

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Special Board Meeting
February 24, 2010
6:00 p.m.

Minutes

1. Call to Order:

President Nishi called the meeting to order at 6:00 p.m. on February 24, 2010.

2. Roll Call:

Board Members Present:

Ken Nishi – President
Howard Gustafson
Dan Burns
Tom Moore

Board Members Absent:

Bill Lee – Vice President

Staff Members Present:

Jim Heitzman, General Manager – arrived at 6:50 p.m.
Carl Niizawa, Deputy General Manager/District Engineer
Lloyd Lowrey, Legal Counsel
Jean Premutati, Management Services Administrator
Barbara Montanti, Customer Service Assistant

Audience Members:

Jan Shriner, Marina Resident
Molly Erickson, Law Offices of Michael Stamp

3. Pledge of Allegiance:

President Nishi asked Director Burns to lead everyone present in the pledge of allegiance.

4. Oral Communications:

Ms. Jan Shriner, Marina resident, stated that she was glad the discussions were beginning to take place regarding airing the meetings on the Government Channel or the Green Party Channel.

Agenda Item 4 (continued):

To clarify the difference, Ms. Shriner stated that the Green Party is only affiliated through the Producer on the Green Party's registration and the Producer is only a citizen Producer through the Community Access Channel. The Producer's time slots are fifty-eight minutes exactly. Ms. Shriner stated that if the meeting goes beyond fifty-eight minutes, the Producer will edit the meeting and the District is at his editing mercy. For the Green Party to post the meeting on-line there is a \$50 charge each time, but with Government Channel all the meetings would be available worldwide. At this time, all the recordings are the property of the Producer so if there were ever a lawsuit, all the recordings would be controlled by the Producer, whereas, if it were on the Government Channel, the recordings are public property.

The Board entered into closed session at 6:04 p.m.

5. Closed Session:

- A. Pursuant to Government Code 54957.6
Conference with Labor Negotiators (President Nishi, Vice President Lee)
Unrepresented Employee: General Manager

The Board ended closed session at 6:33 p.m. and took a break until 6:38 p.m.

President Nishi reconvened the meeting to open session at 6:38 p.m.

6. Possible Action on Closed Session Item:

Mr. Lloyd Lowrey, Legal Counsel, stated that there was no action taken in closed session and instructions were given to the negotiators.

7. Action Items:

- A. Consider Adoption of Resolution No. 2010-11 to Ratify the Settlement Agreement and Mutual Release, Substituting Polyvinyl Chloride Pipe for High Density Polyethylene Pipe for the General Jim Moore Boulevard Phase V Project:

Mr. Carl Niizawa, Deputy General Manager/District Engineer, introduced this item. Director Moore asked if there was a difference in the value to the District between the PVC and HDPE pipes. Mr. Niizawa answered that fundamentally it was easier for the contractor to install the PVC pipe because it came in smaller lengths of pipe instead of the already constructed HDPE pipe.

Director Gustafson commented that the life of a HDPE pipe is approximately one hundred years where the life of a PVC pipe is approximately fifty years.

Agenda Item 7-A (continued):

Director Gustafson made a motion to adopt Resolution No. 2010-11 to ratify the Settlement Agreement and Mutual Release, substituting Polyvinyl Chloride Pipe for High Density Polyethylene Pipe for the General Jim Moore Boulevard Phase V Project. Director Moore seconded the motion. The motion was passed.

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

Ms. Jean Premutati, Management Services Administrator, asked the Board to review dates to schedule a Strategic Planning session. President Nishi asked if staff had any dates in mind. Ms. Premutati suggested holding the meeting on a Saturday to allow more time for discussion. President Nishi suggested selecting several dates to work with. The Board selected March 27, April 3, and April 10, 2010 for Ms. Premutati to work with in setting up a Strategic Planning session.

Mr. Lowrey commented that the Board could move to agenda item 8 (Director Comments), while waiting for the General Manager to arrive.

8. Director's Comments:

There were no comments.

President Nishi recessed the meeting from 6:49 – 6:50 p.m.

- B. Consider Adoption of Resolution No. 2010-12 to Approve and Authorize Execution of a Reimbursement Agreement with California American Water Company for Certain Local Agency Expenses Incurred in Application No. 01-09-019 Pending Before the California Public Utilities Commission ("CPUC"):

Mr. Jim Heitzman, General Manager, introduced this item. President Nishi noted that a letter dated February 24, 2010 was received from Landwatch Monterey County addressed to the Board of Directors. Director Moore asked Mr. Lowrey to give an opinion on the assertions made by the Landwatch letter. Mr. Heitzman answered that the comment of litigation by California American Water Company (CAW) is only if the MCWD or MCWRA Boards act in bad faith. If neither agency decides to move forward with the project due to legitimate concerns or motion, there is no cause for litigation. Mr. Lowrey agreed and added that this agreement doesn't commit the District to provide service to anyone, it is only a financing mechanism for the participation of the MCWD and MCWRA in the CPUC proceedings, so it would not involve LAFCO.

Agenda Item 7-B (continued):

Mr. Heitzman pointed out that the letter was incorrect where, in the first paragraph, it states that MCWD would receive \$4.3 million and didn't know how much the County would receive. Mr. Heitzman clarified that a total of \$4.3 million was available to both agencies. Director Moore commented that the last paragraph of the letter states that CAW could forgive repayment of the loan thus underwriting a project that benefits non-CAW customers and be unfair to CAW ratepayers. Mr. Heitzman answered that the comment was not accurate because CAW has to go to the Department of Ratepayer Advocates and the CPUC to authorize the of expenditure of funds. If CAW is deemed non-prudent in their expenses, the shareholders pay for that, not the CAW ratepayers. Director Moore clarified that the CPUC would have to give approval before CAW could put the cost of the loan on the ratepayers.

Mr. Lowrey commented that Exhibit B has been modified to replace RMC Water and Environment with a generic consultant.

Director Gustafson commented that there has been much public outreach regarding this project as the Regional Plenary Oversight Group (REPOG) had been meeting for several years discussing water issues and this project.

Ms. Molly Erickson, Law Offices of Michael Stamp, commented that they received notice of this meeting just twenty-five hours ago and did not feel that was enough time to review such an important document. Ms. Erickson commented that she represents the Ag Land Trust and a letter was submitted from the Stamp Law Office dated February 24, 2010. She voiced her concerns and stated that she did speak with Mr. Lowrey earlier in the afternoon, but that did not sufficiently satisfy the short notice of the meeting.

The Board of Directors discussed time frames and if this item could be delayed. Mr. Heitzman noted that the CPUC was meeting on Friday and would like to have this Agreement approved and ready to go by then. There is great urgency to keep on schedule so environmental work can be completed without delaying the process by a year or so. Mr. Heitzman added that the MCWD and MCWRA did not have to take the full \$4.3 million and would only be responsible for what is expended over the next couple of months. The interest rate payable to CAW is 0.1% at this time, but it could vary depending on CPUC decisions.

Mr. Lowrey respectfully disagreed with the letter received from the Law Offices of Michael Stamp, which states this Agreement is a project and requires CEQA. This Agreement is a financing mechanism to enable the District to continue gathering and giving information in support of it position and favor of the project. Mr. Lowrey stated that the project is going to have to be approved, if at all, by the CPUC.

Agenda Item 7-B (continued):

Director Gustafson made a motion to adopt Resolution No. 2010-12 to Approve and Authorize Execution of a Reimbursement Agreement with California American Water Company for Certain Local Agency Expenses Incurred in Application No. 01-09-019 Pending Before the California Public Utilities Commission ("CPUC"). Director Burns seconded the motion. Director Moore stated he would have preferred to give the public more notice on this item. The motion was passed.

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

9. Adjournment:

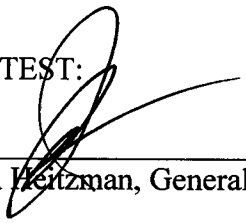
The meeting was adjourned at 7:21 p.m.

APPROVED:



Kenneth K. Nishi, President

ATTEST:



Jim Hertzman, General Manager