

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
October 12, 2005  
7:00 p.m.

**Minutes**

1. Call to Order:

President Moore called the meeting to order at 7:00 p.m. on October 12, 2005.

Board Members Present:

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

Board Members Absent:

None

Staff Members Present:

Mike Armstrong, General Manager  
Marc Lucca, Deputy General Manager/District Engineer  
Lloyd Lowrey, Legal Counsel  
Suresh Prasad, Director of Finance  
Evelina Adlawan, Water Quality Manager  
Joan Warren, Management Services Administrator  
Ken Demmons, Project Manager  
Jade Sullivan, Capital Projects Manager  
Rich Youngblood, Conservation Coordinator  
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Bob Schaffer, Marina Community Partners  
Dick Goblirsch, Del Rey Oaks  
Byron Buck, Byron Buck & Associates  
Bill Brasher, Marina Heights  
Tom Mancini, City of Seaside  
Eric Robinson, Cypress Knolls  
Doug Yount, City of Marina  
Anthony Altfeld, City of Marina  
Bradley Brownlow, Marina Community Partners

Jill Anderson, City of Seaside  
Michael Shaw, Cypress Knolls  
David Eisen, BRAC  
Mike Taraszki, MACTEC  
Mike Bomberg, Hydro Geologic  
Karen Fisbeck, BRAC  
Simon Whitmey, Marina Community Partners  
Jennifer Rudolph, Marina Heights  
Martin Lakatos, Cypress Knolls

2. Oral Communications:

Mr. Mike Armstrong, General Manager, introduced Ms. Joan Warren who was recently hired to fill the Management Services Administrator position.

3. Presentation:

A. Receive Presentation by the US Army on the Groundwater Remediation Program:

Mr. David Eisen, US Army Corps of Engineers, BRAC office, introduced Mr. Mike Taraszki, MACTEC. Mr. Taraszki gave a brief presentation of MACTEC's groundwater cleanup process at OU2, OUCTP, and sites 2 and 12. Handouts of the presentation were distributed to the Board members and public. President Moore asked if the manmade vertical conduits have been plugged. Mr. Taraszki answered they were. Mr. Doug Yount, City of Marina, asked about the timeframe for when the proposed cleanup would be complete. Mr. Taraszki answered it would take another five years or so to get the last area below the State's cleanup level.

Mr. Mike Bomberg, Hydro Geologic, gave a brief presentation of Hydro Geologic's groundwater cleanup process at OU1. Mr. Bomberg stated Hydro Geologic's target date was 2012 to get the toxic levels below the State's cleanup level. President Moore asked where they were planning to reinject the clean water. Mr. Bomberg answered that they are presently planning on digging a 250-yard trench along the Fort Ord Boundary Road.

4. Planning Workshop Continued from September 28, 2005:

A. Workshop and Action on Board Policies for 2005 Urban Water Management Plan (UWMP):

Mr. Armstrong introduced this item. He pointed out a clarification on the staff report on page 3 under Board Action. Mr. Armstrong gave the following correction: *Board Action: The Board approved water from the existing desalination plant and the District's year round entitlement to 300 AFY of recycled water as "available" in the context of the UWMP and SB 610. The Board did not conclude this water was "available" under SB 221. The Board is requested to consider revisiting that issue.*

President Moore reviewed actions taken at the last meeting: 1) The District has a current policy stating that the Central Marina groundwater and any unused portion of its rights to groundwater granted by the Monterey County Water Resources Agency (MCWRA) belong to Central Marina. Another current policy is that the Ord Community rights granted to it by the MCWRA belong to the Ord Community service area. The Board took no action at the September 28, 2005 meeting thus still supporting the existing policies keeping the water separate. President Moore asked if Vice President Brown concurred with that. Vice President Brown concurred and stated that if he had been present he would have voted in favor of keeping the current policies.

Agenda Item 4 (continued):

President Moore continued with the next policy issue: 2) This issue was for the Board to decide whether to move the existing 300 afy of desalinated water over to the Ord Community for someone else's benefit. Current policy reserves the desalinated water for Central Marina. The motion to move the desalinated water into the Ord Community reserves was deadlocked at 2-2, therefore the current policy stands. President Moore again asked if Vice President Brown concurred. Vice President Brown concurred and stated that if he were present he would have voted to keep the current policy.

Director's Nishi and Gustafson asked why President Moore was asking if Vice President Brown concurred. They stated that he wasn't present and his vote was irrelevant. Director Nishi voiced his concern that staff was recommending revisiting these issues. He stated the formal way of finding out Vice President's vote was to make a motion. President Moore asked if Director Nishi would like to make a motion.

Director Nishi made a motion to return to policy 1 for discussion. Motion failed for lack of a second.

President Moore reviewed that on policy item 3-A, staff asked the Board whether to consider water from the Hybrid Alternative as available for planning purposes in the context of the Urban Water Management Plan (UWMP).

Director Scholl commented that he thought President Moore was doing exactly the right thing reviewing the issues and asking if Vice President Brown concurred. As with policy issue 2 the motion failed because of a 2 – 2 vote and if Vice President Brown was not agreeable with the outcome, the issue could be revisited. President Moore agreed. Director Nishi stated that no formal vote was taken on policy 1 at the last meeting. Director Scholl stated there was a vote but it failed. President Moore clarified that there was an existing policy already in place and by the vote failing it leaves the existing policy in place.

President Moore continued with policy item 3-A. He reviewed that staff asked the Board whether to consider water from the Hybrid Alternative as available for planning purposes in the context of the UWMP under SB610. The Board passed a policy by a vote of 4 affirmative votes and 1 absent, to approve a new policy saying that FORA could count on the Hybrid Alternative project for the UWMP and SB610 purposes. President Moore asked if Vice President Brown concurred with the vote. Vice President Brown stated that there were sufficient votes and he did not wish to revisit this item.

President Moore reviewed that on policy item 3-B, staff asked the Board whether to consider water from the desalination plant as available for the UWMP, SB610 and SB221. President Moore stated that it was approved by the Board saying that it was available but not to whom it was available and it was available under the current policy as a back-up to Central Marina.

Agenda Item 4 (continued):

President Moore asked if Vice President Brown concurred. Vice President Brown stated that there was a majority of the Board who voted for this policy and he did not wish to have the item revisited.

President Moore asked Mr. Byron Buck, Byron Buck & Associates, to continue with item 4.

Mr. Buck introduced the next two items.

4. Discuss policy implications regarding the use of land-use based water demand factors and provide direction as may be desired:

Mr. Buck explained the demand factors that were used for the UWMP. Director Nishi asked if Table 1 showed the actual annual water consumption for single family homes. He questioned Table 2 and the amount of interior demand and percentage of turf. Director Nishi stated he would like to see the consumption numbers reviewed every five years or so.

Director Scholl commented that he thought the numbers were good. He thought they might even be low as the families who will purchase the homes will be more affluent and not as concerned with higher water bills and conservation. Mr. Buck answered that studies show water demand does vary by economics, demographics and affluence. Director Scholl commented the numbers needed to be revisited every five years or sooner.

President Moore commented that he agreed with Director's Scholl and Nishi but he would like to see the numbers revisited annually. He stated the District should use conservative estimates in the beginning and after a review of actual water consumption the District could revise the demand factors. President Moore asked how the District could protect themselves from the possibility of underestimating the demand factors and having certain developments going over FORA's allocation. Mr. Buck answered the best way to prevent going over allocations was through tracking water use.

Director Gustafson commented that an analysis could have been done on current businesses within Marina. Mr. Buck stated some businesses were used and there were other proposed businesses that didn't have equivalents within Marina to do the analysis. Discussion followed.

Director Nishi stated that the District's job is not to monitor what kinds of businesses are put into the developments, but to provide water. If the Land Use Jurisdictions (LUJ's) choose to put in a high water use business then they won't be able to put in all the other businesses.

Vice President Brown stated he is concerned when he hears the District is not a LUJ because of course it isn't. He added that when the Legislature passed SB221 and SB610 they required water suppliers to make predictions that are based in a statistical and scientific way.

Agenda Item 4 (continued):

Director Gustafson commented that you do become a LUJ if you use water service allocations that are different from the City's to prevent development from happening.

Mr. Doug Yount, City of Marina, stated that a letter was provided to the District with comments on this subject. He stated that the water demand factor is critical to the City of Marina and land use entitlements. The City of Marina would like the District to recognize the best practices, best science, and best information in their demand factors.

Mr. Eric Robinson, Cypress Knolls, also stated that the best practices, best science, and best evidence available needs to be used by the District in calculating water demand factors. He added that there are three categories of water demand to think about in preparing a Water Supply Assessment (WSA): 1) existing customers; 2) projects approved by LUJ's but not built at least in context of SB221 and SB610, and, 3) the water allocations LUJ's make because they have the authority to deny building permits if the allocation will go over the limit. Thus the District has a constitutional obligation to respect the LUJ's authority vested in the Cities or County; and, 3) future planned uses in the service area. The UWMP makes it clear that the District use detailed project information provided instead of gross factors in doing analyses.

Mr. Tom Mancini, City of Seaside, commented that Table 1 should also list Brostrom Park. He added that Table 1 should mention that RCI and Seaside Highlands are first-year projects.

Mr. Simon Whitmey, Marina Community Partners, commented that the developers have been involved with Mr. Yount and Mr. Robinson and they have the full support of the developers.

Mr. Bill Brasher, Marina Heights, stated they have the full support of Marina Heights project as well.

Mr. Michael Shaw, Cypress Knolls, added that Mr. Yount and Mr. Robinson also have the full support of the Cypress Knolls project. He also stated that the allocations made by the City should be relied upon as well.

Mr. Brad Brownlow, Marina Community Partners, commented that he was disturbed to hear that affluent members will use more water. There are other factors that go into this other than someone's social status.

Director Scholl commented that he has confidence in the numbers proposed. Staff is working closely with the developers to get the best information available.

President Moore thanked staff for their good solid work on this item.

Agenda Item 4 (continued):

B. Description of the groundwater overdraft situation in the Salinas Basin:

Mr. Buck commented that the District received a comment on the draft UWMP that the groundwater resources and reliability of the Salinas groundwater basin should be more fully elaborated in the UWMP.

Director Scholl commented that he believes this item describes an opportunity for the District to be proactive and solve the water problems for the next fifty years through conjunctive use projects. Director Scholl stated he would like to ask his fellow Board members to spend time thinking about the conjunctive use and how the District could make that come together.

Director Gustafson commented that conjunctive use is fine for the future, but water is needed right now.

Mr. Robinson commented that the EIR that MCWRA certified for the Salinas Valley Water Project (SVWP) has great information. It shows that the whole Salinas Valley groundwater system is like a storage and conveyance system for water. Mr. Robinson commented that the information contained in the SVWP needs to be captured in the UWMP.

President Moore recessed the meeting from 8:32 until 8:41 p.m.

5. Review Draft Board Items:

A. Review Draft Board Transmittal to Consider First Reading of Ordinance No. 41 Approving Penalties for Unauthorized Taking of Water and Direct Staff to Schedule a First Reading and Public Hearing on October 26, 2005:

Mr. Youngblood introduced this item. Mr. Lowrey clarified that the transmittal mentioned fines in Section 3.36.050 of the District Code, but the actual code Section 3.36.050 speaks of administrative fees and that is the correct language. Fines can be imposed for infractions and the code provides guidelines. President Moore asked for clarification of the fines and fees. Mr. Lowrey answered that Section 3.36.050 lists the fees for the first, second and third notice of violations and Section 3.36.060 specifies the additional costs that can be collected for violations.

Director Nishi inquired on the prohibition of irrigation between the hours of 10 am – 5 pm and asked if someone is checking on their irrigation system can they only do it between those hours? He also asked for clarification on “reasonably available” as listed under M – Construction in Section 3.36.030.

Agenda Item 5-A (continued):

Mr. Lowrey answered that “reasonably available” is a term that comes from the Water Code and there is a procedure to go through to have it determined that the water is “reasonably available”. Director Nishi asked what distance was “reasonably available” if a project in the Ord Community had to use water from a recycled water depot? Mr. Lowrey answered that typically the recycled water has to be as available as the potable water. Director Nishi stated that the District had an Ordinance where developers couldn’t use potable water for construction and asked Mr. Lowrey for a better answer. Mr. Lowrey answered that he would look into it.

Director Nishi also asked if construction companies were taking water illegally from fire hydrants, what good would it be to terminate water service because they don’t have service yet. He would like to see another way for punishing them. President Moore answered that Section 3.36.050 is general to the water conservation code and not just to theft of water from fire hydrants.

Director Nishi asked how the District could put language in the code so that the Ordinances aren’t violated. President Moore answered that the question Director Nishi was asking was related to a violation of a different section of the Code, not this section, and that the violator was given a temporary variance so that they were no longer in violation of the Code.

Mr. Lowrey commented that in answer to Director Nishi’s earlier question regarding termination of service, Section 3.36.050, C-2 states the District could refuse to initiate water service to the site of the violation, if water service has not yet begun or has been disconnected.

President Moore praised staff for the good work developing the Ordinance and would like to see larger penalties for water theft.

President Moore asked that this item be brought back for a Public Hearing on October 26, 2005 for a First Reading.

B. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx to Authorize the Construction Phase of the Ord Community WWTP Flume Project:

Mr. Jade Sullivan, Capital Projects Manager, introduced this item. There were no questions or comments on this item. President Moore requested this item be placed on the consent calendar for the October 26, 2006 Board meeting.

C. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx to Authorize the Reservoir C2 Inspection and Repair Project:

Mr. Ken Demmons, Project Engineer, introduced this item. There were no questions or comments on this item. President Moore requested this item be placed on the consent calendar for the October 26, 2006 Board meeting.

D. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2005-xx Clarifying the Work Elements of the Approved Construction Budget for the Ord Community Lift Station Improvements Project:

Mr. Sullivan introduced this item. Director Nishi asked if the changes to the design parameters were caused by the Marina Heights development. Mr. Sullivan answered that they were developing their master plan at the same time the District was working its master plan. Mr. Lucca also answered that because all the developments were maturing at the same time the master plans were being created, there was a lot of give and take in the designs in the master plans and subdivision master plans. The project budget did not capture the amounts shown on the resolution in the development of the capacity charges. Mr. Lucca added the District did not exceed the budget on these projects. Director Nishi stated that if the development project is going to cause the District to change the design to accommodate them, the developer should pay for the extra cost. Mr. Lucca answered that if infrastructure changes result in higher capital costs, the cost will be charged to the developer in a fair manner. President Moore commented that any infrastructure changes that may be required, but not resulting from a specific developer, will be covered by future capacity charges.

President Moore requested this item be placed on the consent calendar for the October 26, 2006 Board meeting.

E. Review Draft Board Transmittal to Consider Board Meeting Schedule for November and December and Provide Direction to Staff:

Mr. Armstrong introduced this item. Discussion followed regarding meeting dates. Director Nishi asked for a copy of January 12, 2005 minutes. The Board concluded to hold the November 9 and December 14, 2005 meeting dates and cancelled the November 23 and December 28, 2005 meeting dates.

F. Review Draft Board Transmittal to Consider Approving Expenditures for the Month of September 2005:

There were no questions or comments on this item. President Moore requested this item be placed on the consent calendar for the October 26, 2006 Board meeting.

G. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Regular Board Meeting of September 14, 2005:

Director Scholl asked that the word "professional" be changed to "coordinated" on page 5 of the draft minutes. Director Nishi stated on page 2 of the draft minutes he had asked to see the original cost, the cost of Amendment No. 1 and Amendment No. 2 to Mr. Buck's contract. Director Nishi asked if that information was provided. Mr. Lucca answered it was provided at the last meeting after Director Nishi had left.



Agenda Item 5-G (continued):

President Moore requested this item be placed on the consent calendar for the October 26, 2006 Board meeting.

H. Review Draft Board Transmittal to Consider Approval of the Draft Minutes of the Regular Board Meeting of September 28, 2005:

Director Nishi asked to have the minutes state that at 10:00 p.m. he had asked for a vote to extend the meeting past 10:00 p.m. and the Board did not extend the meeting past 10:00 p.m. which is why he left at that time. He also asked to see the resolution stating the meetings end at 10:00 p.m. unless the Board votes to extend the meeting. Director Nishi asked if no one voted to extend the meeting, were the actions taken after the closed session legal.

President Moore asked the minutes to reflect that he did ask the remaining Directors if they wanted to extend the meeting and they consented to continue the meeting.

6. Discuss Possible Agenda Items for the October 26, 2005 Planning Workshop and Provide Direction to Staff:

Director Nishi asked if the Board had discussed who would pay for infrastructure costs if a development wished to connect to the District's infrastructure. Director Scholl answered that the issue had already been discussed. President Moore also answered that it had been previously discussed.

Director Scholl suggested a 30-minute "feel good" session to for the Board to work on dealing with each other in a more courteous manner. The Board concurred to hold a 30-minute session on working together towards being more respectful of each other.

Mr. Lowrey commented that the source of the 10:00 p.m. adjournment rule is Resolution No. 98-1. Mr. Armstrong answered that all Director's have been provided a copy of Resolution No. 98-1, perhaps with the exception of Director Gustafson. President Moore asked that Director Gustafson be provided a copy of that resolution.

President Moore asked when the Strategic Planning Workshop would be held. Mr. Armstrong answered that the details are being worked out now that schedule availability for participants have been received. Currently an afternoon through evening schedule is being discussed with a light dinner planned for the event. Staff would be contacting the Directors as soon as details become clearer.

7. Director's Comments:

President Moore thanked staff for the modifications to the Water Conservation Ordinance in helping with water theft and suggested that staff develop a process for monitoring water theft with all the development.

The Board entered into closed session at 9:30 p.m.

8. Closed Session:

- A. 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 9:54 p.m.

9. Possible Action on Closed Session Item:

President Moore announced that no action was taken during closed session and direction was provided to staff.

10. Adjournment:

The meeting was adjourned at 9:54 p.m.

APPROVED:

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Thomas P. Moore, President      Date

ATTEST:

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Michael D. Armstrong, General Manager