

Marina Coast Water District

District Office
11 Reservation Road
Marina, California

Regular Board Meeting
December 13, 2011
6:45 p.m.

Minutes

1. Call to Order:

President Lee called the meeting to order at 6:45 p.m. on December 13, 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
Brian True, Capital Projects Manager
Patrick Breen, Capital Projects Manager
Sean Knight, Assistant Engineer
James Derbin, Interim Operations and Maintenance Superintendent
Joe Correa, Interim Assistant Operations and Maintenance Superintendent
Dale North, Systems Operator III
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Brian McCarthy, Marina Resident
Richard Newhouse, Marina Resident
Bob Holden, MRWPCA
Andy Sterbenz, Schaaf & Wheeler
Evelina Adlawan

Heidi North
Richard and Gail Youngblood
George Riley
Suresh Prasad

3. Election of Board President and Vice President:

President Lee commented that he appreciated the support he received during 2011 but due to job constraints, he asked that his name be removed from the potential election.

Director Shriner made a motion to nominate Director Burns as President. Director Nishi seconded the motion. The motion was passed.

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

Director Nishi made a motion to nominate Director Gustafson as Vice President. Director Lee seconded the motion. The motion was passed.

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

The Board entered into closed session at 6:49 p.m., after announcement per Government Code Section 54957.7(a) by Mr. Lloyd Lowrey, Legal Counsel.

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 Section 54956.95

Liability Claims

Claimant: Ausonio Incorporated

Agency Claimed Against: Marina Coast Water District

C. Pursuant to Government Code Section 54956.9

Conference with Legal Counsel – Anticipated Litigation

Significant Exposure to Litigation Pursuant to Subdivision (b)

One Case

A letter dated June 21, 2011, from the Monterey County Board of Supervisors transmitted a "Summary of Preliminary Findings Regarding Director Stephen Collins' Business Relationship With RMC Water and Environment and Marina Coast Water District." The Summary, prepared by Remcho, Johansen & Purcell, LLP, states that certain conduct raises questions about the validity of contracts to which Marina Coast Water District is a party. Based on the statements in the Remcho Summary, and based on reports in the news media, a point has been reached where, in the opinion of the MCWD Board based on the advice of its legal counsel, there is a significant exposure to litigation against MCWD.

- D. Pursuant to Government Code Section 54959.9
Conference with Legal Counsel – Anticipated Litigation
Potential Initiation of Litigation (c)
One Case
- E. Pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: District Counsel

President Burns reconvened the meeting to open session at 7:17 p.m.

5. Possible Action on Closed Session Items:

Mr. Lowrey reported the following:

- 4-A – the Board of Directors conferred with Legal Counsel, no action was taken.
- 4-B – no action was taken.
- 4-C – the Board of Directors conferred with Legal Counsel, no action was taken.
- 4-D – the Board of Directors conferred with Legal Counsel, no action was taken.
- 4-E – this item was deferred until later in the meeting.

6. Pledge of Allegiance

President Burns led everyone present in the pledge of allegiance.

7. Oral Communications:

No comments were made.

8. Presentations:

- A. Consider Adoption of Resolution No. 2011-84 in Recognition and Appreciation of Richard Youngblood, Conservation Coordinator, Upon His Retirement from the Marina Coast Water District:

Director Nishi made a motion to adopt Resolution No. 2011-84 recognizing Richard Youngblood, Conservation Coordinator, upon his retirement from the Marina Coast Water District. Vice President Gustafson seconded the motion. The motion was passed.

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

Mr. Jim Heitzman, General Manager, read the narration and presented Mr. Youngblood with his plaque. Mr. Youngblood voiced his appreciation and thanks to the Board, and past and present employees.

- B. Consider Adoption of Resolution No. 2011-85 in Recognition of Dale North, System Operator III, for 20 Years of Service to the Marina Coast Water District:

Director Nishi made a motion to adopt Resolution No. 2011-85 recognizing Dale North, System Operator III, for 20 years of service to the Marina Coast Water District. Vice President Gustafson seconded the motion. The motion was passed.

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

Mr. Heitzman read the narration and presented Mr. North with a plaque and gift certificate.

President Burns recessed the meeting from 7:28 until 7:35 p.m. so everyone could enjoy a congratulatory slice of cake.

Director Gustafson left the meeting at 7:30 p.m. due to illness.

9. Consent Calendar:

Director Shriner requested to pull items B, E, and F from the Consent Calendar. Director Nishi requested to pull item A from the Consent Calendar.

Agenda Item 9 (continued):

Director Shriner made a motion approve Consent Calendar consisting of items:

- C. Adopt Resolution No. 2011-88 to Approve a Memorandum of Understanding between Monterey Regional Water Pollution Control Agency and Marina Coast Water District for Conducting a Public Education Program for the Southern Monterey Bay Dischargers Group
- D. Approve the Proposed Regular Board Meeting Dates for 2012
- G. Approve the Draft Minutes of the Regular Board Meeting of November 8, 2011
- H. Approve the Draft Minutes of the Special Board Meeting of November 19, 2011

Director Lee seconded the motion. The motion was passed.

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

- A. Adopt Resolution No. 2011-86 to Approve the District Surplus Property Policy:

Director Nishi asked that Section II contain the same language as Section IIIC regarding advertising the sale of these properties to the general public. He also asked what differences were in the handout that was on the dais at the start of the meeting. Ms. Kelly Cadiente, Director of Administrative Services, commented that the handout added language to prohibit directors and consultants, along with the District employees, from purchasing or acquiring surplus District property.

Director Nishi made a motion to adopt Resolution No. 2011-86 to approve the District Surplus Property Policy with the noted corrections. Director Lee seconded the motion. Director Shriner inquired who the Risk Manager was. Ms. Cadiente noted that the District's Management Services Administrator, Ms. Jean Premutati, was the Risk Manager as it fell under her duties. The motion was passed.

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

- B. Adopt Resolution No. 2011-87 to Approve the Early Pay-Off of Rabobank Loan #870001432:

Director Shriner asked which reserve fund would be used to pay off this loan. Ms. Cadiente answered that the loan would be paid from the general operating reserve accounts for each cost center; Marina Water, Marina Sewer, Ord Water, and Ord Sewer.

Agenda Item 9-B (continued):

Director Shriner made a motion to adopt Resolution No. 2011-87 approving the early pay-off of Rabobank Loan #870001432. Director Lee seconded the motion. The motion was passed.

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

E. Approve the Expenditures for the Month of November 2011:

Director Shriner commented that in reviewing the past budget, the budget for RMC was \$704,000 and noted that last month the District paid \$780,000 with another \$80,000 payment to RMC this month. She asked to find out about work product and how much over cost the District is at this point. Mr. Carl Niizawa, Deputy General Manager/District Engineer, commented that the work product was provided in the Regional Project update at the last Board meeting. He added that RMC is currently under budget and the reports and billing are being provided bi-monthly as work has slowed on the project. Mr. Heitzman commented that the District is not allowed to spend more than was approved by the Board and there may have been amendments to the contract. He said that staff would look into the budget for RMC. Director Shriner asked if the billing and reports would be provided on a bi-monthly basis instead of monthly. Ms. Cadiente stated that due to the slow-down of activity, they would be billing and reporting bi-monthly with November and December's activities coming out in early January.

President Burns suggested providing the RMC invoice with the check register so Directors could see what work product the District was paying for. Director Nishi stated that it would be easier for the Directors to contact staff with their questions prior to the Board meeting so staff could provide the information at the meeting, or, the Director could meet with staff to review the information. President Burns suggested Mr. Niizawa phone Directors prior to the meeting and answer any clarifying questions they may have.

Mr. Niizawa commented that next month's packet would have the latest update for the Regional Project.

Director Shriner made a motion to approve the Expenditures for the Month of November 2011. Director Lee seconded the motion. The motion was passed.

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

F. Approve the Draft Minutes of the Regular Board Meeting of October 11, 2011

Director Shriner stated that she wasn't sure why one public member's comments needed to be singled out and questioned the cost to the District to do this kind of transcription. She asked what Director Nishi was trying to accomplish there. Director Nishi said that he had addressed that when it was asked before and noted that on page 48 of the packet, second paragraph from the bottom, states "Director Nishi commented that he feels an obligation to set the record straight when someone makes a false accusation. Director Shriner disagreed."

Director Shriner noted that during that meeting she said there were other ways of dealing with false statements such as the General Manager or Legal Counsel handling them. President Burns said the he agrees that if a comment is made that is incorrect, someone such as the President, General Manager or Legal Counsel, who has knowledge of what is correct, should say something.

Director Nishi made a motion to approve the draft minutes of October 11, 2011. Director Lee seconded the motion. Director Shriner commented that what someone thought they thought was wrong was not actually wrong. President Burns stated that he would not allow any more comment on this item. The motion was passed.

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

10. Action Items:

A. Consider Directing Staff to Draft a Request for Proposals for District Legal Services:

Vice President Burns stated that this item was tabled which in turn affects item 4-E.

B. Consider Adoption of Resolution No. 2011-89 to Approve a Professional Services Agreement to Provide Information Technology Support Services to the District:

Ms. Cadiente introduced this item explaining the proposals received and the matrix ranking those proposals. Director Shriner voiced her appreciation of the matrix with the criteria and table included. She asked what the difference was between the top two proposals. Ms. Cadiente explained that TFD is currently working for the District on an interim basis and their proposal has a retainer that includes 25 hours of projected monthly maintenance. She added that MBT's proposal has a retainer that includes 60 hours of projected monthly maintenance, but it could be adjusted to any number of hours needed. Ms. Cadiente commented that MBT comes highly recommended and provides service to the Pebble Beach Community Services District and the Monterey Peninsula Unified Air Pollution Control Board.

Agenda Item 10-B (continued):

Director Nishi asked what the Budget and Personnel Committee recommended. Ms. Cadiente answered that Budget and Personnel Committee recommended that staff follow up with MBT and TFD to clarify the proposed maintenance hours and after clarification, it was determined that MBT was the most cost efficient.

Director Nishi made a motion to approve a Professional Services Agreement with MBT to provide Information Technology Support Services to the District. Director Lee seconded the motion. The motion was passed.

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

C. Consider Adoption of Resolution No. 2011-90 to Authorize a Professional Services Agreement with The EDCCO Group, Inc. to Provide SCADA Integration and Support Services Relating to the Eastern Distribution System:

Mr. Niizawa introduced this item explaining that the SCADA system is an integral part of running the Districts systems. Director Shriner asked if a Request for Proposals was sent out. Mr. Niizawa answered that they were selected by their qualifications as an engineering group and for the work they have done on the SCADA system already. Director Lee asked if The EDCCO Group has the capability to work remotely. Mr. Niizawa answered that they did. President Burns asked if there was a problem with sole-sourcing this project. Mr. Lowrey answered that there shouldn't be sole-sourcing but it depended on the circumstances. Mr. Niizawa stated that the District couldn't wait for bids as they are on the cutting edge for meeting the Grant deadline for the two projects. Mr. Lowrey stated that this was for services and it is not subject to the requirements of the contracting code as public works is.

Director Nishi questioned the percentage split between the Well 34 and Watkins Gate projects and asked for the information to be provided to the Directors.

Director Nishi made a motion to adopt Resolution No. 2011-90 authorizing a Professional Services Agreement with The EDCCO Group, Inc. to provide SCADA Integration and Support Services relating to the Eastern Distribution System. Director Lee seconded the motion. The motion was passed.

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

D. Consider Adoption of Resolution No. 2011-91 to Approve a Professional Services Agreement with Tramutola, LLC. For Public Outreach Services:

Mr. Niizawa introduced this item. Director Shriner stated that she would like to see the proposals as the Information Technology item did. Mr. Niizawa answered that the Budget and Personnel Committee requested that the proposals for Information and Technology be brought to the Board for consideration, while the Outreach Ad Hoc Committee recommended selection of Tramutola.

Director Nishi made a motion to adopt Resolution No. 2011-91 approving a Professional Services Agreement with Tramutola, LLC. for Public Outreach Services. Director Lee seconded the motion. The motion was passed.

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

E. Consider Adoption of Resolution No. 2011-92 to Approve a Memorandum of Understanding between the Monterey Peninsula Water Management District, the Marina Coast Water District, the City of Seaside, and the Seaside Basin Watermaster Regarding Water Used for Irrigation of Golf Courses:

Mr. Heitzman introduced this item explaining that this MOU would complete the water loan that the Board approved several years ago. He added that staff was very innovative in coming up with a plan to allow the Monterey Peninsula Water Management District and the City of Seaside to avoid having to pay for the water at the 5th tier of the California American Water rates. Director Shriner asked for clarification on which basin the water was provided from. Mr. Heitzman answered that it was the Salinas Basin. Director Lee asked for further clarification. Mr. Heitzman answered that the District already serves the Bayonet and Blackhorse Golf Courses drinking water as they are part of the Ord Community; however, the golf courses have wells in the Seaside Basin for their landscaping use. He explained that the two basins overlap right at that area. Director Lee asked if legal counsel was okay with the agreement. Mr. Lowrey answered that he approved of the agreement and the creative way staffs were able to work together to solve an issue to the benefit of everyone.

Director Lee made a motion to adoption Resolution No. 2011-92 to approve a Memorandum of Understanding between the Monterey Peninsula Water Management District, the Marina Coast Water District, the City of Seaside, and the Seaside Basin Watermaster Regarding Water Used for Irrigation of Golf Courses. President Burns seconded the motion. The motion was passed.

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

F. Consider Adoption of Resolution No. 2011-93 to Approve a Professional Services Agreement for Wastewater Engineering Services with Wood Rodgers, Inc. for the Reservation Road Siphon Remediation Project:

Mr. Sean Knight, Assistant Engineer, introduced this item.

Director Lee made a motion to adoption Resolution No. 2011-93 to approve a Professional Services Agreement for Wastewater Engineering Services with Wood Rodgers, Inc. for the Reservation Road Siphon Remediation Project. Director Shriner seconded the motion. The motion was passed.

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

G. Consider Providing Direction Regarding the Monthly Water Meter Rate Charge for Upsized Meters with Fire Protection Sprinkler Systems:

Mr. Niizawa introduced this item explaining that to make any rate change would require going through a Prop. 218 process and stated that staff was looking for direction from the Board of Directors.

Mr. Brian McCarthy, Marina resident, congratulated President Burns on his election and encouraged the Board to work quickly and methodically to resolve the issue of lowering rates for fire protection sprinkler systems.

Director Shriner voiced her concern over rushing through a rate change process and suggested looking at rate changes during the next scheduled rate study, and then reimbursing the customers retroactively to the time it was brought to the District's attention.

Director Nishi asked Mr. Lowrey to explain what process the District would need to follow if any. Mr. Lowrey explained that if the District were to increase or change rates or a rate structure, it would best be completed in a rate study and followed by a Prop. 218 process. Director Nishi explained to Mr. McCarthy that the District must follow the rules for rates, and although it may be a slow process, the District is heading in the right direction.

Director Nishi suggested giving direction for the District to do a rate study and have the Budget and Personnel Committee start discussing a rate study; the issue with fire sprinklers; and the rationale of why the District is not charging for the commercial/industrial fire protection.

President Burns asked if a Prop. 218 process had to go along with an election. Mr. Heitzman answered that it could be done anytime as it was sent through the mail. Mr. Lowrey added that the only constraints with Prop. 218. were time constraints.

Agenda item 10-G (continued):

Mr. Lowrey commented that it would be prudent to have a rate study to make sure that the benefits are commensurate with the rates that are being charged.

President Burns asked when the next rate study would happen and how long would it take to complete. Mr. Heitzman answered that the next rate study wouldn't be until the next spring and would take several months. President Burns asked if retroactive reimbursement would be possible. Mr. Lowrey said that it would have to be looked at in the rate study.

The Board gave direction to tie the fire sprinkler protection charges into the next scheduled rate study and to have Budget and Personnel look into the fire sprinkler issue.

11. Informational Items:

A. General Manager's Report:

Mr. Heitzman wished everyone a happy holiday season. He added that staff was working on reorganization and a report would be going to the next Budget and Personnel Committee and it may be tied to a salary survey. Mr. Heitzman noted that FORA, who has a very professional, hardworking staff, was taking a salary survey to their next Board meeting. Mr. Heitzman stated that the District employees have informally asked to open the MOU negotiations earlier this year which benefits the District in performing a more accurate budget for 2011/2012.

B. District Engineer's Report:

No report.

C. Counsel's Report:

No report.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

The meeting was boiler-plate.

2. Joint City-District Committee:

Director Nishi commented that the minutes are included in the packet.

3. Budget and Personnel Committee:

Director Nishi commented that the minutes are included in the packet.

4. Executive Committee:

Director Nishi commented that the minutes are included in the packet.

5. Community Outreach:

Director Nishi stated that the update would be given by Vice-President Gustafson, but he left early due to illness.

6. MRWPCA Board Member:

Director Nishi commented that at the last meeting, there was a recommendation that the MRWPCA Board consider formulating a JPA with other alternatives to provide governance on Monterey Peninsula water projects; to determine if the MRWPCA could oversee the construction of the Regional Desalination Plant; and consider financing for the water projects to be done through a public funding mechanism subject to Prop. 218. He said that there was also a recommendation for the MRWPCA Chair to appoint an Ad Hoc Committee to include two members of the Recycled Water Committee to work with the mayor's group in developing an alternative governance option. Director Nishi added that there was also an action item to endorse the approach and timetable that MRWPCA staff and legal counsel propose for preparation of the water supply governance alternatives report recommended by the Recycled Water Committee. Director Nishi voiced his concern that this was inconsistent with the existing agreement and provisions allowed in the JPA and asked where the agreement provides funds to be expended to for what they are proposing. He suggested that maybe it should be on the next agenda for the District to send a letter stating these concerns.

7. FORA

Director Nishi said the meeting was scheduled for Friday and included a salary survey with an approximate 15% pay increase. He agreed that the FORA staff was very professional and hardworking.

8. LAFCO Liaison:

Director Nishi commented that they discussed the District's proposed annexation and that LAFCO staff had some concerns which the District will need to address.

9. JPIA Liaison:

Director Shriner commented that JPIA has a new CEO, and an announcement was sent out through ACWA that there were EPA grant funds available for urban water programs with webinars on December 14th and January 25th.

10. Special Districts Association Liaison

No comment.

11. CalDesal:

President Burns commented that they held their annual meeting at the ACWA Conference and they are still working with the SWRCB.

12. Regional Desalination Reports:

Mr. Heitzman stated they were still in mediation.

12. Director's Comments:

Director Shriner commented that she was wondering if the Board could get an update on what the Water Conservation Commission was discussing regarding their purpose and method of recruitment.

Director Nishi stated that he had commented the expenses were up and revenue was down and asked for a report explaining why that was. He voiced his concern on the fire sprinklers and how the City of Marina requires a 1" meter. Director Nishi said he is concerned on what size the lateral is between the meter and the lateral because if the lateral is 3/4", it won't help if they have a 1" meter. Director Nishi wished all the staff a happy holiday.

President Burns wished everyone a happy holiday as well.

13. Adjournment:


The meeting was adjourned at 8:44 p.m.

APPROVED:



Dan Burns, President

ATTEST:



Jim Heitzman, General Manager