

Marina Coast Water District

District Office
11 Reservation Road
Marina, California

Regular Board Meeting
May 8, 2012
6:45 p.m.

Draft Minutes

1. Call to Order:

President Burns called the meeting to order at 6:45 p.m. on May 8, 2012.

2. Roll Call:

Board Members Present:

Dan Burns – President
Howard Gustafson – Vice President
Jan Shriner
Kenneth K. Nishi
Bill Lee

Board Members Absent:

None

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Carl Niizawa, Deputy General Manager/District Engineer
Jean Premutati, Management Services Administrator
Kelly Cadiente, Director of Administrative Services
Brian True, Capital Projects Manager
James Derbin, Operations and Maintenance Superintendent
Paul Lord, Water Conservation Specialist
Patrick Breen, Project Manager
Thomas Barkhurst, Laboratory Supervisor
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Andy Sterbenz, Schaaf & Wheeler Civil Engineers
Tom Moore, Marina Resident

The Board entered into closed session at 6:45 p.m., after announcement per Government Code Section 54957.7(a) by Mr. Lloyd Lowrey, Legal Counsel.

3. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)

1) 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)

2) In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates, California Public Utilities Commission No. A.04-09-019

B. Pursuant to Government Code Section 54956.9

Conference with Legal Counsel – Anticipated Litigation
Significant Exposure to Litigation Pursuant to Subdivision (b)
One Case

C. Pursuant to Government Code Section 54959.9

Conference with Legal Counsel – Anticipated Litigation
Potential Initiation of Litigation (c)
One Case

D. Pursuant to Government Code 54957.6

Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Marina Coast Water District Employees Association

E. Pursuant to Government Code 54957.6

Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Teamsters Local 890

President Burns reconvened the meeting to open session at 7:09 p.m.

4. Possible Action on Closed Session Items:

Mr. Lowrey reported the following:

- 3-A – the Board of Directors conferred with Legal Counsel, no action was taken.
- 3-B – the Board of Directors conferred with Legal Counsel, no action was taken.
- 3-C – the Board of Directors conferred with Legal Counsel, no action was taken.
- 3-D – the Board conferred with the Labor Negotiator, no action was taken.
- 3-E – the Board conferred with the Labor Negotiator, no action was taken.

5. Pledge of Allegiance

President Burns led everyone present in the pledge of allegiance.

6. Oral Communications:

Mr. Tom Moore, Marina resident, commented that Saturday, May 12th was the Wind Festival Celebration at Glorya Jean Tate Park. Mr. Moore also reminded everyone that these meetings were filmed by volunteers and anyone wanting to make a donation could do so at More Transparency, PO Box 693, Marina, CA, 93933.

7. Consent Calendar:

Director Shriner requested to pull agenda item 8-C from the Consent Calendar. Director Nishi requested to pull agenda items 8-A and 8-B from the Consent Calendar.

Vice President Gustafson made a motion to approve the Consent Calendar consisting of:

- D) Approve the Draft Minutes of the Special Board Meeting of March 29, 2012
- E) Approve the Draft Minutes of the Regular Board Meeting of April 10, 2012
- F) Approve the Draft Minutes of the Special Board Meeting of April 18, 2012

Director Shriner seconded the motion. The motion was passed.

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

A. Adopt Resolution No. 2012-27 to Approve a Request for Proposals for Independent Audit Services:

Director Nishi asked that an addition be made to the Request for Proposals (RFP) on page 8 of the packet. He asked that the third bullet read, "If conditions are discovered which lead to the belief that material errors, defalcations, or other irregularities may exist, or if any other circumstances are encountered that require extended services, the auditor will promptly advise the District's General Manager/President/Budget and Personnel Committee." Director Nishi thanked staff for using the District's standard professional agreement instead of using the consultant's agreement.

Director Nishi made a motion to approve a Request for Proposals for Independent Audit Services with the added language. Vice President Gustafson seconded the motion. The motion was passed.

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

B. Receive the Quarterly Financial Statements for January 1, 2012 to March 31, 2012:

Director Nishi asked several clarifying questions on pages, 14, 16 and 22 of the packet. On page 16 of the packet, Director Nishi asked if the Wharf Hydrant change-out was included in the Marina Water Fund Capital Improvement Project actuals. Ms. Kelly Cadiente, Director of Administrative Services, answered that she would have to look up the information and provide details to the Board at a later time.

Director Nishi made a motion to receive the Quarterly Financial Statements for January 1, 2012 to March 31, 2012. Director Lee seconded the motion. The motion was passed.

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

C. Approve the Expenditures for the Month of April 2012:

Director Shriner inquired on check number 53799 to RMC Water and Environment and asked if there was a work product provided with that invoice. Ms. Cadiente handed out copies of the check and invoice which included the progress report. Director Shriner asked if the Board should table the item until the Board has time to review the progress report. Director Nishi asked why they should table this item to check this one report when there are pages of other invoices that are not checked. Director Shriner answered that's why it is a good reason to table the item.

Agenda Item 7-C (continued):

Director Shriner made a motion to table the expenditures for April 2012. The motion died for lack of a second.

Director Nishi questioned the charges to Mr. Lubrication and noted that the District should try to keep business within its jurisdiction at places like Marina Auto & Tire. Mr. James Derbin, Operations and Maintenance Superintendent, commented that sometimes there can be a long wait at Marina Auto & Tire while Mr. Lubrication can get the trucks serviced in less than fifteen minutes. Director Nishi reiterated that the local businesses were the District's customers and there should be a real good reason not to patronize them.

President Burns asked if staff could negotiate with local businesses for exclusive service to the entire fleet of vehicles. Mr. Heitzman, General Manager, answered that staff would talk to local businesses.

Director Nishi made a motion to approve the expenditures for the month of April 2012. Director Shriner questioned the time period covered by the payment to RMC. Ms. Cadiente answered that it was October 29, 2011 to January 29, 2012. Director Shriner asked if California American Water paid their portion of the invoice. Ms. Cadiente answered that the District only pays its own portion and does not know if the other agency paid theirs. Director Lee seconded the motion. The motion was passed.

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

8. Action Items:

A. Consider Adoption of Resolution No. 2012-28 to Approve the Purchase of a Pipeline Inspection Camera and Necessary Associated Equipment:

Mr. Derbin introduced this item.

Director Shriner questioned what runs through the non-potable pipes and asked if it was urban runoff. Mr. Derbin answered that the non-potable pipes are drainage pipes at several tank sites that are not connected to the water system. He said that there are also drainage pipes at well sites for when the District has to blow off the water. Director Shriner thanked Mr. Derbin for his hard work and research on this item.

President Burns noted that this was done by an informal bidding process and asked if it was appropriate to put this out for formal bid.

Agenda Item 8-A (continued):

Mr. Lowrey answered that it did not have to go to formal bid to purchase this item.

President Burns asked what it would cost to hire a consultant to do this work. Mr. Derbin answered that it would be quite expensive and the District could easily spend the amount it would cost for the camera within several months.

Vice President Gustafson made a motion to approve the purchase of a pipeline inspection camera and necessary associated equipment. Director Shriner seconded the motion. The motion was passed.

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

- B. Consider Adoption of Resolution No. 2012-29 to Approve a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for On-Call Engineering Services:

Director Shriner questioned if this contract was written in a different way than the last. Mr. Carl Niizawa, Deputy General Manager/District Engineer, answered that the last contract had many amendments and this was a new contract with a beginning and end date as well as a not-to-exceed amount. He added that this was a contract for general services which are small tasks and if a large project came along, a separate contract would be brought to the Board for approval. Director Shriner asked if this had to go through a Request for Proposal process. Mr. Niizawa answered that last year the District did a Request for Qualification process and Schaaf & Wheeler was one of the consultants to respond. He said that Schaaf & Wheeler is uniquely qualified having had a long history and unique knowledge of the District and some of their engineers have even been employed by the District.

Mr. Lowrey noted that Professional Services Agreements are not required to go out to bid.

Vice President Gustafson made a motion to adopt Resolution No. 2012-29 to approve a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for on-call engineering services. President Burns seconded the motion. The motion was passed.

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

C. Consider Adoption of Resolution No. 2012-30 to Approve a Professional Services Agreement with RMC Water and Environment for On-Call Engineering Services:

Mr. Niizawa introduced this item.

Director Shriner voiced her concern over the ongoing investigation and the District's role with RMC Water and Environment.

Vice President Gustafson stated that he has the utmost confidence in Mr. Lyndel Melton as a professional engineer and realized the position he was placed in.

Vice President Gustafson made a motion to adopt Resolution No. 2012-30 approving a Professional Services Agreement with RMC Water and Environment for on-call engineering services. Director Nishi seconded the motion.

Director Nishi stated that it is not appropriate to vote no just because of what was printed in the newspaper. He said that he understands that everyone is innocent until proven guilty. Director Nishi stated that when Directors go through pages of bills, pick out only a certain company and have the expectation that they want to see all the documentation on those invoices, concerns him. He commented that Schaaf & Wheeler has been here a long time and have submitted a lot more bills and no one has ever questioned them. Director Nishi said that he hopes the District doesn't get in trouble for the actions that Directors take.

The motion was passed.

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

D. Receive Revised Draft District FY 2012-2013 Budget, Rates, Fees and Charges for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final Budget Documents:

Ms. Cadiante introduced this item and went over the revisions that have been made to the proposed budget since the last time the Board looked at it.

Mr. Moore commented on the proposed budget and asked clarifying questions regarding obtaining funds on page 11 of the budget. He noted that in the 2010-2011 actuals column, \$2.4 million was transferred from reserves and the estimated actuals for 2011-2012 is \$1.7 million from reserves while the proposed 2012-2013 proposed transfer from reserves is \$2.5 million. Mr. Moore concluded that equaled \$6.66 million to be transferred from reserves in a three-year period. He said that the District's reserve fund, not counting bonds, could be as low as \$9 million. Mr. Moore cautioned that the District couldn't do that for many more years before they

run out of reserves. He questioned if all the reserves are actually being used for things the District actually needs. Mr. Moore commented that the District has experienced the consequences of issues in the Ord Community where significant sums of money were invested and the District has not gotten a return on it. He gave an example of the UCMBEST Center where the District invested over \$1 million and still there are virtually no paying customers. Mr. Moore stated that the District has carried that debt load and cautioned that in the future, the District avoid expenditures that they are not going to get a return on. Mr. Moore noted on page 11 the line item "Funding Source to be Obtained" showed the 2010-2011 actuals column with \$6.187 million and the estimated actuals for 2011-2012 is \$2.227 million while the proposed 2012-2013 proposed is \$6.031 million and asked what was actually obtained in 2010-2011 and what the potential funding sources are for current and future fiscal years. Ms. Cadiente answered that the funds for 2010-2011 have already been obtained and the funds for 2012-2013 are for recycled water and if the funds are not obtained, the capital project does not move forward. She also clarified that the total reserves for 2012-2013 are estimated at \$15 million.

Agenda Item 8-D (continued):

Director Nishi commented that the \$1 million UCMBEST Center was put in because UCSC came in and said that they wanted that project and Sam Farr pushed the issue. He added that \$1 million was small compared to the \$40 million bond that the District acquired and used for pipelines when Mr. Moore was on the Board.

Director Shriner thanked the public for their comments and said that she had similar questions. She also questioned the response she had earlier received from staff regarding the use of reserves being formally budgeted. Ms. Cadiente explained that in prior years, proposed funding for Capital Improvement Projects was under "new funding source". She explained that in the budget for this year and going forward, if the District is proposing to use reserve funds, it will be formally put in the budget to help to see what the reserve balance will be at the end of the year.

Vice President Gustafson commented that two of the biggest budget concerns are CalPERS, of which the District's CalPERS retirement is the lowest around, and transparency in government. He explained that the District is on its way to winning a third CAFR award for transparency in finance.

Director Nishi asked several clarifying questions on the proposed budget. Director Nishi questioned the capacity charges for the Ord Community and why they were lower than Central Marina. Ms. Cadiente said that the capacity charges are lower but that was because of an agreement with FORA. Mr. Heitzman said that the next rate study will look very closely at capacity charges. Director Nishi inquired on the photocopy costs. Mr. Heitzman answered that staff can look at other Districts and see what they are charging for photocopies. He added that this cost usually only affects Public Records requests. Director Nishi inquired about the backflow prevention line item and asked staff to double check the number of backflow accounts to ensure the projected revenue is correct. Director Nishi commented on the East Garrison Lift Station Improvements and asked if they are paid by the developer. Mr. Brian True, Capital Projects Manager, commented that the future ratepayers of East Garrison would pay for the improvements. Director Nishi asked for a report on the East Garrison Lift Station improvements. Director Nishi suggested page 57 of the proposed budget have the project description updated. He also asked that the footnote on page 67 of the proposed budget which shows the \$7,622,073 loan have another footnote linking to it to show when the loan is realized so they know where it came from. Director Nishi thanked staff for the work done on the budget documents and said that the documents were very professional and easier to read.

- E. Consider Providing Direction to the Board President on Nomination to the LAFCO Independent Special District Primary Seat:

Mr. Heitzman introduced this item.

Agenda Item 8-E (continued):

Director Nishi made a motion to direct the Board President to nominate Mr. Stephen Snodgrass to the Independent Special District Primary Seat. Director Lee seconded the motion. The motion was passed.

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

9. Staff Reports:

A. Receive a Staff Report on the East Garrison Water Transmission Pipeline:

Mr. Niizawa gave a brief update and stated that Mr. Andy Sterbenz, Schaaf & Wheeler, would give a report on this item. Mr. Sterbenz reported the findings of the investigation on the East Garrison Water Transmission pipeline and explained that a joint that should have had a restraint gasket on it was not restrained. He said that they have identified certain spots in the pipeline they want to investigate to make sure the pipeline didn't shift during testing and certain spots that they want to add a bolt-around restraint joint.

B. Receive a Staff Report on Development Plan Check and Jurisdictional Overlap:

Mr. Niizawa introduced this item commenting that staff would be working with the jurisdictional building departments to try to find a standard means to ensure the District's standards are met. He said the details will be worked out with the jurisdictions and information will be brought back to the Board at a later time.

Director Shriner commented that the Teen Center was a learning curve for the District and this is a great idea to ensure things will go more smoothly. She asked if it would apply to the Annexation discussions that are coming. Mr. Niizawa answered that as the service provider and owner of the infrastructure on the former Fort Ord there was a need to work with the jurisdictions regardless if it is officially in the sphere of influence or not. Mr. Lowrey stated that the contract with FORA extends through the life of FORA.

Director Nishi said there was confusion on the Teen Center which was an example of the City of Marina not following its own rules.

10. Informational Items:

A. General Manager's Report:

No report.

B. Counsel's Report:

Mr. Lowrey commented that there were reports about CalAm having filed a lawsuit against Cemex to gain access for an Environmental Impact Report to survey the flowers. He stated that the District is monitoring the situation.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Shriner commented that there was more discussion on the scope and they were joined by the new Commissioner Mr. Tom Jennings.

2. Joint City-District Committee:

Vice President Gustafson commented that the meeting was boiler-plate.

3. Budget and Personnel Committee:

Vice President Gustafson commented that the minutes were in the packet.

4. Executive Committee:

Director Nishi commented that the minutes were in the packet.

5. Community Outreach:

Vice President Gustafson said the newsletter is in the process of being sent out. He added that he had recently talked to the City of Del Rey Oaks and the City of Seaside regarding the Regional Project.

6. MRWPCA Board Member:

Director Nishi stated that there were two special meetings on the Groundwater Replenishment MOU. He said that on the dais there was a letter from the Salinas Valley Water Coalition. Director Nishi commented that the meetings were very interesting and he was trying to get an agenda item for a weighted-vote which was challenged by two directors.

7. FORA

Vice President Gustafson stated that there wasn't anything that pertained to the District.

8. LAFCO Liaison:

Director Nishi commented that the meeting was boiler-plate and the earlier in this agenda the Board made a recommendation on Mr. Snodgrass for Independent Special District LAFCO seat.

9. JPIA Liaison:

Director Shriner commented that the conference was going on in Monterey this week.

10. Special Districts Association Liaison

Vice President Gustafson commented that the Independent Special District candidates for the LAFCO seat spoke.

11. CalDesal:

President Burns stated that they were having their semi-annual meeting Wednesday morning at 7:00 a.m. at the ACWA Conference in Monterey.

12. Regional Desalination Reports:

Mr. Heitzman commented that the project was status quo.

11. Director's Comments:

Director Nishi asked that the newsletter mention the District's replacement of wharf hydrants with regular hydrants. He added that this was a benefit to customers who can lower their insurance rates. Director Nishi asked to take action to replace CSUMB and Army representatives on the Water Conservation Commission because they don't seem to think it is important to send anyone. Director Nishi stated that he has asked that the liability of Cypress Knolls be addressed and that the District put in place a procedure to get back the money owed by Cypress Knolls. He said that he doesn't understand why it isn't being done and wants the District to be prepared when a developer comes on line.

Director Lee congratulated staff on a good job and stated that things were getting better all the time.

Director Shriner commented that Ms. Bowie, Mr. Stoldt, and Ms. McCloud spoke at the Special Districts Association about new water. She said that Wednesday night, Marc Del Piero, who is running for District 5 against Supervisor Potter and Mayor Garcia, will be at the Peace Resource center in Seaside at 7 p.m. Director Shriner commented that on May 19th from 1-4 p.m. at the American Legion, there would be diversity dinner fundraiser for the Labor Day Parade. Director Shriner thanked staff for their work on the budget.

Agenda Item 11 (continued)

Vice President Gustafson commented that he forgot about the discussion regarding water at the Special Districts Association because there isn't another project, there is only the Marina Coast Water District's desal project. He commented that Marina gets awarded for transparency, yet the Monterey Peninsula Water Management District creates a parcel tax behind closed doors, and CalAm is not open to the public for transparency. Vice President Gustafson stated that he enjoys the District and they have a great staff and water supply which they manage well.

12. Adjournment:

The meeting was adjourned at 8:22 p.m.

APPROVED:

Dan Burns, President

ATTEST:

Jim Heitzman, General Manager