

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Regular Board Meeting
March 8, 2011
6:45 p.m.

Minutes

1. Call to Order:

President Lee called the meeting to order at 6:45 p.m. on March 8, 2011.

2. Roll Call:

Board Members Present:

Bill Lee – President
Dan Burns – Vice President
Howard Gustafson
Jan Shriner
Kenneth K. Nishi

Board Members Absent:

None.

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Carl Niizawa, Deputy General Manager/District Engineer
Jean Premutati, Management Services Administrator
Kelly Cadiente, Director of Administrative Services
Thomas Barkhurst, Water Quality Chemist
Rich Youngblood, Conservation Coordinator
Brian True, Capital Projects Manager
James Derbin, Interim Operations and Maintenance Superintendent
Patrick Breen, Capital Projects Manager
Joe Correa, Interim Assistant Operations and Maintenance Superintendent
Joe Pineda, Systems Operator
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Bob Holden, MRWPCA
Andy Sterbenz, Schaaf & Wheeler
Delores Dannemello, Marina Resident

Brian McCarthy, Marina Resident
Will Franks, MRWPCA
George Riley, Monterey Resident

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

3. Closed Session:

- A. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)
Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County
Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and
Complaint for Declaratory Relief)
- B. Pursuant to Government Code 54957.6
Conference with Labor Negotiators
Agency designated representatives: William Lee and Dan Burns
Unrepresented Employee: General Manager

The Board ended closed session at 6:50 p.m.

President Lee reconvened the meeting to open session at 7:00 p.m.

4. Possible Action on Closed Session Items:

Mr. Lloyd Lowrey, Legal Counsel, reported the following:

- 3-A – the Board of Directors conferred with Legal Counsel, and no action was taken.
- 3-B – there was no conference or action taken.

5. Pledge of Allegiance:

President Lee asked Mr. James Derbin, Interim Operations and Maintenance Superintendent, to lead everyone present in the pledge of allegiance.

6. Oral Communications:

Mr. Brian McCarthy, Marina resident, commented that he has provided staff with a letter and documentation regarding fire sprinklers. The letter also has his contact information if any Board member would like to reach him. Mr. McCarthy read an article regarding sprinkler service in several other cities.

7. Presentations:

- A. Consider Adoption of Resolution No. 2011-20 in Recognition of Community Member, Mr. Nathan Chaney, for his Dedicated Service to the Marina Coast Water District as a Member on the Water Conservation Commission:

Director Nishi made a motion to adopt Resolution No. 2011-20 in recognition of Community Member, Mr. Nathan Chaney, for his dedicated service to the Marina Coast Water District as a member on the Water Conservation Commission. Vice President Burns seconded the motion. The motion was passed.

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

President Lee noted that Mr. Chaney was not present and a staff member would deliver the resolution to him. Director Nishi asked that the Board of Director's thanks be conveyed to Mr. Chaney.

- B. Consider Adoption of Resolution No. 2011-21 in Recognition of Mr. Joe Pineda, System Operator II, and Awarding a Plaque and Gift Certificate for 5 Years of Service to the Marina Coast Water District:

Vice President Burns made a motion to adopt Resolution No. 2011-21 in recognition of Mr. Joe Pineda, System Operator II, and awarding a plaque and gift certificate for 5 years of service to the Marina Coast Water District. Director Gustafson seconded the motion. The motion was passed.

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

President Lee read aloud the narration and presented Mr. Pineda with his plaque and gift certificate. Mr. Jim Heitzman, General Manager, added his appreciation and thanks to Mr. Pineda.

8. Consent Calendar:

Director Nishi asked to pull items C and D from the Consent Calendar.

Director Shriner commented that she had several questions on some of the items. President Lee allowed Director Shriner to ask for clarification on those items.

Agenda Item 8 (continued):

With regards to agenda item 8-A, Receive the Quarterly Financial Statements for October 1, 2010 to December 31, 2010, Director Shriner asked if when the District stays within its budget, is it a measurable management criterion? Ms. Kelly Cadiente, Director of Administrative Services, answered that it was. Director Shriner asked several other clarifying questions regarding budgeted revenues and expenses versus actual revenues and expenses.

On agenda item 8-B, Approve the Expenditures for the Month of February 2011, Director Shriner asked for clarification of check numbers 51201 and 51349. Staff clarified the expenditures for Director Shriner.

Vice President Burns made a motion to approve Consent Calendar consisting of items:

- A. Receive the Quarterly Financial Statements for October 1, 2010 to December 31, 2010
- B. Approve the Expenditures for the Month of February 2011

Director Gustafson seconded the motion. The motion was passed.

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

- C. Approve the Draft Minutes of the Special Board Meeting of January 31, 2011
- D. Approve the Draft Minutes of the Regular Board Meeting of February 8, 2011

Director Nishi commented that he pulled the minutes so that he could abstain from the vote.

Director Gustafson made a motion to approve Consent Calendar items:

- C. Approve the Draft Minutes of the Special Board Meeting of January 31, 2011
- D. Approve the Draft Minutes of the Regular Board Meeting of February 8, 2011

Director Shriner seconded the motion. The motion was passed.

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

9. Action Items:

A. Receive Draft Budget for FY 2011-2012 and Schedule a Budget Workshop:

Mr. Heitzman introduced this item commenting that the schedule allows for the Board of Directors to adopt the FY 2011-2012 budget on June 14, 2011 and a workshop needs to be scheduled before that time. Director Nishi asked if the schedule was driven by the Prop. 218 notices and what was the drop date for those notices. Mr. Heitzman answered that the drop dead date is April 29th. Director Nishi also questioned the schedule with regards to the Ord Community. Mr. Heitzman answered that staff would review the comments made and will email some suggested workshop dates to the Directors.

B. Consider Adoption of Resolution No. 2011-22 to Authorize a Professional Services Agreement with Luhdorff & Scalmanini Consulting Engineers for the Eastern Distribution System Watkins Gate Well installation for a Not-to-Exceed Amount of \$195,960:

Mr. Carl Niizawa, Deputy General Manager/District Engineer, introduced Mr. Patrick Breen, Capital Projects Manager. Mr. Breen introduced this item. Mr. Lowrey commented that the transmittal states that further CEQA analysis will be done, and because further CEQA analysis is required, this project hasn't been approved as a project and is still in the planning stage. Mr. Lowrey added that the District is only able to approve items 1-3 on the proposed scope of services from Luhdorff & Scalmanini. He stated that items 4-6 would not be able to be completed until after the appropriate CEQA is completed. Mr. Lowrey suggested the Resolution be modified under the "NOW, THEREFORE, BE IT RESOLVED" to read, "...for engineering services related to the planning for the design and construction." Mr. Breen added that the revised amount for the three items is \$151,685.

Director Shriner inquired if this Well was a replacement or to expand the District's service. Mr. Niizawa commented that the Eastern Distribution Project is a State-funded Prop. 50 Grant that replaces wells. Mr. Heitzman added that the District is looking long-term in reducing coastal pumping and moving the wells east.

Vice President Burns inquired if the District is looking at design/build to save money. Mr. Heitzman answered that the District does sometimes look at design/build but this consultant doesn't build, they only do the design. The District makes a point of hiring locally whenever possible, but in this case, a hydrogeologist is needed and required someone from outside the local area.

Director Nishi questioned the travel costs for the meetings as noted in the scope-of-work and asked if \$151,685 included those travel costs. Mr. Breen answered that the ground travel is included in the amount.

Agenda Item 9-B (continued):

Director Nishi asked if there are more meetings than the number included in the scope-of-work, who would pay for the travel. Mr. Heitzman answered that it depended on the reason for the additional meetings. If the District is requiring the additional meetings, the District will pay. Mr. Heitzman added that if there is an unanticipated complication that would require additional meetings, and the funding, including contingency, were depleted, a change order would be required and it would be brought back to the Board.

Director Nishi made a motion to adopt Resolution No. 2011-22 to authorize a Professional Services Agreement with Luhdorff & Scalmanini Consulting Engineers for the Eastern Distribution System Watkins Gate Well installation. Mr. Lowrey asked if the motion included the suggested changes to the resolution under the "NOW, THEREFORE, BE IT RESOLVED" to read, "...for engineering services related to the planning for the design and construction.", and revise the amount for the scope-of-work items 1-3 to \$151,685. Director Nishi answered that his motion did include those changes. Director Gustafson seconded the motion. The motion was passed.

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

C. Consider Adding Regional Desalination Reports to the Agenda Under Informational Items:

Mr. Heitzman introduced this item.

Director Shriner commented that these reports are already in the contract and wanted to know how the Board would receive the reports.

Vice President Burns commented that he was okay with the reports in the contract and thought Director Shriner wanted other reports not included in the contract.

Vice President Burns made a motion to add Regional Desalination Reports to the agenda under Informational Items. Mr. Heitzman commented that some of these reports will just be blank because there won't be anything to report for a while. Director Shriner commented that it would be helpful to receive the reports once there is information to report and have them provided in the packet. Director Shriner seconded the motion. Mr. Heitzman commented that the reports will be provided to the Advisory Committee and he will give the Board an update at a subsequent Board meeting. Mr. Heitzman added that at this time the only report with any information is the Permitting Matrix. Director Shriner commented that she would like to see a copy of the Permitting Matrix.

Agenda Item 9-C (continued):

Mr. Heitzman commented that he will provide reports as they are generated until they are complete and no longer being updated.

Vice President Burns withdrew his motion.

D. Consider Appointing a Liaison to the Regional Desalination Project:

Mr. Heitzman introduced this item stating that it there is a considerable amount of work and that having an elected official as a liaison to help attend meetings will be of great assistance. There are meetings where there are other elected officials present and it would be prudent to have an elected official representing the District. Mr. Heitzman commented that there could be weeks with 20-30 hours of meetings and weeks where there are no meetings at all.

Vice President Burns volunteered to be a liaison to the Regional Desalination Project. President Lee commented that he was intending to nominate Director Nishi to be the liaison. Mr. Heitzman stated that he could use two liaisons to attend the meetings.

President Lee made a motion to appoint Vice President Burns and Director Nishi as liaisons to the Regional Desalination Project. Director Gustafson seconded the motion. Director Shriner made a motion to modify the previous motion for Vice President Burns to be the primary and Director Nishi the alternate liaison. Director Gustafson seconded the modified motion. The motion was passed.

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

10. Staff Report:

A. Receive a Report Regarding the Status of the Wharf Hydrant Replacements:

Mr. Brian True, Capital Projects Manager, introduced this item explaining that there are twelve wharf hydrants to be replaced and District staff will replace eleven of the twelve hydrants. The twelfth hydrant will need to be contracted out for replacement due to the upgrade from a 4-inch mainline to an 8-inch mainline.

Vice President Burns clarified that by District staff performing these replacements, it is saving the District money. He congratulated the Operations and Maintenance staff for taking on this project and saving the District money.

Agenda Item 10-A (continued):

President Lee questioned if these hydrant replacements are going to impact the street or if they are off on the side. Mr. True answered that there may be a few that impact the street, but generally they are off to the side.

Director Nishi questioned the process of replacing the hydrants and how long staff is estimating it will take to replace the hydrants. Mr. James Derbin, Interim Operations and Maintenance Superintendent, answered it will take about a full day to replace the hydrant if everything goes smoothly. Director Nishi suggested the District put in temporary hydrants while waiting for the cement to cure and the replacement hydrant to be ready for use. Mr. Derbin commented that putting in temporary hydrants would greatly exceed the Department's budget and that the wharf hydrants are not considered usable by the Marina's Fire Department. Mr. Carl Niizawa, Deputy General Manager/District Engineer, commented that the District was working with the Marina Fire Department on the hydrant replacements.

B. Update on the Monterey Regional Water Pollution Control Agency Outfall Capacity Analysis:

Mr. Niizawa introduced this item explaining that the determination by CH2MHill in August 2010 stated the outfall capacity exceeds that of the default value in the Outfall Agreement. The issue with regards to increased corrosion has not been resolved and will be done in the future.

Vice President Burns questioned whether the outfall had been inspected on the outside. Mr. Bob Holden, Monterey Regional Water Pollution Control Agency, answered that it is inspected every four years and there has not been any corrosion noticed.

Director Shriner commented that this should be a negotiation item and asked if waiting for the uncertainty of the impact in any way delays the negotiation overall. Mr. Heitzman answered that it is already a signed agreement.

Director Nishi commented that the Peninsula Cities have paid a portion of the costs of the outfall and they could be receiving a benefit from the desalination plant increasing the flow in the outfall. If there is damage to the outfall, it should be borne by all. Mr. Heitzman answered that if there is damage to the outfall from the brine, the cost would be borne by everyone receiving the desalination water.

C. Receive an Update on the Progress of the FORA Building:

Mr. Breen introduced this item and gave a brief update on the progress of the FORA building.

Agenda Item 10-C (continued):

Vice President Burns asked how many change orders there were. Mr. Breen answered that there have been two change orders and they remain within the budget.

President Lee inquired on the sky lights that were recently installed. Mr. Breen answered that there were 27 sky lights installed in the building.

- D. Receive a Report on the Duties of Directors, the General Manager, and Legal Counsel, and Code of Ethics for the Directors.

Mr. Lowrey reviewed the duties and authority of the Board of Directors. He reviewed Sections 30520-30579.5 of the Water Code which is the primary authority over the Board. Mr. Lowrey reviewed several items from the Board Procedures Manual on the Duties of the Directors. Mr. Lowrey also explained the duties of the General Manager under the Water Code Sections 30580 and 30581, the duties as described in Resolution No. 98-01, and the duties and functions listed in the General Manager's contract. Mr. Lowrey reviewed the authority and duties of District Legal Counsel pursuant to Resolution No. 98-01.

Director Shriner asked for clarification on items 5 (Harassment-Free Work Environment), and 14 (Code of Ethics) of the Board Procedures Manual. She asked if harassment was in regards to diversity or something else. Mr. Lowrey answered that it relates to any protected class or category, i.e. race or religion. Director Shriner asked the difference between harassment and a hostile work environment. Mr. Lowrey answered that harassment can cause a hostile work environment. Ms. Jean Premutati, Management Services Administrator, added that there are definitions in the Board Procedures Manual as well as the Employee Handbook. Director Shriner commented that the City of Marina has sections to protect staff and City volunteers so they are not suffering at the hands of staff or public and questioned if the District has something similar. Ms. Premutati answered that the District has a waiver form for volunteers to sign when they are representing the District.

Director Nishi questioned the one-hour limit for legal counsel. He commented that he understood it as a one-hour time limit per subject. Mr. Lowrey answered that there would be some interpretation and reason involved to the one-hour time limit. If a Director were to call Legal Counsel and talk to him for 50 minutes, four times in a day on different subjects, that would not be within the spirit or the intent of this policy.

Director Nishi expressed his concern that the Director's did not receive this information before the meeting and it was not what he was expecting. He expected to see more information, for instance, under the Code of Ethics, it states that Directors should function as part of the whole and issues should be brought to the attention of the Board as a whole, rather than to individual members selectively.

Agenda Item 10-D (continued):

Director Nishi commented that even if they all don't agree, as long as a quorum of the Board votes to do something, they need to work together and support that decision.

Vice President Burns commented that they can address this more fully at the strategic workshop when it is scheduled.

11. Informational Items:

A. General Manager's Report:

No report.

B. District Engineer's Report:

Mr. Niizawa commented that the Fire Department is appreciative of the District's efforts with changing out the wharf hydrants. Mr. Niizawa thanked Director Nishi for his help with this item.

C. Counsel's Report:

Mr. Lowrey reported that there will be some changes to the Districts Conflict of Interest Code now that the Project Management Agreement with RMC Water and Environment has been signed. Consultants will be added to the Code to be included in the reporting of Form 700. This change will be coming before the Board soon.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

President Lee commented that the minutes were included in the packet.

2. Joint City-District Committee:

No meeting was held.

3. Budget and Personnel Committee:

No meeting was held.

4. MRWPCA Board Member:

Vice President Burns commented that Ron Stefani was nominated as Chair and is taking over for Lou Calcagno. At the last Board meeting they looked into the option of paying your bill for a year in advance and getting a discount. Pursuant to that discussion, the pre-pay discount was discontinued.

5. Special Districts Association Liaison:

Director Gustafson commented that the next meeting is in April.

6. LAFCO Liaison:

Mr. Niizawa commented that there was no discussion relevant to the District.

7. JPIA Liaison:

Director Shriner commented that there are some nominations for officers going on and there is a meeting in Sacramento for several days with the election of officers on May 9th.

8. FORA:

Vice President Burns commented that FORA is still looking at special taxes and fees charged to developers and has yet to know how it will affect the District. Mr. Niizawa suggested it be discussed at the Water/Wastewater Oversight Committee.

9. CalDesal:

Vice President Burns stated that there is a Strategic Planning Workshop on April 7 and 8. He added that the regulatory agencies are starting to take a look at desalinated water and permits and have made it their highest priority to work on. CalDesal has an Executive Director that will be making a presentation to the regulatory agencies regarding those issues. Mr. Heitzman commented that the District wrote a letter last year and sent it to the State Water Resources Control Board. It is an issue on the desalination in California as it is starting to become something that is real and they are looking at how they are going to regulate that.

10. Executive Committee:

No meeting was held.

11. Community Outreach:

Director Gustafson commented that there was nothing to report.

E. Director's Comments:

Director Shriner commented that the Sanctuary Currents is going on April 9th and what they are focusing on is innovative monitoring of the Monterey Bay.

Director Shriner inquired on the timeline for the Grand Jury Report and what the deadline was for responding. Director Nishi commented that the comments needed to be returned in a timely manner. Director Shriner stated that she did ask by email what the date was and it was not supplied. She wanted to know if she needed to contact the Grand Jury for that information. Director Nishi stated it needed to be in by March 10th.

Vice President Burns commented that it seemed like every other month someone was leaving the Water Conservation Commission. He suggested looking into what direction the Board should provide the Water Conservation Commission, what the structure is, how long someone should serve on the Water Conservation Commission, and how the Board should select a new candidate for the Water Conservation Commission.

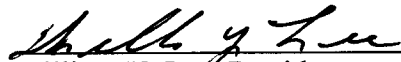
Director Nishi commented that the Board needs to have both the Operations and Maintenance Committee and the Projects and Planning Committee reinstated. That would eliminate the need for any Ad Hoc Committees to look at things like 1-inch meters and mobile home parks. Director Nishi commented that if it is too much of a load on staff, the Board needs to make a decision on whether they should hire someone to pick up the slack. That is the only place you are going to learn about the Marina Coast Water District...you just have to put your time in.

President Lee offered his thanks to staff and the Board. He stated that some interesting things have been brought up and would like to see those reflected on. President Lee also thanked the public for attending.

12. Adjournment:

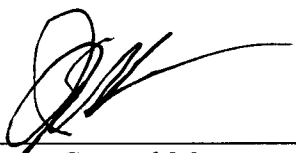
The meeting was adjourned at 8:47 p.m.

APPROVED:



William Y. Lee, President

ATTEST:



Jim Heitzman, General Manager