

Marina Coast Water District

District Office
11 Reservation Road
Marina, California

Special Board Meeting
December 6, 2012
4:30 p.m.

Draft Minutes

1. Call to Order:

President Burns called the meeting to order at 4:30 p.m. on December 6, 2012.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None

Staff Members Present:

Jim Heitzman, General Manager
Roger Masuda, Legal Counsel
Andrew Sterbenz, Interim District Engineer
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Larry Johnson, HDR
George Riley, Citizens for Public Water
Tim Ledesma

3. Pledge of Allegiance

President Burns led everyone present in the pledge of allegiance.

4. Oral Communications:

None.

5. Action Items:

A. Approve the Draft Minutes of the Special Board Meeting of October 26, 2012:

Vice President Gustafson made a motion to approve the draft minutes of the special Board meeting of October 26, 2012. Director Lee seconded the motion. The motion was passed.

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

B. Approve the Draft Minutes of the Special Board Meeting of November 20, 2012:

Vice President Gustafson made a motion to approve the draft minutes of the special Board meeting of November 20, 2012. Director Lee seconded the motion. The motion was passed.

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

C. Consider Motion for Reconsideration of the Adoption of Resolution No. 2012-88 (Requiring a Super-majority Vote, 4-1, for Any Annexation or it Goes to Vote of the 1961 Original MCWD Customers) and to Reconsider Adoption if the Motion Passes:

Mr. Roger Masuda, Legal Counsel, commented that the Board needed to look at the item as provided in the Board packet and explained the item was establishing a policy for annexation.

Director Nishi called for a point of order and asked what they were doing on this item. Mr. Masuda explained that the Board will decide if they want to reconsider this item and if they don't want to reconsider the item, then they won't make a motion or second.

Director Shriner asked who requested this item be reconsidered. Vice President Gustafson answered that he did. Director Shriner asked if staff was able to get a map to show the boundaries of 1975. Mr. Heitzman stated that staff asked the City of Marina for a map and hadn't heard back yet. Director Shriner asked if there was any idea of the expense should the annexation should go to the voters. Mr. Heitzman answered that it could be quite costly since it would be a special election but the exact cost was unknown. Mr. Masuda clarified that it would only go for a vote if there was not a super-majority vote of the Board.

President Burns stated that he would like to make a motion and asked if that was allowable. Mr. Heitzman answered that a motion to reconsider the action would have to be made by someone who voted on the prevailing side, and then a second would have to be made in order to reconsider the item.

Agenda Item 5-C (continued):

Director Shriner made a motion to reconsider the adoption of Resolution No. 2012-88 (Requiring a Super-majority Vote, 4-1, for Any Annexation or it Goes to Vote of the 1961 Original MCWD Customers). President Burns asked if he could second the motion. Director Nishi asked for clarification. Mr. Masuda answered that the Board Procedures Manual only states that the motion must be made by someone on the prevailing side, it doesn't address who could make the second. President Burns seconded the motion. The motion failed.

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

D. Consider Appointing Kenneth Nishi as the Liaison for the Recycled Water Rights Meetings between the Marina Coast Water District, Monterey Regional Water Pollution Control Agency and the Monterey County Water Resources Agency:

Mr. George Riley, Citizens for Public Water, commented that he has been attending the meetings, although not participating, and everyone at the meetings agree that Marina Coast Water District water rights are firm, affirmed, confirmed, understood and there is no disagreement on that issue. Mr. Riley stated that if past discussions were critical to this appointment, then past knowledge would be important and Mr. Nishi would be the best liaison. He then stated that there was a shift in the priorities and the meetings were now talking about future water rights so that changes things. Mr. Riley reminded everyone that Director Nishi had resigned from the Board, then changed his mind and was re-appointed to the Board. He said that Director Nishi didn't want to serve on the MRWPCA Board, and then changed his mind. Lastly, Mr. Riley stated that Director Nishi decided not to run for re-election and now he wants to be a liaison. Mr. Riley said that it is not about Director Nishi not being able to make up his mind, it's the Board that needs to make up its mind, look to the future and get a new member up to speed as quickly as possible.

Mr. Heitzman commented that the meetings have been held for over four months and are held during the daytime. He said that it is more than water rights, there are also Prop. 218 and other complex issues. Mr. Heitzman commented that the MRWPCA is contemplating holding a special meeting before the end of the year and it would be difficult for someone not up to speed to understand all the complexities. He added that Director Nishi is retired and able to attend the meetings.

Director Nishi clarified that Mr. Riley may have misspoke earlier when he said that he didn't participate at the meetings. Director Nishi said Mr. Riley had been attending the meetings and he did participate by speaking from the audience about the paper rights of MCWRA and MCWD. Director Nishi said that he volunteered to continue on and if the new Board doesn't want it, then that is their decision.

Agenda Item 5-D (continued):

Director Nishi commented that some people get their information from the newspaper, and that information is biased. He stated that he serves at the pleasure of the Board and it is their decision.

Director Shriner commented that the inability to stay objective is a problem in the larger negotiations. She voiced her concern over the statement that the District would not be represented by an educated Board member. Director Shriner said that a more productive way would be to have a Board member receive a briefing by Director Nishi and staff so that an educated Board member could represent the District and ratepayers at the meetings. Director Shriner said that she had asked for some information regarding this item, and had not received anything except the response there is no legal justification for this proposal except what staff said about there being someone who is retired and can attend the meetings.

Vice President Gustafson commented that Director Nishi is perfect for this position because of his experience and because he knows the politics involved. He added that he supported Director Nishi for this position.

Vice President Gustafson made a motion to appoint Kenneth Nishi as the liaison for the recycled water rights meetings between the Marina Coast Water District, Monterey Regional Water Pollution Control Agency and the Monterey County Water Resources Agency. Director Lee seconded the motion. The motion was passed.

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

E. Consider Adoption of Resolution No. 2012-89 to Approve a Professional Services Agreement with the Marina Water Alliance for a Feasibility Study for the RUWAP Desalination Plant:

Mr. Andrew Sterbenz, Interim District Engineer, introduced this item explaining that the Board had directed staff to begin contract negotiations with Marina Water Alliance and HDR Constructors as the lead agency. He explained that this project is a hybrid between the best parts of the regional desal facility, the location and shared use of the brine outfall, and the RUWAP desal facility which was the 2,400 af of new water supply to serve the Ord Community. Mr. Sterbenz stated there are two things the District can do upfront, 1) a planning level study to combine the two preliminary designs into a single project; and, 2) identify any gaps in the CEQA so that the District can publish a CEQA document for a project before moving forward with deliberate design and construction.

Agenda Item 5-E (continued):

Director Nishi said that the reason he picked HDR was because they were the only one to have an outreach program. He said that the reason the Regional Desal Project failed was lack of outreach. Director Nishi stated that he would like to increase the contract amount by \$75,000 to begin the communication strategy.

Director Shriner asked several questions about Task 4 – Preliminary Financing Plan Development and if it was limited to just those items listed. Mr. Sterbenz answered that the list was including but not limited to those items. Director Shriner asked about Task 5 and the words “vision and benevolence” and asked if they were standard language. Mr. Sterbenz answered that Mr. Steve Kasower was the author of those words. Director Shriner asked if Mr. Kasower was working with HDR on this project. Mr. Sterbenz answered that Mr. Kasower was a sub-consultant to HDR on the project team. Director Shriner asked for a list of the project team members.

Director Nishi made a motion to adopt Resolution No. 2012-89 to approve a Professional Services Agreement with the Marina Water Alliance for a Feasibility Study for the RUWAP Desalination Plant and to increase the amount to \$278,500. Vice President Gustafson seconded the motion. The motion was passed.

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

6. Director’s Comments:

Director Shriner thanked staff for the tremendous amount of work they have done on these special meetings during this holiday season. She added that she was still waiting for some documents she had asked for and an approximate date of when they would be available.

Vice President Gustafson thanked staff for their hard work and thanked Director Nishi for his representation of the District.

7. Adjournment:

The meeting was adjourned at 5:05 p.m.

APPROVED:

Thomas P. Moore, President

Special Board Meeting
December 6, 2012
Page 6 of 6

ATTEST:

Jim Heitzman, General Manager