

Marina Coast Water District

District Office
11 Reservation Road
Marina, California

Special Board Meeting
September 28, 2012
10:00 a.m.

Draft Minutes

1. Call to Order:

President Burns called the meeting to order at 10:00 a.m. on September 28, 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
Terra Chaffee, Legal Counsel
Carl Niizawa, Deputy General Manager/District Engineer
Kelly Cadiente, Director of Administrative Services
Jean Premutati, Management Services Administrator
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Alyssa Uchimura, Koff & Associates, Inc.

Ms. Terra Chaffee, Legal Counsel, announced that the Board was going to convene into closed session for items 3A and 3B Pursuant to Government Code Section 54956.9; and, 3C and 3D Pursuant to Government Code Section 54957.6.

The Board entered into closed session at 10:01 a.m.

3. Closed Session:

- A. Pursuant to Government Code Section 54956.9 (b)(1) and 54956.9(b)(3)(C)
Conference with Legal Counsel – Anticipated Litigation
Potential Litigation
Two Cases
 - 1) Claims of MCWRA and Monterey County against MCWD
 - 2) Claims of California-American Water Company against MCWD

- B. Pursuant to Government Code Section 54956.9 (c)
Conference with Legal Counsel – Anticipated Litigation
Potential Initiation of Litigation
One Case – MCWD Claims against Monterey County and MCWRA

- C. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Marina Coast Water District Employees Association

- D. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Teamsters Local 890

The Board ended closed session at 10:26 a.m. and returned to open session at 10:27 a.m.

4. Possible Action on Closed Session Items:

Ms. Chaffee reported the following:

- 3-A1, 2 – conferred with Legal Counsel, direction was given, no action was taken.
- 3-B – conferred with Legal Counsel, direction was given, no action was taken.
- 3-C – direction was given to the General Manager, no action was taken.
- 3-D – direction was given to the General Manager, no action was taken.

Agenda item 4-A was pulled from the agenda.

5. Pledge of Allegiance

President Burns led everyone present in the pledge of allegiance.

6. Oral Communications:

None.

7. Action Items:

A. Consider Options for Action on the Ord Community Portion of the FY 2012-2013 District Budget:

Mr. Carl Niizawa, Deputy General Manager/District Engineer, introduced this item and reviewed the options available to the Board of Directors.

Director Shriner asked for clarification on the landscape items in the conservation and CIP portions of the budget. Mr. Niizawa explained the difference between the conservation budget and the CIP. Director Shriner asked for clarification on the line item RD-0101 Regional Desalination Project and asked if it was the RUWAP 3,000 acre-foot desal project or something else. Mr. Niizawa answered that the Regional Project has been in the budget for several years and now the District is moving in the direction of the RUWAP.

Director Nishi asked for a point of order noting that they are not there to discuss the budget; they are there to discuss the options for action on the Ord Community portion of the FY 2012-2013 District budget. He stated that they are not there to discuss specific line items of the budget.

Director Shriner commented that page 1 of the packet shows that FORA requested removal all references to the Regional Water Project. She stated that what was being referenced in the budget appeared to be a Regional Water Project.

Director Nishi asked for a point of order stating that was not the question Director Shriner asked, the question was asked a different way. He added that they were there to discuss what the FORA Board did at their September 14th meeting. Director Nishi stated that the FORA Board requested removing all references to the Regional Water Project and the District Board was holding this meeting to determine if they want to or not. He said that they should discuss the budget with a broad brush stroke, not specific line items.

Director Shriner asked if the District had accommodated FORA's request to remove all Regional Water Project references from the budget in Exhibit B. President Burns answered that was the reason they were there to decide if that was what the Board wanted to do or not.

Ms. Kelly Cadiante, Director of Administrative Services, explained that at the Budget Workshop, \$5.7 million was designated for the Regional Project in the CIP cost center 6. She stated that amount was placed in the budget supported by the agreements made with project partners. Ms. Cadiante added that the preliminary work was paid for by reserves and the remaining work for \$5.7 million was to be financed. President Burns asked why it was still in the budget if the Regional Project was no longer moving forward. Mr. Heitzman answered that the budget was created before the demise of the Regional Project and the District still needs funds for defense of the project although the amount could be adjusted.

Agenda Item 7-A (continued):

Mr. Heitzman stated that at the FORA meeting, Supervisor Parker's motion stated that she wanted the District to reduce costs which would in effect reduce services. Mr. Heitzman said that the District is not like a city who could close a library for one day a week to reduce costs, the District provides water and wastewater services and cannot shut-off either of those services to reduce costs. He added that the District is running lean already and it will be challenging to reduce any more costs and still maintain the health and safety requirement of a water or wastewater district. Mr. Heitzman stated that not including the 5% increase is going to affect the District not only now, but the next rate study is going to have bigger increases in the future for the ratepayers.

Mr. Heitzman commented that the Board needs to make a decision if they want to accept what FORA requested. He cautioned that the FORA request could have a higher impact on ratepayers in the future and have other consequences such as not being able to finance a rate study. Mr. Heitzman stated that the Board has options, 1) they can accept what the FORA Board did; 2) they can ask to go back one more time; 3) they can ask for mediation as called for in the contract; or, 4) they can override the FORA Board saying they did not follow the contract.

Director Shriner asked if the Marina water and wastewater budgets have already been approved, and the Board is considering approving the Ord water and wastewater budget, where do cost centers 5 and 6 fall. She asked if they needed to be approved separately. Ms. Cadiente answered that the cost centers 5 and 6 have been included for both Marina and Ord budgets. She said that because the creation of the Regional Projects came out of a regional need with the District's obligation to meet the needs for the build-out of the Ord community, Ord reserves are used to fund the initial project costs until project funding is obtained. Ms. Cadiente concluded that the cost centers are not part of the operating budget that FORA approves, but they are part of a contractual obligation of the District to meet FORA's Reuse Plan needs.

Director Lee left the meeting at 10:43 a.m.

Director Shriner questioned the budget reductions on page 15 of the Exhibit that included the FORA decision because it only showed a decrease of \$84,678. She asked if there was anywhere else in the exhibit that showed reductions. Ms. Cadiente indicated page 15 showed the reduction for Ord Community Wastewater only and the page 14 showed a \$215 thousand reduction for Ord Community Water.

Director Shriner questioned if the fees budgeted for FORA could be reduced or negotiated since there hasn't been the expected revenue due to the lack of a 5% increase.

Ms. Chaffee stated that the District could try to work out an agreement with FORA, but until an agreement is worked out, it is still an obligation the District has.

Agenda Item 7-A (continued):

Director Nishi asked for a point of order noting that they are not there to go through line items of the budget. He said they are there to consider options for action on the Ord Community portion of the FY 2012-2013 District budget.

Director Shriner commented that it was too short of a time to review such an important decision of regional implication.

Mr. Heitzman stated that the Board has been discussing the budget for several months and the decision the Board needs to make is if they want to accept what FORA says. He stated that the District Board had already reduced the proposed increase from 7.9% to 5% and pointed out that the funds remain needed for core items. Mr. Heitzman said that another option for the Board is elect to go to mediation as called for in the agreement, or the Board can opt to move forward with the budget as presented.

Director Nishi disagreed and said that the District has an agreement with FORA and the FORA Board, under Supervisor Parker's leadership, decided to n-i-l-l-y w-i-l-l-y disregard the agreement. He said that the agreement states, "FORA shall identify each disputed element, shall state detailed reasons for the dispute, and shall specify a resolution..." Director Nishi said that the FORA Board hasn't done that. He added that there are other options for the District Board to take and they are there to address what FORA has done. Director Nishi stated that they should send a message to FORA requesting a joint hearing to discuss what the agreement says. He would like the General Manager to communicate that the action of September 14th is going to have ramifications, and then specify the impacts including h-i-g-h-e-r r-a-t-e-s and all the negative things being put on the ratepayers of the former Fort Ord. Director Nishi said that they need to come to an agreement on the budget and if FORA Board didn't identify each disputed element, the District Board needs to take them to task and show that they didn't follow the agreement. Vice President Gustafson stated that a reason the City of Marina representatives gave for not passing the budget at the FORA Board meeting was that the District should look at hiring private enterprises to do the District's work. He added that hiring private enterprises would end up costing more because they need to cover prevailing wages.

Director Shriner made a motion to accept the FORA modifications in Exhibit B and move forward. The motion died for lack of a second.

Vice President Gustafson made a motion for staff to schedule a joint meeting between the District and FORA Boards to discuss the contract. Director Nishi stated that the FORA Board needs to be shown what the weak points of their motion and why the District does what they do. Director Nishi seconded the motion.

President Burns suggested modifying the motion and having both staffs work together and filter the information out about what this really means before they schedule a joint meeting.

Agenda Item 7-A (continued):

Director Nishi said that the FORA Board concerns should have been given at the WWOC meeting and yet the WWOC never said they had any concerns with the budget.

Vice President Gustafson said that there is animosity on the FORA Board in relation to the District budget because there is perception out there that the Regional Desal Project is other than the District's Desal Project.

Director Shriner commented that FORA is very concerned in the annexation process and suggested that maybe that was why they were starting to look at the budget with a fine tooth comb. Director Nishi said that means they are punishing the District because the District is not moving forward with the annexation the way FORA wants them to do.

The motion was passed.

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

President Burns commented that there was another option and that was to sell the assets and get out of Fort Ord. He also said that the delay in annexation is not the fault of the District, because LAFCO hasn't done what they want to do first.

8. Director's Comments:

Director Shriner commented that there was a plant sale by the California Native Plant Society on September 29th and asked permission to discuss a CSUMB student project with the District's Water Conservation Specialist.

Director Shriner commented that she was insulted during the meeting by Director Nishi and she had documented the times and would forward the information to staff. She said she felt it was because of her personal political affiliations and she felt quite offended.

9. Adjournment:

The meeting was adjourned at 11:08 a.m.

APPROVED:

Dan Burns, President

ATTEST:

Jim Heitzman, General Manager