

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
January 11, 2006
7:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 7:01 p.m. on January 11, 2006.

Board Members Present:

David Brown – President
Howard Gustafson – Vice President
Ken Nishi
Charles Scholl
Tom Moore

Board Members Absent:

None.

Staff Members Present:

Mike Armstrong, General Manager
Lloyd Lowrey, Legal Counsel
Marc Lucca, Deputy General Manager/District Engineer
Rich Youngblood, Conservation Coordinator
Joan Warren, Management Services Administrator
Suresh Prasad, Director of Finance
Jim Dowless, Operations & Maintenance Superintendent
Ken Demmons, Project Manager
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Doug Yount, City of Marina
Michael Shaw, Cypress Knolls
Bob Schaffer, Marina Community Partners
Bradley Brownlow, University Villages
Bill Brasher, Marina Heights
Ken Buchert, City of Marina Legal Counsel
Ralph Marcelo, Nicholson & Olson
Tim Buhl
Cynthia Buhl

2. Oral Communications:

None.

3. Presentations:

- A. Consider Adoption of Resolution No. 2006-01 in Recognition of Mr. Ken Demmons, Project Manager, as Employee of the Quarter for January – March 2006:

Mr. Michael D. Armstrong, General Manager, read the narration into the record.

Vice President Gustafson made a motion to adopt Resolution No. 2006-01 recognizing Mr. Demmons as Employee of the Quarter for January – March 2006. Director Moore seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Gustafson	-	Yes
Director Scholl	-	Yes	President Brown	-	Yes
Director Nishi	-	Yes			

- B. Consider Adoption of Resolution No. 2006-02 in Recognition of Mr. Tim Buhl, System Operator II, and Awarding a Plaque and Gift Certificate for 5 Years of Service to MCWD:

Mr. Armstrong read the narration into the record.

Director Moore made a motion to adopt Resolution No. 2006-02 recognizing Mr. Buhl for 5 years of service to MCWD and awarding him a plaque and gift certificate. Vice President Gustafson seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Gustafson	-	Yes
Director Scholl	-	Yes	President Brown	-	Yes
Director Nishi	-	Yes			

Director Moore removed himself from the dais at 7:07 p.m.

- C. Consider Adoption of Resolution No. 2006-03 in Recognition and Appreciation of Director Thomas P. Moore's Service as Board President During 2005:

Mr. Armstrong read the narration into the record.

Agenda Item 3-C (continued):

Director Scholl made a motion to adopt Resolution No. 2006-03 recognizing and appreciating Director Moore's service as Board President during 2005. Vice President Gustafson seconded the motion. The motion was passed.

Director Moore	-	Absent	Vice President Gustafson	-	Yes
Director Scholl	-	Yes	President Brown	-	Yes
Director Nishi	-	Yes			

Director Moore returned to the dais at 7:09 p.m.

D. Consider Adoption of Resolution No. 2006-04 in Recognition and Appreciation of Mr. Michael D. Armstrong's Service as General Manager from January 2000 – January 2006:

President Brown read the narration into the record. President Brown added that the Board members and staff appreciate his leadership by way of example both in day-to-day activities and Board meetings.

Director Moore made a motion to adopt Resolution No. 2006-04 recognizing Mr. Armstrong for six years of service as the General Manager to MCWD. Director Scholl seconded the motion.

Director Moore thanked Mr. Armstrong for his six years of service and the highly professional manner in which he performed his job. Director Scholl commented that the District was very fortunate to have Mr. Armstrong representing the District and thanked him for his help getting situated when Director Scholl joined the District Board. Director Nishi wished him luck in his future endeavors. Vice President Gustafson thanked Mr. Armstrong as well.

The motion was passed.

Director Moore	-	Yes	Vice President Gustafson	-	Yes
Director Scholl	-	Yes	President Brown	-	Yes
Director Nishi	-	Yes			

Mr. Armstrong voiced his thanks to the Board and staff.

President Brown recessed the meeting from 7:15 until 7:26 p.m. so everyone could enjoy the congratulatory refreshments.

4. Consent Calendar:

- A. Consider Adoption of Resolution No. 2006-05 to Approve the Draft Water Supply Assessment and Written Verification of Supply for the Proposed Marina Station Project at Armstrong Ranch:

Mr. Marc Lucca, Deputy General Manager/District Engineer, pointed out two corrections to the document on pages 28 and 34 of the Board packet.

Page 28 – Section 1.4, first sentence, second paragraph, - strike out the following words, “... was adopted ~~in December of 2001 and is being updated concurrently with this Agreement for adoption~~ in December of 2005.

Page 34 – Section 6.0, third sentence to read, “...of pipe that will provide ~~improve~~ cross-city flows...”

Director Scholl made a motion to adopt Resolution No. 2006-05 approving the draft Water Supply Assessment and Written Verification of Supply for the Proposed Marina Station Project at Armstrong Ranch. Director Moore seconded the motion. The motion was passed.

Director Moore	-	Yes	Vice President Gustafson	-	No
Director Scholl	-	Yes	President Brown	-	Yes
Director Nishi	-	No			

5. Review Draft Board Items:

- A. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2006-xx to Approve a Professional Services Agreement with RMC Water and Environment for Phase II of the Water Augmentation Project:

Mr. Lucca introduced this item. Director Moore asked when staff anticipates bringing an agreement with FORA, regarding reimbursement for the Water Augmentation Project (WAP), before the Board. Mr. Lucca answered that there is not a date certain at this time but both agencies will try to get it done before the end of the fiscal year so that it can be put in the FY 2006/2007 budget. Director Moore suggested modifying the contract for half of the amount and having the second half of the amount contingent on an agreement with FORA. Mr. Lucca stated that it would be difficult to do without affecting the ability of the work to go forward. Director Moore stated he was interested in putting mild pressure on FORA to get the negotiations consummated.

Mr. Armstrong asked if the District and FORA staffs meet within the next ten days and are able to agree, as they have in the past, about loans from the Marina cost centers to the Ord cost centers and proposing a rate of interest to attach to the funds loaned, would it meet the Board's needs. Director Moore stated it would satisfy his concerns.

Agenda Item 5-A (continued):

Director Nishi asked how much FORA currently owes the District. Mr. Suresh Prasad, Director of Finance, answered that it was between \$2 and \$2.5 million. Director Nishi asked when FORA was expected to pay it back. Mr. Prasad answered that the Board approved the loan to be amortized over ten years. Director Nishi stated he agreed with Director Moore but he would like to have an agreement first and it was difficult for him to agree to this item as it is now.

Vice President Gustafson commented that the City of Marina is paying for everything they are doing and questioned cutting any slack to others. Mr. Armstrong stated that FORA is cash poor right now and until the development comes in, the water augmentation part of the budget doesn't get funded.

Director Nishi commented that he doesn't necessarily want money; there can be other benefits for the District that might work. He added that the Board should be in on the discussions and giving direction to staff on which way to go. Vice President Gustafson stated that you may not get the best results for the citizens if two public officials are negotiating.

President Brown requested to have this item as an action item on the January 25, 2006 agenda.

President Brown made a motion to reconsider Agenda Item 4-A. Director Nishi seconded the motion. The motion to reconsider agenda item 4-A was passed.

Director Moore	-	Yes	Vice President Gustafson	-	Yes
Director Scholl	-	Yes	President Brown	-	Yes
Director Nishi	-	Yes			

A. Consider Adoption of Resolution No. 2006-05 to Approve the Draft Water Supply Assessment and Written Verification of Supply for the Proposed Marina Station Project at Armstrong Ranch:

Director Nishi voiced his concern over the Marina Station Project using 680 of the 920 afy of the allocated water supply for Armstrong Ranch. He was concerned there might not be enough water for other projects. Director Nishi asked if the District should consider putting a well on the property.

Director Moore commented he had the same concerns as Director Nishi but assumed that the Developers and the Armstrong family were in communication and had discussed this issue.

Mr. Armstrong stated he would try to contact Mr. Jack Armstrong and would report the discussion back to the Board.

Agenda Item 4-A (continued):

Mr. Doug Yount, City of Marina, stated that it was important to pass this item as the EIR was about to begin on this project.

President Brown postponed this item until Mr. Armstrong's return.

- B. Review Draft Board Transmittal to Review Proposed City of Marina Concept to Ensure that City Developments Use No More Water than Allocated to the Developments by the City:

Mr. Lucca introduced this item.

Mr. Yount provided a letter approved by the City of Marina's City Council members the previous evening. Mr. Yount explained the City's concept and asked that the Board: 1) accept the concept; 2) direct staff to proceed and to meet with City staff and prepare an Ordinance for review by the City Council and the District Board; and, 3) direct staff to proceed with the WSA for Cypress Knolls recognizing the City's allocations for Marina Heights and University Villages.

Director Scholl questioned why the restriction of building permits was not listed in the concept. Mr. Yount answered the City already has the right to restrict building permits under the Subdivision Map Act and the concept was trying to cover areas where there was not a lot of policy. Discussion followed.

Mr. Ken Buchart, City of Marina Legal Counsel, stated that he didn't see a problem with referencing the restriction of building permits in the document if that was the District Board's desire.

Director Moore stated he would like to see other ways for the City to restrict building permits i.e. when the development reaches the 60%, get a report from the District on the usage and if needed, slow down on the issuance of permits.

Director Nishi stated that the District has been through this before when several wells were not on line. He added it is the District's responsibility to monitor use and when it reaches a certain point the District informs the City there is only so much water available.

President Brown stated he would like to see the Subdivision Map Act referenced in the concept.

Director Scholl stated he would like to see in the final concept, a proactive technique utilize all tools, not just water conservation and tier pricing.

Agenda Item 5-B (continued):

Director Moore added that the land use jurisdictions and the Board have a forecasting problem because the numbers have been based on averages and average uses and don't take into consideration any variations that could take place.

Mr. Lloyd Lowrey, District Legal Counsel, asked if there had been coordination with FORA on this concept. Mr. Yount answered there had been some thought, but not a lot of coordination as FORA does not deal in sub-allocations. He added that all the land use jurisdictions were keeping their eyes on one another. Mr. Yount also stated that the City of Marina had not asked for a letter of credit or surety bond from the District that the additional water supply would be completed. Both the District and the City of Marina need to have trust in each other.

Mr. Lowrey commented that it would be helpful to have more information regarding the concept by the next meeting.

President Brown requested to revisit this issue at the February 8, 2006 meeting to discuss and give direction to the members of the Joint City/District Committee (JCD) for their meeting on February 9, 2006.

Mr. Yount stated that the Cypress Knolls WSA was delayed due to this issue and requested the Board move forward as quickly as possible.

Director Nishi suggested discussing this issue at the January 19, 2006 JCD meeting and taking action at the January 25, 2006 Board meeting.

Mr. Armstrong stated he would like to see real specific guidance so the expectations can be discussed at length during the JCD meeting.

Mr. Lowrey stated the roles of both agencies need to be defined. Discussion followed regarding what kind of information needed to be gathered before the JCD meeting.

Mr. Lowrey stated there was a legal concern over legislation regarding WSA's. In accordance with the law, the District has asserted its authority in doing independent WSA's which have produced numbers that differed from the City of Marina's analysis. The District would be more comfortable with having something in writing describing a mechanism that enforces the water use does not exceed the projected numbers and thus be more willing to accept the City's numbers.

Mr. Yount stated that the City of Marina has the right to perform their own analyses and make their own water allocation and there are already mechanisms in place to enforce that water use does not exceed the allocation.

Agenda Item 5-B (continued):

Director Moore asked if the City would stop issuing building permits once the allocations are met. Mr. Yount stated he could not answer that.

Mr. Michael Shaw, Cypress Knolls, commented that the District took on the responsibility to furnish water to the Ord Community and stated the District and the City have to work together and move this item forward.

Mr. Armstrong clarified that the Board wanted the JCD Committee to discuss this item and bring it back for consideration on January 25, 2006. There was consensus from the Board.

President Brown requested to review item 4-F if deference to the auditor being present.

F. Review Draft Board Transmittal to Consider Accepting the FY 2004-2005 Audit Report:

Mr. Prasad introduced this item and Mr. Ralph Marcello of Nicholson & Olsen. Mr. Marcello commented that the accounting department was very organized and did not find any significant findings. He did advise setting aside an amount of funds equal to the depreciation of District assets.

Director Moore commented that the audit looked thorough although he had concerns over spending. He asked if there was going to be a management letter. Mr. Marcello answered there were no significant findings so there was not a need for a management letter.

Director Nishi stated the District had a goal of setting 20% of revenues aside and was concerned it wasn't being met. He also asked Mr. Marcello to look into separating capital component charges.

President Brown recessed the meeting from 8:54 until 9:03 p.m.

President Brown requested to return to agenda item 4-A. Mr. Armstrong asked that agenda item 4-A be continued until January 25, 2006.

C. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2006-xx to Authorize the Purchase of Two Ford Trucks:

Director Moore asked staff to provide a history of vehicle purchases and the year and mileage on the current vehicles.

President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

- D. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2006-xx to Approve Changing the Current Project Manager Job Title to Project Engineer; Approve a Second Project Engineer Position; Amend the FY 2005-2006 Budget; and, Direct the General Manager to Recruit and Fill the Position:

Ms. Joan Warren, Management Services Administrator, introduced this item. Mr. Lucca gave a brief presentation on the proposed positions.

Director Moore stated he could support the position if it was a term position. Director Scholl agreed that he would like to see this as a term position.

Director Nishi voiced his concern over the expenditure for the two positions. He would like to see the District outsource the work and pass the expense on to the developers. Mr. Lucca commented that the salary and benefits combine to approximately \$55 - \$60 per hour and consultants are charging \$100 - \$125 per hour. He added that staff is keeping track of when they work with the developers and developers are being billed for the expense. Director Scholl stated that it would be better to have someone in house instead of using a consultant.

Director Moore asked Mr. Lucca what length of term he would suggest. Mr. Lucca stated a 1-4 year term would be consistent with what the District has on other positions.

Director Nishi asked for a cost analysis to be provided at the next meeting for someone at the \$61,000 level. Mr. Lucca answered it would be approximately \$80,000 - \$100,000 a year.

Vice President Gustafson suggested contacting the Strategic Planning Office to get numbers and how the developers pay for the services. Discussion followed.

President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting with more information to be provided.

- E. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2006-xx to Approve a New Position for an Operations Engineer; Approve the Operations Engineer Job Description and Salary Range; Amend the FY 2005-2006 Budget; and, Direct the General Manager to Recruit and Fill the Position:

Mr. Lucca introduced this item. Director Moore suggested having this a term position as well. Mr. Lucca stated this was a position that filled a need between the Operations and Maintenance and Engineering Departments and preferred it not be for a term. Director Nishi stated he could support this position.

President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

G. Review Draft Board Transmittal to Review Procedures for Water Conservation Commission:

Mr. Youngblood introduced this item. Director Nishi inquired what an excused absence was. Mr. Youngblood stated the verbiage was straight from the Board Procedures Manual. Mr. Lowrey answered an excused absence was due to illness or an approved absence from the country.

President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

H. Review Draft Board Transmittal to Consider Accepting the Marina Coast Water District Strategic Plan for 2006:

Director Moore asked the word “firm” to be inserted into the fifth objective under Goal 4 so it reads, “Ensure the candidates ‘firms’ understands the nuances...”

Director Moore questioned the last objective under Goal 4. Mr. Armstrong answered that staff would clarify that objective with Ms. Eileen Goodwin, and report back to the Board.

President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

I. Consider Approving Expenditures for the Month of December 2005:

No questions or comments on this item. President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

J. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Regular Board Meeting of November 9, 2005:

No questions or comments on this item. President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

K. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Special Board Meeting of November 23, 2005:

Director Moore suggested a correction to page 3 of the November 23, 2005 minutes, third paragraph, third sentence to read “...only the DGM/DE for the next...”.

President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

L. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Special Board Workshop of December 6, 2005:

No questions or comments on this item. President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

M. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Special Board Meeting of December 21 2005:

No questions or comments on this item. President Brown asked this item to be placed on the consent calendar for the January 25, 2006 meeting.

6. Staff Report:

A. District Process for Customer Appeals:

Mr. Prasad introduced this item. Director Moore requested a brief one-line annual report of all adjustments given on customer appeals.

Director Nishi stated that a customer contacted him and stated they had received a high bill with a reading period of 49 days. He would like to see a report on how many times the District has read meters after more than 30 days. President Brown also commented that there was concern that customers with more than 30 days usage could be placed in a higher tier on their water bill. Mr. Prasad answered that the District had not gone past 40 days in readings that he knew of, but would provide a report showing any readings over 30 days.

7. Action Item:

A. Consider Director Appointments to Standing Committees of the Board and to Outside Agencies for 2006:

President Brown made the following recommendations:

Water Conservation Commission:	Charles Scholl Tom Moore – Alternate
Joint City – District Committee:	David Brown, Howard Gustafson Ken Nishi, Charlie Scholl – Alternates
MRWPCA Board of Directors:	Ken Nishi Charlie Scholl – Alternate

Agenda Item 7-A (continued):

MRWPCA Negotiating Team	Charlie Scholl, Tom Moore Howard Gustafson – Alternate
FORA Board of Directors:	Ken Nishi David Brown, Tom Moore – Alternates
LAFCO:	Ken Nishi Charles Scholl – Alternate
JPIA Liaison:	Tom Moore Charles Scholl – Alternate
Executive Committee:	David Brown Howard Gustafson
Community Outreach Committee:	Charles Scholl
Special District's Association	Tom Moore Charles Scholl – Alternate
MCWD/CWD Liaison	Howard Gustafson, Charlie Scholl Tom Moore – Alternate

Director Scholl commented that President Brown was making a king size big mistake appointing Director Nishi as liaison to the MRWPCA. He added that several years ago when Director Nishi was President he had placed himself as the liaison to the MRWPCA and their Chairman and several other members had sent a letter requesting Director Nishi to be removed as the liaison. President Brown commented that any Director can ask to have the appointments revisited if things don't work out, but that Director Nishi has been asking to serve on MRWPCA and it was his turn. Director Moore also voiced his objection to having Director Nishi appointed to the MRWPCA. He added that the District will lose important spots on the MRWPCA's subcommittees. Director Nishi commented that it is his responsibility to do the best he can and asked to see a copy of the letter MRWPCA sent requesting his removal from the MRWPCA. Discussion followed.

Agenda Item 7-A (continued):

Vice President Gustafson made a motion to approve the recommended appointments made by President Brown. Director Nishi seconded the motion. The motion was passed.

Director Moore	-	No	Vice President Gustafson	-	Yes
Director Scholl	-	No	President Brown	-	Yes
Director Nishi	-	Yes			

President Brown recessed the meeting from 9:50 until 9:52 p.m.

The Board entered into closed session at 9:52 p.m.

8 Closed Session:

- A. Pursuant to Government Code Section 54956.9
Conference with Real Property Negotiators
Property: Communications Site Lease
Negotiating Parties: MCWD and Nextel
Under Negotiation: Price and Terms
- B. Pursuant to Government Code Section 54956.9
Conference with Real Property Negotiators
Property: Sand Tank, San Pablo Lift Station, and Jefferson Lift Station
Negotiating Parties: MCWD and Cypress Marina Heights, L.P.
Under Negotiation: Price and Terms
- C. Pursuant to Government Code Section 54956.9
Conference with Real Property Negotiators
Property: Bayer Tank Lot
Negotiating Parties: MCWD and Damian and Trevor Fink
Under Negotiation: Price and Terms
- D. Pursuant to Government Code Section 54956.9
Conference with Real Property Negotiators
Property: City of Marina Corporation Yard
Negotiating Parties: MCWD and City of Marina
Under Negotiation: Price and Terms
- E. Pursuant to Government Code Section 54956.9
Conference with Real Property Negotiators
Property: District Desalination Plant
Negotiating Parties: MCWD and Marina Developers
Under Negotiation: Price and Terms

F. Pursuant to Government Code Section 54956.9
Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation Pursuant to Subdivision (c) of Section 54956.9
1 - Case

The Board returned to open session at 10:03 a.m.

9. Possible Action on Closed Session Items:

Mr. Lowrey stated no action was taken in closed session.

President Brown noted the time was past 10:00 p.m. and asked if there was a motion to continue.

Director Moore made a motion to continue the meeting until 10:45 p.m. Director Nishi seconded the motion. With a vote of 4-Ayes, 1-No, 0-Absent, the motion to continue was passed.

The Board reentered into closed session at 10:05 p.m.

The Board returned to open session at 10:45 p.m.

9. Possible Action on Closed Session Items:

President Brown stated no action was taken in closed session.

10. Adjournment:

The meeting was adjourned at 10:45 p.m.

APPROVED:

David W. Brown, President Date

ATTEST:

Marc A. Lucca, General Manager