

Marina Coast Water District

Dual Locations  
19 Rue Rabelai, Pau, France 64000  
and  
District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
September 14, 2010  
6:45 p.m.

**Minutes**

1. Call to Order:

President Nishi called the meeting to order at 6:45 p.m. on September 14, 2010.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None.

Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Carl Niizawa, Deputy General Manager/District Engineer  
Suresh Prasad, Director of Finance  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
Rich Youngblood, Conservation Coordinator  
Sean Knight, Assistant Engineer  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Jan Shriner, Marina Resident  
Andy Sterbenz, Schaaf & Wheeler  
Marshall Reeves, Marina Resident  
George Eads, Marina Resident  
Dennis Oaks, US Army

Bruce Weaver, MIRA  
Tami Huntly, MIRA

The Board entered into closed session at 6:45 p.m.

3. Closed Session:

- A. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator (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
- B. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)  
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)
- C. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator (General Manager, Legal Counsel)  
Property: Unused portion (north section bounded by 4<sup>th</sup> and 5<sup>th</sup> avenues) of the MCWD's  
2840 4<sup>th</sup> Avenue property  
Negotiating Parties: MCWD, Tope's Tree Service  
Under Negotiation: Lease
- D. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator (General Manager, Legal Counsel)  
Property: Easements and Land on Armstrong Property, North of Marina  
Negotiating Parties: MCWD and Armstrong Family  
Under Negotiation: Price, Terms, and Conditions
- E. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
Employee Organization: Marina Coast Water District Employees Association
- F. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
Employee Organization: Teamsters Local 890

President Nishi ended closed session at 7:04 p.m. and reconvened the meeting to open session at 7:05 p.m.

4. Possible Action on Closed Session Items:

Mr. Lloyd Lowrey, Legal Counsel, reported that on items 3-A and 3-B there was no action taken. On item 3-C instructions were given and no action was taken. Items 3-D, E, and F were deferred until the end of the meeting at which time the Board of Directors would return to closed session.

5. Pledge of Allegiance:

President Nishi asked Mr. Marshall Reeves, Marina Resident, to lead everyone present in the Pledge of Allegiance.

6. Oral Communications:

There were no comments.

7. Presentation:

- A. Consider Adoption of Resolution No. 2010-61 in Recognition of US Army Representative, Dennis Oaks, for his Dedicated Service to the Marina Coast Water District as a Member on the Water Conservation Commission:

Mr. Rich Youngblood, Conservation Coordinator, read the narration recognizing Mr. Dennis Oaks for his service on the Water Conservation Commission.

Director Gustafson made a motion to adopt Resolution No. 2010-61 recognizing US Army Representative, Dennis Oaks, for his dedicated service to the Marina Coast Water District as a member on the Water Conservation Commission. 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			

President Nishi presented Mr. Oaks with a commemorative Resolution.

Mr. Oaks thanked the Board for their appreciation.

8. Consent Calendar:

President Nishi requested to pull items A and G from the Consent Calendar.

Agenda Item 8 (continued):

Director Gustafson made a motion to approve the Consent Calendar consisting of items B) Adopt Resolution No. 2010-63 to Revise Section 10.14 and Update Section 17 of the Employee Handbook; C) Approve the Draft Fall 2010 Newsletter; D) Receive the Quarterly Financial Statements for April 1, 2010 to June 30, 2010; E) Approve the Expenditures for the Month of August 2010; and, F) Approve the Draft Minutes of the Regular Board Meeting of August 10, 2010.

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

A. Adopt Resolution No. 2010-62 to Approve a Return to Work Program:

President Nishi commented that this was a great program the District is trying to put together to allow employees a chance to return to work in the shortest amount of time and keeping costs at a minimum.

Ms. Jean Premutati, Management Services Administrator, commented that this program was a recommendation from the ACWA JPIA in order for the District to join in their Worker's Compensation Program.

Director Moore made a motion to adopt Resolution No. 2010-62 approving a Return to Work Program. 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			

G. Approve the Draft Minutes of the Special Joint Board Meeting of August 13, 2010:

President Nishi asked that page 2 of the minutes show that the Pledge of Allegiance was led by President Kenneth Nishi, deleting the word "Vice".

President Nishi made a motion to approve the minutes of the special Joint Board Meeting of August 13, 2010 with the correction noted. 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			

9. Action Items:

- A. Consider Adoption of Resolution No. 2010-64 to Authorize Marina Coast Water District Property, Sunset Place, to be Declared Surplus:

Mr. Youngblood introduced this item explaining that when the property was originally declared surplus in December 2009, there was a typo in the resolution regarding the schedule the property was listed on. This action is to clarify that the property is deemed surplus.

Director Burns made a motion to adopt Resolution No. 2010-64 authorizing Marina Coast Water District Property, Sunset Place, to be declared surplus. 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			

- B. Consider Adoption of Resolution No. 2010-51 to Reinstate the Budget and Personnel Committee, the Projects and Planning Committee and the Operations and Maintenance Committee, and to Approve the Charge, Formation and Meeting Day and Time of Each Committee:

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

Director Burns made a motion to adopt Resolution No. 2010-51 to reinstate the Budget and Personnel Committee, the Projects and Planning Committee and the Operations and Maintenance Committee, and to approve the charge, formation and meeting day and time of each Committee. 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			

President Nishi asked that the Board members inform him of which Committee(s) they would like to serve on and bring it back to the next meeting for appointment.

- C. Consider Adoption of Resolution No. 2010-65 Approving a Variance Request for the Monterey Institute for Research in Astronomy Regarding Connection Costs:

Mr. Niizawa introduced this item noting the conditions that the Board needs to find in order to grant a variance and that staff recommends denying the variance request.

Agenda Item 9-C (continued):

Mr. Niizawa commented that the Monterey Institute for Research in Astronomy (MIRA) has indicated that although approximately 2,800 square feet have been added to the building, there is not any additional water usage anticipated thus asking for a variance to waive the connection costs.

Mr. Bruce Weaver, MIRA, gave a brief background of the Institute and how they are a non-profit agency that is totally dependent on public contributions.

The Board discussed the hardship of paying the connection costs and Mr. Lowrey commented that the Board needs to determine that the three factors are met before granting a variance.

President Nishi made a motion to adopt Resolution No. 2010-65 approving a variance request for the Monterey Institute for Research in Astronomy regarding connection costs with the following findings (the language inserted into the Resolution is underlined):

- 1) The strict application of the code would result in unfair or unequal treatment, undue hardship, or an emergency condition exists that requires the variance be granted, in that the Monterey Institute for Research in Astronomy is a non-profit, non-fee operation whose limited income is dependent solely on donations and the payment of the capacity charges and fees in one payment would be an undue hardship on the Applicant; and,
- 2) Granting a variance to allow the capacity charges and fees to be paid over time will not cause a significant impact on the water supply or on service to other persons served by the district, in that it is not anticipated to increase the monthly water use beyond the use that would exist if the capacity fees and charges were paid in full in one payment; and,
- 3) The variance is in the best interest of the district, in that the variance will promote responsible and conservative water use for scientific education within MCWD.

And, to make monthly payments of \$250 until the balance of \$5,923 is paid in full. Director Burns asked if the \$250 is a hardship for MIRA. An audience member stated that he would probably pay the fee for MIRA. Vice President Lee seconded the motion. The motion was passed.

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

Director Burns stated that he felt that there was room for making the amount lower over an extended period of time and was not voting "no" to deny the variance, just the amount. Director Moore stated he concurred with Director Burns' statement.

D. Consider Adoption of Resolution No. 2010-66 to Approve a Memorandum of Understanding for Renewable Energy Facility Planning between Monterey Regional Waste Management District, Monterey County Water Resources Agency, Monterey Regional Water Pollution Control Agency and Marina Coast Water District:

Mr. Carl Niizawa introduced this item. He stated that there have been slight changes from the Memorandum of Understanding (MOU) in the board packet and the one that was handed out prior to the meeting. Mr. Niizawa clarified that the changes were only the use of acronyms for the agencies in the MOU. Nothing substantial had been changed.

Vice President Lee asked if the other agencies have approved this MOU. Mr. Niizawa answered that they are taking it to their Boards within the next few weeks. Mr. Jim Heitzman, General Manager, stated that this is a planning MOU and does not commit anyone to do the project. Mr. Lowrey commented that this was purely an institutional document.

Director Gustafson made a motion to adopt Resolution No. 2010-66 approving a Memorandum of Understanding for Renewable Energy Facility Planning between Monterey Regional Waste Management District, Monterey County Water Resources Agency, Monterey Regional Water Pollution Control Agency and Marina Coast Water District. Vice President Lee seconded the motion. The motion was passed.

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

Director Moore commented that he approved this MOU but the only reason he was abstaining was because he did not have the revised MOU in front of him.

11. Staff Report:

A. Receive Update on the Master Meter Water Usage Billing:

Mr. Youngblood introduced this item and commented that staff was recommending an Ad Hoc Committee of community stakeholders, staff and possibly a Board Director to further examine the issues. President Nishi stated that since the Board voted to reinstate the Standing Committees, this item could be discussed at one of them.

11. Informational Items:

A. General Manager's Report:

No report.

B. District Engineer's Report:

No report.

C. Counsel's Report:

No report.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Lee commented that there was nothing to report.

2. Joint City-District Committee:

President Nishi stated they were trying to resolve the Teen Center among other things. The relationship between the District and the City of Marina is positive which is beneficial to the residents of Marina.

3. MRWPCA Board Member:

President Nishi commented that the meeting was on August 30<sup>th</sup> and was boiler plate. The next meeting is September 27<sup>th</sup>.

4. LAFCO Liaison:

Director Moore stated that the meeting was boiler plate. The next meeting is September 27<sup>th</sup>.

5. JPIA Liaison:

No comments.

6. FORA:

President Nishi stated that a joint meeting was held between FORA and the District on Friday, August 13<sup>th</sup> and the September 10<sup>th</sup> meeting was boiler plate.

7. Executive Committee:

No meeting was held.



8. Community Outreach:

Director Gustafson commented that the quarterly newsletter was just approved and will be distributed in the coming weeks.

9. Special Districts Association Liaison:

Director Gustafson stated that the next meeting was scheduled for October 19th.

E. Director's Comments:

Director Moore commented that the City of Marina has a volunteer Community Emergency Response Team (CERT) program. He would like staff to meet with the City to see if CERT would give a brief presentation to the Board to determine any relevance there might be to the District. Director Moore also asked staff to research some options for installing removable and semi permanent television broadcast equipment for Board meetings and to bring it to the next Board meeting.

Director Gustafson commented that the evenings reports were very good and he appreciated them.

Vice President Lee thanked staff for the continued good work and the General Manager for the outstanding hiring practices.

President Nishi commented that the District was celebrating its 50 Year Anniversary on September 30<sup>th</sup> from 11 to 2 p.m. and public, ratepayers, friends of MCWD in and on the central coast were welcome to attend.

President Nishi recessed the meeting from 8:06 until 8:11 p.m.

The Board re-entered into closed session at 8:11 p.m.

3. Closed Session:

D. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator (General Manager, Legal Counsel)

Property: Easements and Land on Armstrong Property, North of Marina

Negotiating Parties: MCWD and Armstrong Family

Under Negotiation: Price, Terms, and Conditions

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

F. Pursuant to Government Code 54957.6  
Conference with Labor Negotiator  
Agency Negotiator (General Manager)  
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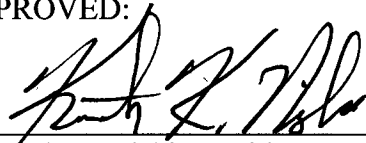
The Board ended closed session at 8:34 p.m.

Mr. Lowrey stated that instruction was given on all three items and no action was taken.

13. Adjournment:

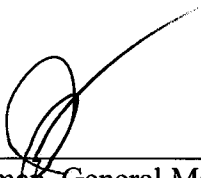
The meeting was adjourned at 8:35 p.m.

APPROVED:



Kenneth K. Nishi, President

ATTEST:



Jim Heitzman, General Manager