

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
April 13, 2010
6:45 p.m.

Minutes

1. Call to Order:

President Nishi called the meeting to order at 6:45 p.m. on April 13, 2010.

2. Roll Call:

Board Members Present:

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

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
Evelina Adlawan, Water Quality Manager
Suresh Prasad, Director of Finance
Rich Youngblood, Conservation Coordinator
Brian True, Capital Projects Manager
Gary Rogers, Assistant Engineer
Paula Riso, Executive Assistant

Audience Members:

Denise Duffy, Denise Duffy & Associates
Dan Amadeo, Marina Resident
Michael Tate, El Rancho Mobile Home Park
Marshall Reeves, El Rancho Mobile Home Park
Andy Sterbenz, Schaaf & Wheeler
Michael Minafo, Marina Resident

Gretchen Faus, Park Marina Condos
Jan Shriner, Marina Resident
William Franks, Marina Resident
Sid Williams, Marina Resident
Bill Little, Harris & Associates
Christine Gibson, Park Marina Condos

Mr. Lloyd Lowrey, Legal Counsel, explained that item 3-C is regarding a claim from when the District assumed construction of a building on the former Fort Ord from the Fort Ord Reuse Authority, and another contracting company, Ausonio Construction.

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

3. Closed Session:

- A. Pursuant to Government Code Section 54957
Public Employee Evaluation
Title: General Manager
- B. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiators (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
- C. Pursuant to Government Code Section 54956.9
Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9
1 Case

President Nishi reconvened the meeting to open session at 7:25 p.m.

4. Possible Action on Closed Session Items:

Mr. Lowrey reported that no action was taken on item 3-A and has been deferred to a later time; instructions were given to the negotiator with no action taken on item 3-B; and, there was a conference with Legal Counsel and no action was taken on item 3-C.

5. Pledge of Allegiance:

President Nishi asked Ms. Evelina Adlawan, Water Quality Manager, to lead everyone present in the Pledge of Allegiance.

6. Oral Communications:

None.

7. Presentation:

- A. Consider Adoption of Resolution No. 2010-15 in Recognition of Public Member, Mr. Sid Williams, for his Dedicated Service to the MCWD as a Member on the Water Conservation Commission:

Director Burns made a motion to adopt Resolution No. 2010-15 recognizing public member, Mr. Sid Williams, for his dedicated service to the MCWD as a member on the Water Conservation Commission. 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 | | | |

Vice President Lee read the narration on the Resolution.

8. Consent Calendar:

Director Moore commented that there was a slight change to the March 16, 2010 minutes and that correction was in front of the Directors.

Vice President Lee made a motion to approve the Consent Calendar consisting of items: A) Approve Membership in CalDesal – an Advocacy Organization for Desalination; B) Approve the 2009 Consumer Confidence Report for the Marina Coast Water District Water System; C) Approve the Purchase of Student Almanacs for the Marina Middle School; D) Approve the Expenditures for the Month of March 2010; E) Approve the Draft Minutes of the Regular Board Meeting of March 16, 2010; and, F) Approve the Draft Minutes of the Special Board Meeting of March 25, 2010, with the correction to the March 16, 2010 minutes. Director Moore seconded the motion. The motion was passed.

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

9. Action Items:

- A. Consider Appointment to the Water Conservation Commission:

Mr. Richard Youngblood, Conservation Coordinator, introduced this item.

Director Gustafson made a motion to appoint Mr. Steven Reeves to the Water Conservation Commission. Vice President Lee seconded the motion. With a vote of 4-Ayes, 1-No, 0-Absent, the motion was passed.

B. Consider Adoption of Resolution No. 2010-21 to Authorize a Professional Services Agreement with Denise Duffy & Associates for Environmental/Biological Services for the Eastern Distribution System Project:

Mr. Carl Niizawa, Deputy General Manager/District Engineer, introduced this item.

Director Gustafson made a motion to adopt Resolution No. 2010-21 authorizing a Professional Services Agreement with Denise Duffy & Associates for Environmental/Biological Services for the Eastern Distribution System Project. 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. 2010-22 to Authorize a Professional Services Agreement with Harris & Associates for Engineering Services Related to Inspection Practices, Inspection Training, and On-Call Inspections:

Mr. Niizawa introduced this item. Director Burns asked if there was going to be in-house training for staff to do the inspection work. Mr. Niizawa answered that staff has performed some inspection work, but staff has not had enough training and experience to handle the inspections and paperwork.

Director Gustafson made a motion to adopt Resolution No. 2010-22 authorizing a Professional Services Agreement with Harris & Associates for Engineering Services Related to Inspection Practices, Inspection Training, and On-Call Inspections. 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. 2010-23 to Approve the Marina Coast Water District Employee Handbook:

Ms. Jean Premutati, Management Services Administrator, introduced this item and noted that the strikeout on page 53 of the Handbook shall remain and not be removed.

Director Moore complimented staff on a job well done with the Handbook. He then noted that the staff report indicated there are changes to some policies that will be implemented upon approval and those will differ from the Memorandum of Understanding (MOU) with the employee groups.

Agenda Item 9-D (continued):

Director Moore commented that by approving this Handbook, it would approve making changes to the MOU and there has not been a meet-and-confer with the Unions. Mr. Heitzman stated that the employee groups have met, discussed, and approved these policy changes. Mr. Lowrey stated that satisfies the meet-and-confer requirement with the groups. Director Moore voiced his concern over handling these policy changes outside of the MOU.

Vice President Lee made a motion to adopt Resolution No. 2010-23 approving the Marina Coast Water District Employee Handbook. Director Gustafson seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|-----|--------------------|---|-----|
| Director Moore | - | No | Vice President Lee | - | Yes |
| Director Gustafson | - | Yes | President Nishi | - | Yes |
| Director Burns | - | Yes | | | |

E. Receive and Accept the 2010 Marina Coast Water District Salary Survey:

Ms. Premutati introduced this item and stated that this was completed per the MOU language.

President Nishi stated that the Board received and accepted the 2010 Marina Coast Water District Salary Survey.

F. Reconsider the Vote on Adoption of Resolution No. 2010-20:

The President of the Board will entertain a motion to reconsider the vote on Resolution No. 2010-20.

- Resolution No. 2010-20 contains Findings, with a Statement of Overriding Considerations and adoption of mitigation measures identified and proposed in the Final EIR as certified by the CPUC on December 17, 2009, in Decision D.09-12-017, and tailored to MCWD's role as a responsible agency, as set forth in the Findings and the Mitigation Monitoring and Reporting Plan attached to the Findings, and based thereon.
- Resolution No. 2010-20 conditionally approves MCWD's participation in the Regional Desalination Project pursuant to
 - a Water Purchase Agreement between Marina Coast Water District, California American Water Company, and Monterey County Water Resources Agency,

Agenda Item 9-F (continued):

- a related Settlement Agreement between MCWD, MCWRA, CAW and various other interested parties to settle California Public Utilities Commission Proceeding A.04-09-019, "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."
- Resolution No. 2010-20 authorizes the President and the General Manager and Secretary to execute the Water Purchase Agreement and the Settlement Agreement pursuant to the resolution and conditional approval.
- Resolution No. 2010-20 directs the General Manager and staff to take all other actions that may be necessary to effectuate and implement the resolution and conditional project approval.

In considering a Motion to Reconsider, the Board will review and consider the Final EIR and the Addendum released by the CPUC's consultant on March 24, 2010 and will entertain and consider comments from the public together with such other information as may be presented at the meeting.

Director Gustafson made a motion to reconsider Resolution No. 2010-20. Vice President Lee seconded the motion to reconsider.

Mr. Lowrey commented that at the last meeting there was concern expressed that the public did not have adequate opportunity to comment on this item because of the way it was presented on the agenda. He then stated he did not agree with the concern, but wanted to be sensitive to it.

Now that the Board moved to reconsider the action, it suspends but not revokes the action. Mr. Lowrey gave three actions the Board could take after receiving public comment: 1) to vote against reconsideration would reinstate the prior motion made on April 5, 2010; 2) to vote for reconsideration would revoke the prior action and the Board would have to start over again; and, 3) to vote to table the item which would leave it in suspension until it is taken off the table.

Mr. Lowrey then advised the Board to receive all public comments on this item and then table it until a later date to allow review of the new letters the Board received tonight. The action would then remain in suspense but not be revoked.

Mr. Dan Amadeo, Marina resident, asked if this would suspend the movement through the California Public Utilities Commission (PUC) process.

Agenda Item 9-F (continued):

Mr. Lowrey answered that he had not talked to the PUC attorney yet and that it would suspend the action previously taken but he did not believe it would have a material impact.

Ms. Jan Shriner, Marina resident, stated she appreciated the legality of looking into things and the appearance of ethics by taking the time to be responsible.

Director Moore made a motion to table this item. Director Gustafson seconded the motion. Director Burns commented that he would think that tabling this item must interfere with the PUC process somehow. Mr. Lowrey answered that after the last action on April 5, 2010, Agreements were signed conditionally on PUC action. If the Board votes affirmatively for reconsideration, that would revoke the signatures. Mr. Lowrey stated that if he were to find out that the tabled reconsideration would materially hinder the PUC process, he would ask for a special meeting to be held to act on the reconsideration. President Nishi asked what changed from the time when the staff report was written where Legal Counsel suggested reconsidering this item, to tonight where Legal Counsel is asking to table the item. Mr. Lowrey answered that he received some new information that relates to the fact that the lawsuit that was filed on the Armstrong matter, was re-filed as an amended complaint that included the action taken on April 5, 2010. That action was also mentioned in one of the letters received by the Board this evening. Mr. Lowrey stated that he would prefer to have more time to research and review this question before advising the Board on the appropriate course of action. Director Moore commented that if this item needs to be removed from the table and discussed at a special meeting, he urged staff to allow as much time as possible for public review and notice before the special meeting. He noted that it would allow the Board more time to read and digest the letters and information provided at the last minute and maybe next time the information could be received in time to be added to the Board packet.

The motion to table the item was passed.

| | | | | | |
|--------------------|---|-----|--------------------|---|-----------|
| Director Moore | - | Yes | Vice President Lee | - | No |
| Director Gustafson | - | Yes | President Nishi | - | Abstained |
| Director Burns | - | Yes | | | |

10. Staff Reports:

A. The Greater Monterey County Integrated Regional Water Management Plan:

Mr. Niizawa gave a brief explanation of how a Regional Water Management Group was formed and how the Greater Monterey County Integrated Regional Water Management Plan will help with eligibility for Prop. 50 and 84 competitive grants.

B. Safe, Clean and Reliable Drinking Water Supply Act of 2010:

Mr. Niizawa introduced this item. Director Moore commented that he asked to have this item on the agenda and perhaps ask staff to write a letter to the Legislature on behalf of the Board. President Nishi asked that this item be placed on the next agenda for action.

11. Discussion:

A. Discuss Master Meter Water Usage Tier Charges:

Mr. Niizawa introduced this item. President Nishi asked what the base meter charge was for. Mr. Niizawa answered that the base rate charges were for fixed costs of the District such as a readiness-to-serve. President Nishi said the issue was the fairness of having individuals served by a master meter and paying at the highest water use tier almost immediately. He would like to see something done creatively to be fair about this whole issue. Mr. Niizawa commented that staff could look at revising the rates and how the rate revision would impact the District one way or the other. President Nishi commented that he would like to see this item come back with staff looking at this issue from both the customer and District side.

Director Moore asked to see what the financial impact would be to the District depending on different rate structures.

Mr. Lowrey stated that from the legal standpoint, rates charged must be reasonably related to the cost of providing the service.

Mr. Marshall Reeves, El Rancho Mobile Home Park, thanked the Board for their consideration on this item. Mr. Reeves commented that State Law requires them to charge no more for water than what a single residential homeowner pays and with a master meter, the water use charges immediately rise to the highest tier. Since the Mobile Home Park can only charge single residential rates, the owner must subsidize the water bill for the residents. Mr. Reeves commented that if the District decides to go with Table C, he would like to begin immediate negotiations to individually meter and bill the Park with the District taking over care of the individual lines and meters.

Mr. Reeves suggested tabling this matter and appointing an Ad Hoc Committee to consist of the District's Chairman, General Manager and Attorney, and a representative from the Mobile Home Parks, one from Apartments and one from Condominiums. The Committee should take 30-60 days to discuss this item before returning it to the Board to take action on this item.

Mr. Reeves thanked the Board for their time and consideration and also voiced his and his 116 tenants' support of the Regional Plan.

Agenda Item 11-A (continued):

Ms. Christine Gibson, Park Marina Condos, commented that they have 48 condominiums and by the second day of the month, they are already at the top tier water usage charges. They looked into conservation measures and although it helps conserve some water, it doesn't help with hitting the top tier almost immediately. Ms. Gibson stated they also looked into individual meters, but it was cost prohibitive. She stated that they were concerned and want to get their water conservation put into effect. Ms Gibson noted that they would be glad to participate in any discussion regarding this issue.

Mr. Heitzman commented that staff is open to putting an item on the agenda for a feasibility study or an Ad Hoc Committee to look into this issue.

President Nishi inquired if staff has received enough direction. Mr. Heitzman answered affirmatively.

12. Informational Items:

A. General Manager's Report:

Mr. Heitzman commented Judge Minken of the PUC announced that they intend to have public workshops in the Monterey Region sometime at the end of May.

B. District Engineer's Report:

Mr. Niizawa informed the Board of the erosion taking place outside of the Beach office and that a staff report would be given at the next Board meeting.

C. Counsel's Report:

No report.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

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

2. Joint City-District Committee:

President Nishi stated they were meeting April 29, 2010.

3. MRWPCA Board Member:

President Nishi commented that the District has been put on the Recycled Water Committee and the Del Rey Oaks representative is Chair of the Projects and Planning Committee.

4. LAFCO Liaison:

Director Moore stated that they met on the 29th of March and the next meeting is April 26th.

5. JPIA Liaison:

Director Burns stated that there is an ACWA conference in Monterey in May.

6. FORA:

President Nishi stated that they met last Friday and one issue was the Governance for Habitat Conservation Plan. CSUMB, MPC and UCSC want to have a Joint Powers and he suggested FORA put it on their agenda.

7. Executive Committee:

No meeting was held.

8. Community Outreach:

Director Gustafson commented that full page ads were placed in local media celebrating the 50th Anniversary of the District. He added that he would be bringing the Public Works Almanacs to the sixth and eighth grade classes at Los Arboles Middle School.

9. Special Districts Association Liaison:

Director Gustafson commented that the meeting is next week.

E. Director's Comments:

Director Burns commented that there is a special meeting scheduled for April 19th to discuss the budget and suggested putting the tabled item on the agenda to be discussed. He added that public members wanting to be appointed to Committees should be at the meeting and making a presentation on why they should be appointed. Director Burns asked if the CCR would be in bigger font so everyone could read it. Ms. Adlawan answered that it would be bigger when it is printed. Director Burns complimented Ms. Adlawan on a job well done. Director Burns then complimented Ms. Premutati on her hard work on the Handbook.

Agenda Item 12-E (continued):

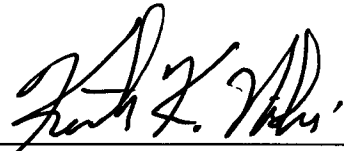
Vice President Lee congratulated staff on accomplishing a lot and told them to keep up the good work.

President Nishi commented that serving as an elected official is fun but it is more fun when the public is involved.

13. Adjournment:

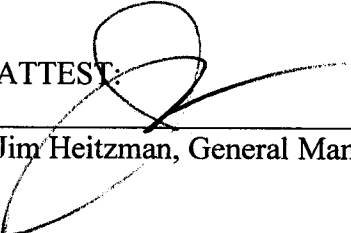
The meeting was adjourned at 8:29 p.m.

APPROVED:



Kenneth K. Nishi, President

ATTEST:



Jim Heitzman, General Manager