

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
December 14, 2005  
7:00 p.m.

**Minutes**

1. Call to Order:

President Moore called the meeting to order at 7:00 p.m. on December 14, 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  
Lloyd Lowrey, Legal Counsel  
Marc Lucca, Deputy General Manager/District Engineer  
Rich Youngblood, Conservation Coordinator  
Joan Warren, Management Services Administrator  
Ken Demmons, Project Manager  
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Byron Buck, Byron Buck & Associates  
Doug Yount, City of Marina  
Dick Goblirsch, Del Rey Oaks  
Michael Shaw, Cypress Knolls  
Bob Schaffer, Marina Community Partners  
Lyndel Melton, RMC  
Bill Brasher, Marina Heights  
Eric Robinson, Cypress Knolls  
Rob Wellington, City of Marina Legal Counsel  
Michael Houlemard, Executive Officer of FORA  
Gary Wilmot, resident

Chuck Lande, Marina Heights  
Jan Driscoll, Marina Heights  
Sonia Ransom, Marina Heights  
Bradley Brownlow, University Villages  
Bob Holden, MRWPCA  
Jim Clancey  
Mehul Mody, CSUMB

2. Oral Communications:

None.

3. Election of Board President and Vice President:

President Moore requested to postpone this item until after agenda item 8.

4. Action Items:

A. Consider Adoption of Resolution No. 2005-64 to Approve the 2005 Urban Water Management Plan (UWMP):

Mr. Marc A. Lucca, Deputy General Manager/District Engineer, introduced Mr. Bryon Buck, Byron Buck & Associates. Mr. Buck reviewed the latest changes made to the UWMP and explained that this UWMP is just a snapshot of things happening at this time. Over the next several years with all the dynamic changes within the District, the 2010 UWMP will be very important as information will be coming in from the developments and the Water Augmentation Project should be underway.

President Moore asked if the changes to Monterey County's East Garrison numbers on page 3-9 also changed the numbers in Appendix 2. Mr. Buck answered they did and he would make the modification to Appendix 2.

Director Scholl made a motion to adopt Resolution No. 2005-64 approving the 2005 Urban Water Management Plan (UWMP). Vice President Brown seconded the motion.

Director Nishi voiced his concern over the deletions on page 2-24. He questioned the deletion of "first" in the first sentence in the last paragraph and the word "senior" from the last sentence in the first paragraph. Mr. Lloyd Lowrey, Legal Counsel, stated the wording was straight from the MCWD/MRWPCA Agreement and the Agreement doesn't mention "first" or "senior" rights. Director Nishi again voiced his concern over the deletions of those words. Mr. Lowrey stated the Board could put whatever wording they want in the UWMP. President Moore suggested adding a footnote to the last paragraph of page 2-24 stating that District was the first member agency of the MRWPCA to establish rights to take back reclaimed water in an agreement dated 1989. Director Nishi stated he would rather leave the words "first" and "senior" in the agreement. Mr. Buck suggested doing both. Director Scholl stated it was incorrect as Mr. Lowrey stated the agreement doesn't mention first rights. Director Nishi asked who has first or senior rights. Mr. Lowrey answered the agreement stated the District has the right to receive back an equal amount of reclaimed water that the District sends to the MCWPCA. The MCWD/MRWPCA Agreement predates the irrigation project and any other contract entered into with the MRWPCA. In Mr. Lowrey's opinion, the District does have the right that is "senior" to everybody else to receive water that is sent over to be treated.

Agenda Item 4-A (continued):

Mr. Lowrey stated that inserting whatever language the District inserts into the UWMP is not going to change the District's contractual rights or obligations. Because the UWMP is an informational and planning document, it should be as accurate as the agreements or contracts it is stating. Director Nishi stated that the more the District rights are mentioned the better. President Moore again asked Director Nishi if adding a footnote would satisfy his request. Director Nishi stated that it was simpler to leave the language the way it is. Director Scholl disagreed with having language that is incorrect in the document. Vice President Brown commented that both Directors were right in their own way and didn't see the harm in leaving the language as it is. Mr. Lowrey suggested deleting the word "first" in the second sentence of the last paragraph and adding it to the third sentence to read, "MCWD has the 'first' right to obtain treated wastewater..."

Director Scholl agreed to amend his motion to include the change Mr. Lowrey suggested of deleting the word "first" in the second sentence of the last paragraph and adding it to the third sentence to read, "MCWD has the 'first' right to obtain treated wastewater..." Vice President Brown seconded the amended motion with the addition of keeping the word "senior" in the last sentence of the first paragraph. Director Scholl agreed.

Director Nishi asked for clarification on page 2-4 if the stricken sections referred to the Arroyo Seco Cone or the Castroville Project. Mr. Michael Armstrong, General Manager, answered they did not. Director Nishi would like the Arroyo Seco Cone and the Castroville Project added to the language showing that the District has been working cooperatively with the Monterey County Water Resources Agency (MCWRA). Mr. Lowrey suggested adding a paragraph stating that the District has been working with the MCWRA since the mid 1980's to try to plan for more water supplies.

Director Scholl agreed to amend his motion to include a paragraph as Mr. Lowrey suggested. Vice President Brown seconded the amendment.

Mr. Michael Houlemard, Executive Officer of the Fort Ord Reuse Authority (FORA), thanked the District and everyone involved in working on this important document. He stated that FORA selected the MCWD as its water purveyor of water and wastewater services for the Ord Community. Mr. Houlemard encourages water conservation by all entities on the former Fort Ord. He asked that the UWMP be approved at this meeting.

Mr. Doug Yount, City of Marina, thanked the District for the opportunity to comment on this document and encouraged the Board to adopt the UWMP.

Mr. Michael Shaw, Cypress Knolls, asked for an amendment on page 2-27. He asked that the first sentence of the second paragraph be amended by removing the words "demolition of the existing desalination facility and".

Agenda Item 4-A (continued):

Director Scholl amended his motion to include removing the words “demolition of the existing desalination facility and”, and adding the word “the” in their place. Vice President Brown seconded the motion.

The motion with the three amendments was passed.

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

B. Consider Adoption of Resolution No. 2005-70 to Approve an Agreement for Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure with Cypress Marina Heights, LP at Cypress Marina Heights – Phases I, II, & III:

Mr. Lucca introduced this item. Mr. Lowrey stated that the Board had received a letter from the attorneys for Chadmar, Cypress Marina Heights developers, and after lengthy discussions have agreed to all but one sentence. Mr. Armstrong asked Mr. Lucca to review the edits with the Board. Mr. Lucca pointed out the following edits:

- page 15, Section D, remove the last four words “for service to others.”
- page 16, Section G, after 2%, add “of water sewer and recycled water infrastructure costs”; after (See *Procedures* section 200.3) delete “if not already paid, before undertaking a plan review of the proposed plans for the water, recycled water and sewer facilities.”
- page 17, Section 4-A, at the beginning of the first sentence, insert “Subject to limitation elsewhere in this agreement”; at the end of the first sentence, insert “now in existence or as may be changed from time to time, of the District.”
- page 18, Section 4-B, clarify if the number 0.0207 is correct; change the sentence to read, “...and Jefferson sites and ~~any~~ easements serving the existing pump stations *at those two sites* to the Developer...”; section 6, end of fifth sentence, delete “and as deemed appropriate by Developer.”

Director Scholl asked if both Agreements for Items 4-A and 4-B had the same language. Mr. Lucca stated that they were very similar, but not exactly the same.

President Moore made a motion to approve the Agreement with the changes proposed by staff as well as deleting the entire second paragraph under Section 4-B and changing Exhibit E to read, “...a letter from the Developer *to each prospective property buyer. The Developer agrees to provide this notice to each prospective property buyer prior to the execution of any contract to*

Agenda Item 4-B (continued):

*purchase property in the development. The Developer will submit the text and format of this Notice to the General Manager of the Marina Coast Water District for review and approval prior to its inclusion in the Real Estate Public Report or in a letter from the Developer to each prospective property buyer.”*. Director Scholl seconded the motion with the changes stated.

Mr. Chuck Lande, Marina Heights, thanked the District staff for their hard work and urged the Board to adopt the Agreement with the changes mentioned as well as removing the reference to water allocation as it is not applicable in an Infrastructure Agreement.

Ms. Jan Driscoll, representing Marina Heights, requested the last sentence of the fourth paragraph in Section 1 be deleted. She stated that water service obligations and water allocations are policy issues and should be addressed in a different context rather than the infrastructure agreement and offered three alternatives for the Board to consider. Ms. Driscoll also pointed out a typo in the Resolution.

Director Scholl commented that the Resolution also needed to be corrected because of the mention of the Sand Tank.

Vice President Brown asked what the concerns were if the City of Marina can do what they want in choosing water allocations. Ms. Driscoll stated she has never seen this language in an Infrastructure Agreement before and would rather it be removed.

President Moore commented that he was confused as to why there was so much concern for the language. The language only states that the District is not obligated to provide more water than allocated, not that it won't.

Ms. Driscoll asked that Ms. Sonia Ransom answer that question. Ms. Ransom commented that the concern is not over exceeding the water allocation, but over being precluded from receiving additional water when it becomes available and a limitation on future flexibility and creativity.

Mr. Yount commented that the City of Marina supports deleting the language as it is not appropriate in an Infrastructure Agreement and it could be construed to transfer allocation authority from the City of Marina to the District.

Director Scholl commented that he felt the sentence is perhaps out of place, but is appropriate. He inquired what would be better, delay the approval of this project or accept it as is with the prospect that actions from the City might result in being able to modify it later.

Agenda Item 4-B (continued):

Mr. Yount stated the infrastructure agreement is not the proper forum for this discussion and the City would like to see the agreement adopted with the deletions and separate discussions held with the District and City regarding allocations.

Mr. Lowrey stated the District has never proposed to be the water cop and through the Agreement with FORA opted out of the allocation or water cop role. A protocol has never been developed on how this is going to be administered or how the enforcement mechanism is going to work. Mr. Lowrey stated that the District does have a contractual agreement with FORA to provide water and honor the allocations FORA makes to the land use jurisdictions. He stated the Board's policy choices are: 1) include the sentence in the agreement; 2) receive documentation from the City demonstrating an enforceable limit on water; or, 3) continue to make an independent assessment and analysis of water demand and use in future WSA's.

Vice President Brown asked if the last sentence in the fourth paragraph of Section 1 leaves the City of Marina in charge of being the water cop. Mr. Lowery agreed it did.

Mr. Bradley Brownlow, University Villages, asked that the changes and comments in this item be included in the University Villages agreement.

Mr. Gary Wilmot, resident, commented that the statement is in the wrong document. A policy with a statement on how to monitor usage would be a correct thing to do.

President Moore commented that the City of Marina provides the allocation and could change it with a Resolution to Exhibit A and suggested leaving the sentence in the Agreement. He added that if the City could provide a document showing legal mechanisms to enforce the allocations the District can amend the agreement. Director Nishi commented that the City is still in charge and doesn't think the language belongs in the Agreement. Director Gustafson commented that he did not see a problem with removing the sentence from the Agreement. Vice President Brown stated that leaving the sentence in was not an enforcement mechanism and the onus was still on the City. President Moore stated that he supports leaving the sentence in the document until an enforcement mechanism is presented and in place.

Mr. Lande stated if the Board was going to proceed with leaving the sentence in the document, he would like to request a continuance.

Ms. Driscoll asked the Board to look at the practicality of what they are doing using an absolute number. Future Boards may not see things the same and only look at the absolute number and not allow for variations.

Agenda Item 4-B (continued):

Mr. Armstrong stated that the Board adopted the Marina Heights WSA with an allocation of 349.5 afy. All along the City of Marina has been asking that the District use the City's allocation of 292.39 afy and if the Board takes the City's number out of the Resolution, the District's allocation is what remains. Mr. Armstrong concluded that if the sentence stays in the document, it shows the District is trying to meet the City's number and if it comes out the District is still at 349.5 when the next project comes along.

Mr. Lande commented that it looks as though the District and the City of Marina need to work together to come to an understanding and asked that this Infrastructure Agreement not be used as the grinding stone between the two agencies.

Mr. Yount stated that the language in the document goes beyond the District's authority and enters into sub-allocation which crosses the line. He added that it is in every interest of the City to quickly enter into discussions relating to allocations and numbers and mechanisms as the WSA for Cypress Knolls is waiting for completion. Mr. Yount asked if the Board passes this document as is, does that mean the District is accepting the City's allocation to Marina Heights of 292.39 afy and the allocation to University Villages of 593 afy. He stated that there are many Developers spending a lot of time, effort, energy and money investing in this region within the City of Marina and all they want is one sentence removed from the document.

Ms. Ransom commented that when the City allocated 292.39 afy to the project it was done in the context of certifying the EIR which included the WSA, but in this document it is merely a number that does not even cross reference to the entire analysis of the WSA and EIR.

President Moore asked Mr. Lande if he would still prefer a continuance with the motion in its current form. Mr. Lande answered that he would. Director Scholl stated that if Mr. Lande would rather have a continuance, he would withdraw his second of the motion. President Moore withdrew his motion. President Moore asked staff to continue working with the Developers and bring it back at the January 11, 2006 Board meeting for further discussion.

Mr. Lucca offered a suggestion to pass the agreement with a 60 day expiration date to allow further discussion as well as allow the Developer to begin their project. President Moore asked if that meant passing the Agreement without the sentence included. Mr. Lucca answered it could be with or without the sentence. President Moore asked Mr. Lande if passing the Agreement without the sentence would work for him. Mr. Lande stated that Developers would not begin spending millions of dollars without knowing where they are going.

Mr. Yount commented that before providing future Infrastructure Agreements or future WSA's, the Board is looking for a mechanism prior to policy dissemination in the future.

Agenda Item 4-B (continued):

Mr. Wilmot stated that an analysis needs to be done and it is the District's duty to develop a procedure for making sure the numbers are not exceeded. He added that next month the Board can have a policy statement that says the exact same thing and have the same impact.

Mr. Lowrey suggested adding the word policies to the addition in paragraph 4 so it would read, "...in accordance with all the rules, regulations, 'and policies' now in existence, or as may be changed from time to time, of the District.", as it would give the Board the authority it needs and would resolve the present question. Mr. Lowrey also recommended that at the next meeting, the Board receive a report back from staff after working with the City of Marina and the Developers.

President Moore asked for clarification on Mr. Lowrey's changes. Mr. Lowrey suggested making the change to Section 4, first sentence so that it reads, "Subject to rules, regulations, 'and policies' now in existence or as may be changed from time to time, provided that Developer complies with the provisions of this Agreement, District will, ...".

President Moore commented that the City considered the numbers provided by the District's WSA in the context of an EIR and they were disregarded. He added he was concerned that the water demand numbers in the next WSA the District provides for Cypress Knolls could be disregarded as well. Discussion followed.

Director Brown stated that a mechanism needs to be developed ensuring the allocation is not exceeded and suggested postponing this item for one next month so that details could be worked out. Discussion followed.

Ms. Driscoll stated that Mr. Lowrey's suggestion would work by adding the sentence that all existing and future policies must be adhered to and remove the sentence regarding allocation; when the policy is approved, it will automatically be incorporated into the Agreement.

President Moore asked what kind of policy Mr. Lowrey was referring to. Mr. Lowrey suggested a mechanism for that prescribes the kind of monitoring that would be used and the action that would be taken if water use by a particular development is going to be exceeded. Vice President Brown asked if it would protect the District as much as leaving the sentence in would. Mr. Lowrey stated he thought it would protect the District more than the sentence. Director Scholl commented that the problem is that it won't work. For example, the Seaside Highlands development's average use is exceeding the projected use because of new (initial) planting and asked when the decision to stop development would happen if the same thing happens with this development.

Director Nishi stated that the District has had this problem before and had a mechanism in place to stop giving out meters for development when there was no longer available water.



Agenda Item 4-B (continued):

Mr. Lande commented that this development is different than the Seaside Highlands development as there were no limits or conservation rules in effect for those homes. He stated he would like to move forward and agrees with the language suggested by Mr. Lowrey.

President Moore recessed the meeting from 9:35 until 9:45 p.m.

Director Scholl withdrew his second of the original motion. Motion dies for lack of a second.

Director Scholl made a motion to remove the objectionable verbiage (the last sentence in Section 1 on page 14) and asked Mr. Lowrey to read the suggested verbiage change. Mr. Lowrey stated the language would now read, in addition to the first sentence, "Subject to District's rules, regulations, policies and ordinances now in existence and as hereafter adopted and modified, provided that Developer...". President Moore asked if the motion included all the previous changes made by Mr. Lucca and himself. Director Scholl stated it did. Vice President Brown seconded the motion. The motion was passed.

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

President Moore asked that staff bring a draft policy to the first meeting in January 2006 for consideration.

C. Consider Adoption of Resolution No. 2005-71 to Approve an Agreement for Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure with Marina Community Partners, LLC at University Villages – Phase 1A:

Mr. Lucca introduced this item. President Moore asked if this Agreement takes into effect the same changes as the Agreement just approved. Mr. Lucca stated there were small differences, but the language added by Mr. Lowrey would be the same. President Moore asked if the addition of Exhibit E was acceptable to the University Villages Developer. Mr. Brownlow stated it was.

Director Scholl made a motion to approve Resolution No. 2005-71 approving an Agreement for construction and transfer of Water, Sewer, and Recycled Water Infrastructure with Marina Community Partners, LLC at University Villages – Phase 1A and to incorporate the appropriate changes from the previous item into this document. Vice President Brown seconded the motion. President Moore reviewed the changes to make sure all were correct and asked if Mr. Brownlow agreed.

Agenda Item 4-C (continued):

Mr. Brownlow agreed and asked that the minutes from the previous item be incorporated by reference. The motion was passed.

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

D. Consider Approving Expenditures for the Month of November 2005:

No questions or comments on this item.

Director Gustafson made a motion to approve the expenditures for the month of November 2005. Vice President Brown seconded the motion. The motion was passed.

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

E. Consider Approval of Proposed Regular Board Meeting and Standing Committee Meeting Dates and Times for 2006:

Vice President Brown made a motion to approve the proposed regular Board meeting and Standing Committee meeting dates and times for 2006 on page 86 with only one meeting for each month of November and December. Director Gustafson seconded the motion. With a vote of 4-Ayes, 1-No, 0-Absent, the motion was passed.

F. Consider Approval of the Draft Minutes of the Regular Board Meeting of October 12, 2005:

Vice President Brown made a motion to approve the draft minutes of the regular Board meeting of October 12, 2005. Director Gustafson seconded the motion. With a vote of 5-Ayes, 0-No, 0-Absent, the motion was passed.

G. Consider Approval of the Draft Minutes of the Regular Board Meeting of October 26, 2005:

Director Nishi asked the minutes to show he had an excused absence and that the votes also show an excused absence.

Agenda Item 4-G (continued):

Vice President Brown made a motion to approve the draft minutes of the regular Board meeting of October 26, 2005 as amended. Director Scholl seconded the motion. With a vote of 3-Ayes, 0-No, 0-Absent, 2-Abstained, the motion was passed.

5. Review Draft Board Items:

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

Mr. Byron Buck introduced this item. Director Nishi asked about the Armstrong Ranch Agreement and what water allocations it mentions. Mr. Lowrey answered that the Armstrong property has its own water allocation of 920 afy and has the right to participate on an equitable basis in alternative water supply sources that are developed by the District.

President Moore noted it was 10:00 p.m. and asked if there was a motion to continue. Director Scholl made a motion to continue until all the items on the agenda were complete. President Moore seconded the motion. With a vote of 3-Ayes, 2-Noes, 0-Absent, the motion was passed.

Mr. Lowrey continued to say that any alternative water supply does not apply to the 920 afy. Director Nishi asked why the WSA states that water was going to come from Wells 10, 11 and 12 when he thought the water was supposed to come off of the Armstrong property. Mr. Lowrey asked if he meant drilling another well on Armstrong property? Director Nishi answered affirmatively. Mr. Lowrey stated that the Agreement did not specify that another well needed to be drilled on the Armstrong property just that water would be provided by the District. Director Nishi stated that he felt Marina Station needed to drill a well on their property and not use water from Central Marina wells. Director Nishi asked if Marina Station is annexed in the District. Mr. Lowrey answered they were not annexed yet and had to annex to the District and to Zones 2 and 2A in order to receive water. Director Nishi stated he would like to see them annexed before the WSA is done. Mr. Lowrey stated when a WSA is requested by the land use jurisdiction the water supplier has to, by law, perform a WSA within 90 days.

President Moore asked if the current well capacity is at its limits, if a new well is required, and is that part of in-tract infrastructure? Mr. Lowrey stated he would like to look that information up and report back to the Board. Mr. Lucca stated that discussions have been ongoing with the developer and the developer is aware of possible contributions for out-of-tract and in-tract improvements.

- B. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2006-xx to Approve a Professional Services Agreement for Completion of the Environmental Documentation for the Regional Water Augmentation Project:

Mr. Lucca stated Mr. Lyndel Melton, RMC, would introduce this item. Mr. Melton gave a brief presentation on the environmental documentation for the Recycled Water Augmentation Project.

President Moore commented that recycled water needs NEPA approval from the Bureau of Reclamation and asked if the MRWPCA wants to run recharged water through the same line would it require NEPA approval as well? Mr. Melton answered it did.

- C. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2006-xx to Approve Construction Contracts for the Reservation Road Water Pipeline Extension Project:

Mr. Ken Demmons, Project Manager, introduced this item. Mr. Demmons stated that Creekbridge requested that the pipeline be sized to serve future developments and has negotiated an agreement with the District and will pay for the upsizing if the District decides to increase the size of the pipeline. Director Nishi asked what percentage Creekbridge would pay. Mr. Demmons stated they will pay the difference between the cost of a 16" and 20" pipeline and 10% of the total cost of the project. Mr. Lucca clarified that bids will be requested on both the 16" and 20" lines. The difference in the cost of those lines will be paid by Creekbridge so that the District will get a 20" line for the price of a 16" line; and, Creekbridge will pay 10% of the total construction cost, which the District would have had to pay either way. President Moore asked why a 16" pipe is being installed. Mr. Demmons stated the current pipeline is under sized. Mr. Lucca added that a 16" pipe is required to help move water more quickly throughout the City of Marina as needed for fire flows.

- D. Review Draft Board Transmittal to Consider Adoption of Resolution No. 2006-xx to Approve an Agreement with Clark Realty Capitol for Construction of D Zone/E Zone Reservoir Off-Site Piping Project:

Mr. Demmons introduced this item. President Moore asked how much of the \$3.75 million is to be paid by Clark Realty. Mr. Demmons stated Clark Realty will not pay any of the cost for this project as it is all covered by the CIP. President Moore asked how far in advance of paying customers this pipeline will be in the ground. Mr. Demmons answered the District needs to do this project now for safety reasons.

President Moore requested all four items be placed on the consent calendar for January 11, 2006.

6. Staff Report:

Update – Regional Urban Water Augmentation Project:

Mr. Melton provided a brief presentation to the Board on the activities that have taken place since August 2005.

Director Gustafson commented he would like to see the District own the project to avoid a situation like the Monterey Peninsula Water Management District. Mr. Melton stated that there are other models to look at.

Director Nishi commented that the Board should have given input at the beginning of this study. He added that the Board received a recommendation from Mr. Melton and it is now the Board's decision to make. Director Nishi commented that he has concerns with staff talking to the MRWPCA regarding roles and responsibilities of the two agencies. He would like the Board to decide if they want a joint project or to go alone before talking with the other agency.

President Moore stated he sees a potential for a win/win situation for both agencies. He commented that it could be advantageous for the District to let the MRWPCA operate the transmission line as it will need special treatment before running the (purified) recharge water to the Seaside Basin after they run Title 22 water through the transmission line. President Moore explained that both agencies have established rights to reclaimed water and both are interested in maximizing the future uses of those amounts of water. He stated that in the analysis, current and proposed customers of Title 22 water will not use the entire allotment and perhaps the District should consider looking into partnering with the MRWPCA and injecting the excess water into the Basin; to look at storing the purified water in some facility and using it as potable; or to look at selling the water for injection into the Seaside Basin and using the funds for alternative water sources such as desalination.

Director Scholl stated that when the contract was awarded to RMC, he had asked for an operational analysis of this project and for RMC to come back with a recommendation of what would be the best for the District. He stated he did not hear a recommendation from Mr. Melton and asked what it would be? Mr. Melton answered that he felt the District needs to be responsible for the customers and has to be in the driver's seat to get this project done. After those two responsibilities, there is an opportunity for cost sharing and facility sharing. Director Scholl stated that the MRWPCA produces the recycled water and the customers belong to the District so there has to be a partnership between the two or there is not project. He asked why the District would want to own any of the transmission line beyond the turn-outs, shut-off valves and the lines to the customers? Director Scholl asked if the District would really get involved in the cleanup of the transmission line when they switch from Title 22 water to injection water?

Agenda Item 6 (continued):

Mr. Melton stated that they are looking for a member of the Board to interface with other agency Board members and possibly other City Council on a regular basis.

Vice President Brown commented that there is still a lot to be hashed out.

Director Nishi commented that the Board member is there at the pleasure of the Board and cannot provide staff direction on time critical issues without the entire Board weighing in.

President Moore suggested appointing Director Scholl as the role of Board member. Vice President Brown agreed, as well as Director Scholl. Director Nishi suggested waiting until Committee Assignments are decided.

Mr. Yount commented that when dealing with the early stages of a very complex negotiation including environmental and engineering studies, it is better to leave negotiations to staff until it reaches the point of policy. He also commented that there needs to be an economic component in the analysis regarding the cost of the water, both reclaimed and desalinated.

Mr. Melton stated that the direction he received was: 1) in January the Board will consider a member to interface with other agencies; 2) RMC will proceed with the Scope of Work they already have; 3) and, to continue looking at relationships with the MRWPCA relative to the ownership and operation of the system.

Director Scholl suggested RMC bring back a possible "straw man" structure for the Board to pull apart and reassemble.

7. Informational Items:

A. General Manager's Report:

No comments.

B. Counsel's Report:

Mr. Lowrey stated that in response to Director Nishi's question of what is an excused absence, and the Board policy does say that an excused absence is in the event of sickness or absence from the state with the provision provided by law.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

No comments.

2. Joint City-District Committee:

President Moore stated the Committee discussed the usual topics.

3. MRWPCA Board Member:

No comments.

4. LAFCO Liaison:

No comments.

5. JPIA Liaison:

President Moore commented that he went to the JPIA Board meeting and a new President was elected.

6. Special Districts Association (SDA) Liaison:

No comments.

7. FORA:

No comments.

8. Executive Committee:

No comments.

9. Community Outreach:

No comments.

D. Director's Comments:

Director Nishi stated he had asked for a copy of the Resolution showing meetings are to end at 10:00 p.m.

Agenda Item 7-D (continued):

Director Nishi also commented that he had asked Legal Counsel on the legality of charging companies for the Desalination Plant from day one. He also voiced his concern over negotiations at staff level without Board input and holding desalination tours when the plant hasn't been in operations for almost two years.

Director Gustafson inquired about the two items he had asked staff to put on the agenda and asked if staff was still working on them? He commented that he didn't appreciate how staff put the agenda together and the timeframe.

3. Election of President and Vice President:

Director Nishi made a motion to nominate Vice President Brown for the position of President. Motion died for lack of a second.

President Moore made a motion to nominate Director Scholl for the position of President. Director Scholl seconded the motion.

Director Nishi again made a motion to nominate Vice President Brown for the position of President. President Moore asked if there was a second.

Mr. Lowrey clarified there does not need to be a second on nominations.

President Moore acknowledged there were two nominations on the floor and asked for a vote on the nomination of Vice President Brown for the position of President. With a vote of 3-Ayes, 2-Noes, 0-Absent, the nomination was passed.

President Brown asked for nominations for Vice President.

Director Moore made a motion to nominate Director Scholl for the position of Vice President.

Director Nishi made a motion to nominate Director Gustafson for the position of Vice President.

President Brown asked for a vote on the nomination of Director Scholl for the position of Vice President. With a vote of 2-Ayes, 3-Noes, 0-Absent, the nomination failed.

President Brown asked for a vote on the nomination of Director Gustafson for the position of Vice President. With a vote of 3-Ayes, 2-Noes, 0-Absent, the nomination was passed.

President Brown recessed the meeting from 11:19 until 11:22 p.m.



The Board entered into closed session at 11:22 p.m.

9. Closed Session:

- A. Pursuant to Government Code Section 54957  
Public Employee Appointment  
Title: General Manager
- B. 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
- C. Pursuant to Government Code Section 54956.9  
Conference with Real Property Negotiators  
Property: District Desalination Plant  
Negotiating Parties: MCWD and Marina Developers, et al  
Under Negotiation: Price and Terms

The Board returned to open session at 12:08 a.m.

10. Possible Action on Closed Session Items:

President Brown stated that action taken was to hold a special meeting on the hiring of an Interim General Manager on December 21, 2005 at 5:00 p.m.

President Brown asked his fellow Board members to email him their preferences regarding Committee assignments.

11. Adjournment:

The meeting was adjourned at 12:09 a.m.

APPROVED:

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David W. Brown, President      Date

ATTEST:

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Marc A. Lucca, General Manager