 24, 2010.

3. MRWPCA Board Member:

President Nishi commented that the regular meeting was boiler-plate. At the Budget Workshop on June 10th, President Nishi said the City of Salinas wanted to have a pipeline included in the 2010-2011 CIP.

4. LAFCO Liaison:

Director Moore stated that Tom Perkins was recognized and the new member, Graig Stephens, was introduced. President Nishi commented that at the June 16th Sphere of Influence Committee meeting, some minor changes were suggested for the June 28th Board meeting, and he would attend that meeting for Director Moore while he is unavailable.

5. JPIA Liaison:

No comments.

6. FORA:

President Nishi stated that the meeting was boiler-plate and CIP meetings would be held in July and August.

7. Executive Committee:

No meeting was held.

8. Community Outreach:

Director Gustafson commented that ACWA had a two page write-up in their latest issue with several pictures of Mr. Heitzman.

9. Special Districts Association Liaison:

Director Gustafson commented that the next meeting was scheduled for July 20th.

E. Director's Comments:

Director Burns commented that the CSIP is going out to bid and suggests getting together to decide if the District wants to participate in the bid. Director Burns also stated that he did not receive any communication on canceling the regular Board meeting of June 8th and scheduling a special meeting for June 10th for which he was not available. He would like the communication to be clearer to allow everyone a chance to comment on their availability.

Director Moore commented that he was also unable to attend the special meeting and did not see the urgency in holding that meeting. He stated that there were not many items on tonight's agenda that couldn't have been handled at the June 8th meeting. Director Moore stated that it was important to honor the scheduled meeting dates and agrees with de-conflicting the District's meeting dates with those of City Council.

Vice President Lee thanked staff for giving excellent presentations and preparing this work on these items to allow the Board to get things done in a timely manner.

President Nishi commented that he would like the General Manager to let the Board know when compliments towards staff are received so the Board could do something to show appreciation to the employees for their outstanding work. President Nishi noted that no one was notified of the special meeting because it was the President's decision to hold the meeting in an effort to get the City of Marina to comply, and it was successful. He added that he went with the General Manager to Sacramento to see Assembly members Caballero and Monning, John Moffitt from the Governor's office, and Steinberg and Perez. President Nishi stated that he was glad the Board was working together even though they would always have a difference of opinion.

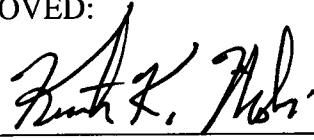
Director Burns commented that the Outfall Capacity Study was to be completed in April and asked what the outcome was. Mr. Niizawa answered that RMC was in receipt of the completed study and responded to the MRWPCA. Staff is now awaiting the response from MRWPCA. Director Burns asked to have an update at the next meeting.

12. Adjournment:

The meeting was adjourned at 8:28 p.m.

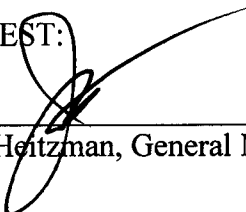
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APPROVED:



Kenneth K. Nishi, President

ATTEST:



Jim Heitzman, General Manager