

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
November 18, 2008
6:45 p.m.

Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:45 p.m. on November 18, 2008.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None.

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Jean Premutati, Management Services Administrator
Brian True, Interim District Engineer
Richard Youngblood, Conservation Coordinator
Suresh Prasad, Director of Finance
Jim Dowless, Operations and Maintenance Superintendent
Ernest Pons, Customer Service Supervisor
Jose Rodriguez, Collection Systems Operator II
Paula Riso, Executive Assistant/Clerk to the Board

Audience:

Ralph Marcello, Marcello and Company
Leif Coponen, Schaaf & Wheeler
Bob Holden, Monterey Regional Water Pollution Control Agency
Jan Shriner, Green Party

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

3. Closed Session:

- A. Pursuant to Government Code Section 54956.95
Liability Claims
Claimant: El Rancho Mobile Home Park and Shopping Center
Agency Claimed Against: Marina Coast Water District

- B. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager)
Property: Easements, Rights-of-Way, Pipelines and Appurtenances, and Water Rights
Negotiating Parties: MCWD and Seaside County Sanitation District
Under Negotiation: Price and Terms

- C. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Legal Counsel)
Property: Water Rights
Negotiating Parties: MCWD and Clark Colony Water Company
Under Negotiation: Price and Terms

- D. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Legal Counsel)
Property: Second and Imjin
Negotiating Parties: MCWD, FORA, AMBAG
Under Negotiation: Price and Terms

- E. Pursuant to Government Code Section 54956.8
Conference with Real Property Negotiator (General Manager, Legal Counsel)
Property: General Jim Moore Blvd. Pipeline
Negotiating Parties: MCWD and California American Water Company
Under Negotiation: Price and Terms

President Gustafson reconvened the meeting to open session at 7:11 p.m.

4. Possible Action on Closed Session Items:

President Gustafson stated that no action was taken in closed session.

5. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

6. Oral Communications:

None.

7. Presentations:

- A. Consider Adoption of Resolution No. 2008-54 in Recognition of Jose Rodriguez, Collection Operator II, and Awarding a Plaque and Gift Certificate for 5 Years of Service to MCWD:

Vice President Nishi made a motion to adopt Resolution No. 2008-54 recognizing Jose Rodriguez, Collection Operator II, and awarding a plaque and gift certificate for 5 years of service to MCWD. Director Moore seconded the motion. The motion was passed.

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

President Gustafson read the narration and presented Mr. Rodriguez with a plaque and gift certificate. Mr. Jim Heitzman, General Manager, commended Mr. Rodriguez on his tenure with the District.

- B. Consider Adoption of Resolution No. 2008-55 in Recognition of Richard Youngblood, Water Conservation Coordinator, and Awarding a Plaque and Gift Certificate for 15 Years of Service to MCWD:

Director Lee made a motion to adopt Resolution No. 2008-55 recognizing Richard Youngblood, Water Conservation Coordinator, and awarding a plaque and gift certificate for 15 years of service to MCWD. Director Burns seconded the motion. The motion was passed.

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

President Gustafson read the narration and presented Mr. Youngblood with a plaque and gift certificate. Mr. Heitzman commented that he had recently attended a seminar where water conservation was one of the topics. At that seminar, they discussed the various methods an agency could use to conserve water and an agency would be world class if they followed eighty percent of those methods. Mr. Heitzman proudly announced that the District followed 100% of those methods and that was due to Mr. Youngblood's involvement and dedication in keeping the District up to date and ahead of the curve on water conservation.

8. Consent Calendar:

Director Moore requested to pull item A from the Consent Calendar.

Director Burns made a motion to approve the Consent Calendar consisting of items B) Adopt Resolution No. 2008-57 to Approve the Revised Workplace Violence/Security and Monitoring Policy; C) Adopt Resolution No. 2008-58 to Approve the Revised Drug-Free Workplace Policy; D) Adopt Resolution No. 2008-59 to Amend the Professional Services Agreement for General Engineering Services with Schaaf & Wheeler Consulting Civil Engineers for As-Needed General Planning, Design, and Hydraulic Model Maintenance Tasks within the MCWD Service Area; E) Adopt Resolution No. 2008-60 to Approve a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between the Marina Coast Water District and the Monterey Bay Military Housing, LLC for the Housing Replacement Project at Stilwell Kidney; F) Receive the Quarterly Financial Statements for July 1, 2008 to September 30, 2008; G) Approve Expenditures for the Month of October 2008; and H) Approve the Draft Minutes of the Regular Board Meeting of October 14, 2008. Director Lee seconded the motion.

Director Moore stated that he thought staff was going to pull agenda item 8-E. Mr. Heitzman agreed that staff wanted to pull item 8-E from the consent calendar and would bring it back to the December meeting for consideration.

Director Burns amended his motion to approve the consent calendar consisting of items B, C, D, F, G, and H. Director Lee seconded the amended motion. The motion was passed.

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

A. Adopt Resolution No. 2008-56 to Make Authorized Volunteers Subject to Workers' Compensation Coverage by the District:

Director Moore asked what the financial impact was for this coverage; what process the District has for deciding and keeping a list of who is authorized to volunteer; and, as the tree committee is planning to do work on a District well site this month, what the administrative process is for keeping records of who is authorized on site. Ms. Jean Premutati, Management Services Administrator, answered that the coverage cost is minimal for volunteers. Since the District does not pay volunteers, the cost is assessed by using minimum wage numbers. As to the administrative process, staff is working with the ACWA JPIA and is waiting to hear back from them.

Vice President Nishi commented that this is a new legislative requirement and the impact will be determined on how involved the District is with the community.

Agenda Item 8-A (continued):

Director Moore asked if the District is required to cover volunteers. Mr. Lloyd Lowrey, Legal Counsel, answered that the District does not have to allow volunteers to do work and that coverage was not a requirement but the District is empowered to cover any volunteers.

Director Lee made a motion to adopt Resolution No. 2008-56 making authorized volunteers subject to workers' compensation coverage by the District. President Gustafson seconded the motion. The motion was passed.

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

President Gustafson, for audience members who might be interested, requested to move agenda items 11-D (Director's Comments) and 11-E (Legal Counsel's Report) before agenda item 9 (Action Items).

Director Lee made a motion to move agenda items 11-D (Director's Comments) and 11-E (Legal Counsel's Report) before agenda item 9 (Action Items). Director Burns seconded the motion. The motion was passed.

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

Discussion on items 11-D and 11-E are verbatim.

11-D Director's Comments:

Director Lee – I would like to not speak right now, but I will reserve comment for later.

President Gustafson – Okay, alright, reserve your rights if needed. Okay. Dan? No? Tom?

Director Moore – I would like to reserve mine for the end.

President Gustafson – Okay. Ken?

Vice President Nishi – I think the Board is moving forward. And, I think the public has reinforced what the Board has been doing by the last election. So, hopefully, we can continue to work, produce the product at a reasonable cost, or actually the best cost. Thank you.

Agenda Item 11-D (continued):

President Gustafson – That’s it? I’ll hold off on any comments myself. But, at this time I would like to move on to E and hear...

Mr. Lowrey – You have one more Director’s comment.

President Gustafson – I have one more Director’s comment?

Mr. Lowrey – One more Director’s comment that was deferred to the end.

President Gustafson – Oh, two more actually. Actually two more. Bill?

Director Lee – I just wanted to be able to comment on anything that came up.

President Gustafson – Yeah, in case...Yeah, okay. Oh, well there wasn’t anything really, we are going to move on to...

Director Moore – Yeah, I had asked to reserve comment.

President Gustafson – Oh, alright.

Director Moore – And I’d just like to address a remark that I made off the record before a Board meeting two months ago. I was at that time engaged in a private conversation that was overheard and I believe misconstrued by someone. They apparently believed my remark was in some way offensive, although it was not addressed to them. No offense of any sort was intended to them or to anyone else and I’m sorry that remark was misunderstood in that particular manner.

Since that time, staff has conducted itself in an appropriate manner to review this complaint. I applaud them for this as it is consistent with the guidelines that are set by the Board. I believe this issue is now closed.

Still, it is important to emphasize that our words and actions can be the focus of much attention, and vigilance is needed to ensure that they cannot be misconstrued or misunderstood as derogatory or offensive to others.

President Gustafson – Thanks Tom. Okay, are there any other comments from the Board at this time? Well, Lloyd?

11-E Legal Counsel's Report:

Mr. Lowrey – Counsel's Report. There are two items identified and one that isn't identified. First one...

- Harassment Complaint:

On the harassment complaint, there was, as just noted, a complaint a couple months ago about a comment that was made during an interim period, between open and closed session. I told the Board that it would be handled as any other complaint involving any other staff member would be, and has been. It was investigated, reported back. I reported to the Board, that it had been reported back. I made a recommendation and that recommendation has been followed. And, as far as I am concerned, the Board policy has been followed to the letter and has...we had an outcome that I would consider to be consistent with the Board policy. So that's my report on that item.

- Protection of Confidential Information:

The second, protection of confidential information, this is more of nature of things that I periodically mention to the Board and have been asked to do so from time-to-time. The Board and other people within the organization, receive by virtue of their positions, confidential information from time-to-time, involving individuals. And, for people within the organization sometimes that's as a result of reviewing personnel records, sometimes it's as a result of participating in confidential negotiations or other types of things. And, with the Board it can either be as a result of some participation in negotiations, or quite often, as a result of participation in closed sessions. In any event, with any member of the staff, or Board member, or General Manager, or anyone else, it is critical to preserve the confidentiality, particularly of employees in connection with confidential information. I know that the Board knows this and we've received the AB1234 training that we're required to receive on ethics and the Brown Act and so forth, periodically. The staff, likewise, has periodic training, but it is always important to emphasize because, just like with other matters, there can be inadvertent comments and I will give you a personal experience that I had when I was on a board a bunch of years ago. There was a closed session. I went to church. Someone engaged me in conversation, someone from the organization engaged me in conversation, and I inadvertently disclosed information from the closed session. And, so you can, even in church, you can't let your guard down. And, I was highly embarrassed as a result of that inadvertent comment, and I am sure that any of you would have been too. So, whether you are talking to people on the street, people in church, newspaper reporters, or other people from the organization who weren't involved in that particular activity, we have to be very careful. So, that's my update on the confidential item.

Agenda Item 11-E (continued):

The last item I want to mention is the Supreme Court's decision on the City of Terra versus the City of West Hollywood. I don't know if I have mentioned this to you before, but the Supreme Court recently has underscored the importance of making sure that environmental review work in compliance with the California Environmental Quality Act is undertaken early in the process. There are some exclusions that the Supreme Court recognized just to allow agencies to operate. And those include exclusive negotiating agreements, planning agreements, and things alike. But we have to be, continue to be vigilant about making sure that we have complied with the California Environmental Quality Act.

That concludes my report.

President Gustafson – Thank you. Alright.

Vice President Nishi – I disagree with what you said Lloyd, about following it to the letter. As a Director of this Board, I don't think letting over sixty days pass before anything occurs. I mean, if someone makes those comments to himself sitting out there all by himself, hey, that's okay. But when you're inside of a public building and it's a public meeting, even though we were in recess, you cannot make those comments. And, if you make those comments, there should be an immediate apology. To wait over sixty days, to me, is totally unacceptable. That's telling our employees that since the director was given over sixty days, don't expect any action until sixty days. I mean, this to me, it just totally, hey, all you have to say is "Hey, I screwed up, I'm sorry." And, you know, I would like to see this put on the agenda for next meeting for censure. Thank you.

President Gustafson – Alright. Any comments on the...nothing?

Director Moore – I can't support that suggestion.

Vice President Nishi – Because, I know you can't support it, but since you gave a real good ridicule of the Fiji or Indian or Pakistani, maybe tonight you want to give us your interpretation to the Filipino's. Why don't you give us a example of what you think a Filipino should sound like.

Director Moore – I think my statement said that what I said was misconstrued. You have a history, Director Nishi, of misconstruing things that people say. Sometimes you misconstrue for a political advantage on this board. That's the way I see it.

Vice President Nishi – Well, what I heard that night was...

Agenda Item 11-E (continued):

Director Moore – This is Board member comments, not debate is it not?

President Gustafson – Before that, but...

Vice President Nishi – Well, I'm saying is, I would just like to have you give us an interpretation of, since you don't want to do Filipino, maybe we'll do...take your pick. You know, I mean, you thought you were cute that night. Thank you.

President Gustafson – Alright. Well, apologize. Okay? Let's move on then to Action Items, 9-A.

9. Action Items:

A. Consider Accepting the Comprehensive Annual Financial Report and the Independent Auditor's Report for the Fiscal Year Ended June 30, 2008:

Mr. Suresh Prasad, Director of Finance, introduced this item and announced that the District's auditor, Ralph Marcello, Marcello and Company, had no findings and therefore, there will not be a management letter. The District will be applying for a GFOA Award of Excellence in Financial Reporting for the second year and feels very confident that it will be awarded the prestigious Award of Excellence in Financial Reporting.

Director Lee questioned if this was a precursor for better rates on loans. Mr. Heitzman answered that it was. Mr. Prasad stated that it could reduce interest rates or bond structure for 25 to 50 basis points.

Director Moore asked several clarifying questions on the audit.

Vice President Nishi commented that he has served on the District Board for 19 years and this is the best financial report/audit the Board has received. He thanked Mr. Prasad, Mr. Marcello and other staff who worked on the report stating that it showed the level of professionalism is improving.

President Gustafson thanked staff on their hard work and complimented the new format for the audit.

Agenda Item 9-A (continued):

Director Moore made a motion to accept the Comprehensive Annual Financial Report and the Independent Auditor's Report for the Fiscal Year ended June 30, 2008. Director Burns seconded the motion. The motion was passed.

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

B. Consider Providing Direction to the Board President on Nomination to the LAFCO Independent Special District Alternate Seat:

Mr. Heitzman introduced this item and explained that the Board had previously supported Vice President Nishi for this position. He stated that there were three people running for the position, Vice President Nishi, Director Moore, and Vince Ferrante.

Director Lee made a motion to direct the Board President to nominate Vice President Nishi to the LAFCO Independent Special District alternate seat. Director Burns seconded the motion. The motion was passed.

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

9. Staff Reports:

A. Receive Report on the District's Recently Purchased Sewer Jetter, The Camel Jet 1600 Sewer Cleaner:

Mr. Jim Dowless, Operations and Maintenance Superintendent, gave a brief presentation of the Camel Jet 1600 Sewer Cleaner. He showed pictures of different blockages in sewer pipes and showed how the jetter clears the blockages.

B. Receive 3rd Quarter 2008 Ord Community Water Consumption and Sewer Flow Report:

Director Burns commented that the report was too busy to comprehend and would like to see a simpler report.

Vice President Nishi commented that the report was instituted to keep track of water usage for the different land use jurisdictions and the different projects. The report shows that Seaside Highlands is using more water than they said they would and will help track those numbers.

Agenda Item 9-B (continued):

Vice President Nishi suggested having an agenda item to brainstorm how to bring down the usage in Seaside Highlands and keep them within their allocation.

Director Lee commented on a broken pipe in the Ord Community that has been running for years. He explained that no one knew who had authority over the property. He would like to have an agenda item to discuss the Ord Community and who has authority over different properties and what to do in the event of water pipe breaks and leaks. Mr. Heitzman answered that staff is still looking into who has authority over the property. There are occasions where the property is in transition or abandoned and there is no personal ownership in some of the properties.

Vice President Nishi suggested educating the Operations and Maintenance staff to look for and recognize leaks while they are working around town.

11. Informational Items:

A. General Manager's Report:

Mr. Heitzman commented that staff is in the process of determining if the land use jurisdictions would allow the District to break and cap a lateral on properties that are abandoned or in the process of transition. This would cut down on leaks and lost water. Mr. Heitzman invited everyone to attend the District's Thanksgiving Day potluck on Thursday, November 20th at noon at the Ord office.

B. District Engineer's Report:

Mr. True stated that he had nothing to report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

No comments.

2. Joint City-District Committee:

There was no meeting held.

Agenda Item 11-C (continued):

3. MRWPCA Board Member:

Vice President Nishi stated that there were two meetings in the last month. There was a joint meeting with the MPWMD to discuss an MOU on replenishment. The regular meeting was boiler-plate.

4. LAFCO Liaison:

Vice President Nishi stated the October 27th meeting discussed the “Cornnuts Annexation”. He added that on November 25th, there would be a meeting to discuss the Carmel Valley Corporation and the next regular meeting is on December 1st.

5. JPIA Liaison:

No comments.

6. Monterey Bay Regional Water Authority:

No comments.

7. FORA:

Vice President Nishi stated there was a presentation by Mr. Lyndel Melton on “Water for Monterey County” and a resolution was passed to support “Water for Monterey County”. Vice President Nishi added that the Capacity Fee discussion was postponed until December.

8. Executive Committee:

No comments.

9. Community Outreach:

No comments.

10. Ord Community Ad Hoc Committee:

Mr. Lowrey stated that the committee is preparing to present a report to the Board on their recommendations.

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11. Special Districts Association Liaison:

President Gustafson stated that Mr. Lou Solton, Monterey County Treasurer, gave a report on the County financial situation.

12. Adjournment:

The meeting was adjourned at 8:04 p.m.

APPROVED:

Howard Gustafson, President

ATTEST:

Jim Heitzman, General Manager