

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-F

Meeting Date: May 10, 2011

Submitted By: Paula Riso
Reviewed By: Carl Niizawa

Presented By: Paula Riso

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of April 4, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of April 4, 2011.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: _____Yes X No

Funding Source/Recap: None.

Material Included for Information/Consideration: Draft minutes of April 4, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the April 4, 2011 special Board meeting.

Action Required: _____Resolution X Motion _____Review

Board Action

_____Resolution No_____ Motion By_____ Seconded By_____

Ayes_____ Abstained_____

Noes_____ Absent_____

Reagendized_____ Date_____ No Action Taken_____

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Special Board Meeting
April 4, 2011
5:30 p.m.

Draft Minutes

1. Call to Order:

President Lee called the meeting to order at 5:00 p.m. on April 4, 2011.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None.

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel – arrived at 5:11 p.m.
Carl Niizawa, Deputy General Manager/District Engineer
Kelly Cadiente, Director of Administrative Services
Suresh Prasad, Director of Finance
Jean Premutati, Management Services Administrator
Richard Youngblood, Conservation Coordinator
Thomas Barkhurst, Water Quality Chemist
James Derbin, Interim Operations and Maintenance Superintendent
Brian True, Capital Projects Manager
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

None.

3. Pledge of Allegiance:

President Lee asked Mr. Brian True, Capital Projects Manager, to lead everyone present in the pledge of allegiance.

4. Oral Communications:

None.

5. Action Items:

- E. Consider Adoption of Resolution No. 2011-24 to Approve a Financial Advisory Services Agreement with Piper Jaffray:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item.

Vice President Burns questioned the amount listed in the agreement for \$415 million. Ms. Cadiente answered that it is a joint contract and the \$415 million is the total for the entire project that includes the Monterey County Water Resource Agency's bonds.

Director Shriner stated that the Piper Jaffray estimate is in a letter dated December 13, 2010 to Mr. Don Evans and lists an estimated schedule with eight weeks of work. She asked if the work had been started or if it will begin after the approval of the agreement. Ms. Cadiente answered that the work would begin if the agreement is approved.

Director Nishi asked what happens if the consultant begins work before the agreement is approved. Mr. Jim Heitzman, General Manager, answered that if the consultant begins work without an approved agreement, they run the risk of the agreement not being approved and not getting paid for the work performed. Director Nishi commented that he just wanted the Board to understand how it works.

Director Shriner asked if that included the work Don Evans is doing. Ms. Cadiente answered that Mr. Evans doesn't work for Piper Jaffray. Director Nishi stated that Mr. Evans works for the District.

Director Gustafson made a motion to adopt Resolution No. 2011-24 approving a Financial Advisory Services Agreement with Piper Jaffray. Director Shriner seconded the motion. The motion was passed.

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

F. Review District Responses to the 2010 Monterey County Grand Jury Final Report and Provide Direction to the General Manager:

Director Shriner asked if it was possible to submit a minority opinion. Mr. Heitzman answered that the Board works as a whole and per the Board Procedures Manual, the Board votes as a whole and all members will support whatever the decision is.

Director Shriner, referring to page 24, Finding F8.4., commented that if the District is so confident in its project, how does letting the Monterey Peninsula Water Management District (MPWMD) have a vote, one vote, on the Advisory Committee make a difference, and how would it impact the District. Mr. Heitzman commented that he sent Director Shriner a link to the Urban Futures Inc. document which explains why no one else can have a vote on the Advisory Committee. Director Shriner stated that she hadn't read the document yet. Mr. Heitzman stated that the MPWMD has a voice through the California American Water Company (CalAm) who does have a vote on the Advisory Committee. He added that the Water Purchase Agreement has been signed and cannot be changed without violating the agreement and making financing improbable.

Director Nishi asked why the MPWMD should be on the Advisory Committee and allowed to vote. Director Shriner answered that the Grand Jury Report suggested it, and, because everyone needs to learn to work together and denying rights and having difficult communication does not help anyone. Director Nishi agreed that everyone has to work together and it needs to start with the District Board working together as a team.

Mr. Lloyd Lowrey, Legal Counsel, arrived at 5:11 p.m.

Director Nishi commented that the MPWMD spent \$500,000 fighting the Regional Desal Project and is still pursuing their own project, so what would be the reason to have them on the Advisory Committee. Director Nishi noted that just because the Grand Jury puts out a report doesn't mean that it is factual. He pointed out that on page 23 under TRANSPARENCY, the report says that "Once the proposed plan is approved by the CPUC and ALJ, the public agencies MCWD, MCWRA, and MRWPCA will conduct their meetings in accordance with California's open meeting law, the Brown Act." Director Nishi asked why the MRWPCA was included, and if they are to be included, why not include the Monterey Regional Waste Management District (MRWMD). This agreement is between the MCWD, CalAm and MCWRA. Director Nishi said that by adding the MRWPCA, it is putting them into a higher area than what they are. If someone outside the area were asked to read the report, they wouldn't realize that it is not what reality on the Peninsula is. Director Nishi added that page 28 lists the required responses for each agency, and MRWPCA has many of the same required responses as the MCWD and MCWRA which puts them in the same status as MCWD and MCWRA, and it is setting a bad precedent.

Agenda Item 5-B (continued):

Director Nishi commented that on page 24, Finding F.8.4., has the words “considerable water expertise”, and he disagrees that the MPWMD has water expertise, with the exception of river restoration and fish habitat. Director Shriner commented that she believes the MPWMD expertise extends beyond the river.

Director Shriner noted that on page 25, Finding F.8.7. reads, “There are many areas of concern in the technical aspects of this large-scale desalination plant.” Director Shriner asked if the areas of concern are non-existent because a design has not been completed yet. Mr. Heitzman answered that there are no areas of concern because the District is using proven technologies and will be selecting a design team that will not use technology that is suspect. Director Shriner asked how the District could reassure the people that have concerns in the technical aspects of this large-scale desalination project.

Director Burns commented that there are many inconsistencies in the report and that the average person who is on the Grand Jury doesn’t know the difference between recycled water, water, and river water which is why the lines get blurred a lot. He opined that if anyone has a question about what the findings mean, they should call the Grand Jury up and ask them instead of speculating on what it says and what they think it means. Director Burns said that he believes the Grand Jury tries the best they can to come up with something to put it together, but they blur the lines between who does what and how it is done. Director Burns commented that Mr. Heitzman is suggesting that when the design is put together, there are only a few designs that actually work and you look at the latest proven technology and go on from there.

Director Shriner commented that if the District is going to do something that people are anxious or uncertain about, it is never a good idea to be hostile or condescending. If they have anxiety, it will only exacerbate the situation. Director Shriner suggested using positive comments to reassure the public instead of just saying the District disagrees.

Director Nishi agreed with Director Shriner and said that the District has done that. He added that people take things, twist them around and make negative comments about what the District is doing without looking at the facts. Director Nishi stated that the District needs to put the facts out there the best it can.

Vice President Burns suggested taking out the word “disagrees” so that F8.7. reads, “The Project intends to use proven technologies.” Director Shriner agreed with Vice President Burns and said that the District should also explain that the methods it will use will be the best.

Director Nishi pointed out that page 29 explains how to respond to the Grand Jury Report. Mr. Lowrey confirmed that the General Manager made the required responses per instructions on page 29. Exacerbate

Agenda Item 5-B (continued):

Director Shriner asked Mr. Lowrey if it was acceptable to provide a minority opinion. Mr. Lowrey answered that what is being requested from the Grand Jury is the District's response. The District acts through the District Board which acts as a body and not individuals. Mr. Lowrey opined that the District Board should act with one voice, whatever the voice may be.

President Lee commented that input is best presented to the entire Board so everyone can hear what is being said.

Director Shriner said that she had several recommendations to the responses provided by the General Manager. On page 24, F8.3. and F8.4., the General Manager had responded, "MCWD partially agrees. MPWMD could continue its role and relationship with CalAm. Disagree that while MPWMD brings considerable expertise in some aspects of water, it does not bring extensive expertise in developing, permitting, financing, designing, constructing, operating, maintaining or reporting on water supplies and or delivery systems." Director Shriner said that neither the District, nor anyone else locally, brings expertise. This is an unprecedented project for Monterey County and unless the District wants people to realize that they do have some previous experience when they built a multi-million dollar desal plant expected to produce 300 afy which then became too expensive to continue to operate. Mr. Heitzman said that he had reviewed Director Shriner's comment when she sent it to him and he disagreed with it. He stated that the District has over fifty years of operating a water supply system, reporting on it, designing it, maintaining it, and constructing it. Mr. Heitzman said that he did not understand why Director Shriner didn't think the District had any experience, because that is the District's core duty for the last fifty years. Director Shriner said that she didn't say the District didn't have any experience, she was saying that unless the District wants people to realize that they do have some previous experience with building a multi-million dollar desal plant expected to produce 300 afy that became too expensive to continue to operate. Mr. Heitzman answered that the District did want people to know about the desal plant, and they do know about it. There are many tours the District gives to those interested in the desal plant. It did not become too expensive to operate, the District just didn't need the water. Mr. Heitzman concluded that the desal plant was built as a pilot plant and it has done its job very successfully. He did not understand why Director Shriner was so critical of the District's desal plant. Director Shriner said that if the plant had been operational these last years, environmental tests could have been done to see if there would have been any environmental impacts and would have been a fantastic prototype for the Regional Desal Project. Mr. Heitzman answered that the District did run the plant and did study the environmental impact.

Director Nishi commented that the reason the District went with a 300 acre-foot desal plant was because it was a pilot. The reason the District didn't continue running it was because the District has a more inexpensive water source. Director Nishi said that there was no reason to continue running the plant.

Agenda Item 5-B (continued):

Director Shriner said that the reason to keep running it was to see the environmental impact. Director Nishi commented that the City of Sand City recently built a desalination plant modeled after the District's plant. Sand City can pay for the expensive water and everyone will find out about the environmental impacts. Director Nishi commented that as a Board, they need to make available water that has the best value for the District's ratepayers.

Director Shriner said that another recommendation she had was on page 25, F.8.7. As discussed before, Director Shriner questioned the fact that the District has no concerns over the technical aspects of the Regional Desalination Project. If the District had no concerns and disagreed completely with the finding, Director Shriner would be a minority voice. Director Shriner commented that if there is no concern on the part of the District, then everyone who has requested voting participation on the Advisory Committee should be included without resistance. Director Nishi commented that they are back to the original discussion and the fact that there are inaccuracies in the report. He believes that the Grand Jury knows there are inaccuracies which is why they are asking for responses. Director Nishi stated that the "many areas of concern" are in the eyes of the author of the report. The District intends to use proven technologies, and if they were using an unproven technology, Director Nishi would have a concern as well. But that is not the case.

Continuing on, Director Shriner referred to page 26, R.8.2. where, although she understands the Water Purchase Agreement is binding so that no more Advisors are allowed to vote, she thinks it is unfortunate. Director Shriner disagreed with the concept that the District did not want to allow anyone else to vote or any other organization would want to disallow anyone else to vote.

Recommendation R.8.4. suggests the four agencies continue working to come to some agreement with the MPWMD. Director Shriner believes that the MPWMD refused taking a seat because they couldn't get a vote. She commented that due to the high degree of confidence the District and the Monterey County Board of Supervisors have in the project, they should revisit the offer and include voting for all representatives of the Advisory Committee. Director Shriner asked Legal Counsel if it was correct that to include voting for all representatives would mean redoing the Water Purchase Agreement. Mr. Lowrey stated that if the District wanted to change the voting requirements of the Advisory Committee, it would require an amendment of the Water Purchase Agreement and perhaps the Settlement Agreement that adopted it. It could also require some revisiting of the issue by the Public Utilities Commission. Director Gustafson commented that it would take a million dollars to do. Mr. Heitzman said it would take millions of dollars. Mr. Lowrey opined that it would be a complicated process. Director Shriner suggested including that reasoning in the response so people know why, and not that the District just disagrees because of what happened in the past.

Agenda Item 5-B (continued):

Director Shriner reiterated that it would be good to soften the tone and to educate people rather than being adversaries.

Director Nishi suggested that in addition to the comments made by the General Manager, on F8.5., R8.2., R8.4., and R8.5., the District should put in that the MRWPCA should be deleted. Director Nishi said that the MRWPCA was asked to respond to these four items. For instance, R8.4., is another prime example that the members of the Grand Jury do not understand that the MRWPCA does not have the ability to enforce that everyone continue to work to come to some form of agreement. Director Nishi said that the Grand Jury made some bad assumptions and there is one Director that took that and interpreted it the same way. His concern is that the District has the responsibility to produce a Grand Jury response that is accurate. Director Nishi said if the District doesn't put it in there, it is saying that it is true. Director Shriner asked if the District could ask that the MRWPCA be taken out and put the information Mr. Lowrey gave about the Water Purchase Agreement be put in. Director Nishi disagreed. Regarding R8.4., Director Nishi would like to add language provided by the General Manager or Legal Counsel so it is only MCWD, MCWRA and CalAm.

Director Gustafson made a motion to add the language to R8.4. as requested by Director Nishi to remove the MRWPCA and an explanation in accordance. Vice President Burns asked for clarification of the motion. Director Nishi said that he is requesting to add a sentence at the end of the District's response to say that MCWD, MCWRA and CalAm are the only ones that can make that decision. The motion died for lack of a second.

Director Shriner made a motion to speak to the question about the voting and put more information about how difficult and expensive it would be at this point to change the voting structure. Mr. Heitzman suggested putting in that according to Urban Futures Inc. it would make the project unbondable. Director Shriner suggested the portion that Legal Counsel mentioned about the Water Purchase Agreement and the Settlement Agreement. Mr. Lowrey said that he would want to review the Settlement Agreement to make sure that the language was correct. President Lee asked Director Shriner to clarify her motion. Director Shriner stated that her motion was to include Legal Counsel's explanation in regards to the voting membership of the Advisory Committee and what the Grand Jury was saying about putting the MPWMD back in, and to include language about how expensive it would be now that the Water Purchase Agreement has already occurred. Vice President Burns seconded the motion. Mr. Heitzman said that it would be hard to estimate how expensive it would be. It is clear in the Water Purchase Agreement that it is a done deal. Mr. Heitzman added that it is also clear that you cannot bond the project if anyone sits on the Advisory Committee with a yes or no vote that does not have financial responsibility to the project. Mr. Heitzman said that in the District's experience it could cost millions of dollars and it indicates that the Peninsula's 2016 Cease and Desist Order will not be met.

Agenda Item 5-B (continued):

The motion by Director Shriner failed.

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

Director Nishi made a motion to send the response in with the General Manager's recommendation and on R8.4. after the second sentence, adding a sentence that deletes MRWPCA. Director Gustafson seconded the motion. Mr. Heitzman suggested the language say that the MRWCPA is not on the Advisory Committee so they have no role in making that decision. Director Nishi agreed with Mr. Heitzman's suggestion. Director Shriner asked for clarification that a sentence would be added to the end of the response saying that the MRWPCA is not a part of the Advisory Committee. Mr. Heitzman said the sentence would read something similar to what she said. The motion was passed.

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

6. Budget Workshop:

B. Receive Revised District Draft FY 2011-2012 Budgets, Rates, Fees, and Charges for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final Budget Documents:

Ms. Cadiente introduced this item and reviewed the reductions staff made to the budget per the recommendations the Board of Directors made at the March 29, 2011 meeting. One recommendation was to lower the proposed rate increase with budget cuts. Another recommendation was to freeze the Ord Community rates, but it was not fiscally prudent or responsible to do so due to the expenses the Ord Community cost center accrues. Ms. Cadiente noted another recommendation was to not fund the reserves. Staff recommends against eliminating that funding because there are several Capital Projects slated for this year and over the next few years. This will reduce the need to borrow and pay interest costs. Ms. Cadiente went over the cuts that staff made to the budget to help reduce the proposed rate increase to 4.9%.

Director Shriner thanked staff for putting the changes together so quickly. Director Shriner noted that she only has a couple chances during the day to check her email and asked that if emails are sent to her the day of the Board meeting, to please place hard copies of the email on the dais.

Agenda Item 6-B (continued):

Director Shriner has several questions on page 9 of the budget. She wanted to know where the "Reclaimed Water Sales" was moved to. Ms. Cadiente said that they were moved to "Water Sales" and were included in the \$3.7 million figure. Director Shriner noted that the total revenues were \$12.4 million and the total expenses were \$10.1 million. Ms. Cadiente explained that the revenues had to cover other costs as well as expenses. Those costs included bond payments, CalPERS payments, and funding the Capital Replacement Reserves.

Vice President Burns thanked staff for sending him the information on what was included in the water meter charge. He also thanked staff for working hard to lower the proposed rate increase to 4.9%. Vice President Burns commented that recently there have been customers complaining about a \$100 meter charge and asked for clarification on the 1" meter charge. Director Nishi answered that customers with fire protection in their house are required to have two meters, a 1" for the fire protection, and a 3/4" meter for the home. The charge for the two meters is approximately \$100. Vice President Burns questioned the RUWAP Laterals in the Capital Improvement Project. Mr. Heitzman said that the laterals are for future recycled water users and they will be funded by the ratepayers when they are put in. Vice President Burns asked what the proposed rate increase would be for the Ord Community. Ms. Cadiente answered that it was also 4.9%.

President Lee questioned how the power costs were reduced for Well 29. Mr. James Derbin, Interim Operations and Maintenance Superintendent, answered that it was in anticipation of new more efficient Well 34 coming online and reducing the pumping requirements on Well 29.

Director Shriner asked if the Board of Directors votes on a lower rate increase, would a press release be sent explaining how a higher rate increase was considered, but the District, out of consideration for the economic climate, worked hard to reduce costs. Mr. Heitzman answered that a press release could be sent as well as noting it in the Prop. 218 notice. He added that it could also be included in the quarterly newsletter.

Director Nishi said that the Board won't take action at this meeting, but will take action after the Fort Ord Reuse Authority (FORA) meeting in June. Mr. Heitzman answered that the Board will take action with FORA for the Ord Community in a joint meeting and will take action for Central Marina in a subsequent meeting. He noted that this was a 2-year Prop. 218 process and the Board will be asked to take action on the second year. Director Nishi said that it is a bit premature to send a press release when it won't be voted on until June 14th. President Lee answered that it is a good idea but it will be tabled for now.

Director Nishi commented that it was a fantastic job going from 7.8% to 4.9%, but cautioned that just when you think you are there, someone thinks of something else. He noted that the 2.9% reduction is equivalent to approximately \$120,000 and asked if staff could cut another \$200,000.

Agenda Item 6-B (continued):

Director Nishi suggested cutting funds for other open positions as an option. Mr. Heitzman answered that it would be difficult, but perhaps during the Strategic Planning session, the Board could discuss other ideas for cost cutting. Director Nishi thanked staff again and said that the Board appreciates staff's hard work reducing the proposed budget.

Ms. Cadiente reviewed the next steps in the budget schedule.

7. Director's Comments:

Director Nishi commented that the Board is working more as a team. It is a benefit to the ratepayers and he hopes it will continue.

Vice President Burns thanked Ms. Premutati and Ms. Cadiente for the information they sent him. He thanked Ms. Riso for staying late to get this work done.

Director Shriner thanked staff for the quick turnaround as this meeting was scheduled so quickly. She also was grateful for the public discussion on the Grand Jury Report. Director Shriner commented that April 4th was a huge day for unions to hold rallies and to commemorate Dr. Martin Luther King, Jr.

President Lee asked if Board members could print out emails from the General Manager that may explain a question they asked and disseminate them to the other Board members at a meeting. Mr. Lowrey answered it was allowed and that the documents would become public documents. Mr. Heitzman answered that if he is asked a question via email from a Board member, and the email doesn't contain personal opinions, he will reply and copy all Board members for their information.

8. Adjournment:

The meeting was adjourned at 6:29 p.m.

APPROVED:

William Y. Lee, President

ATTEST:

Jim Heitzman, General Manager