

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
June 17, 2013
6:45 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:45 p.m. on June 17, 2013.

2. Roll Call:

Board Members Present:

Tom Moore – President
Jan Shriner – Vice President
Howard Gustafson
Bill Lee

Board Members Absent:

Peter Le

Staff Members Present:

Brian Lee, Deputy General Manager/District Engineer
James Derbin, Operations and Maintenance Superintendent
Jean Premutati, Management Services Administrator
Kelly Cadiente, Director of Administrative Services
Brian True, Capital Projects Manager
Sean Knight, Associate Engineer
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Andy Sterbenz, Schaaf & Wheeler
Kenneth Nishi, Marina Resident
Ben Smith, Marina Resident
Amelia Dow, Marina Resident
Mike McCullough, MRWPCA
Margaret Davis, Friends of the Fort Ord War Horse

3. Public Comment on Closed Session Items:

No comments.

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

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

4) State Water Resources Control Board's Proposed Revocation of Monterey County Water Resources Agency Water Right Permit 11043 authorizing the diversion of up to 168,538 acre-feet per year from the Salinas River

B. Pursuant to Government Code Section 54956.9 (c)

Conference with Legal Counsel – Anticipated Litigation
Potential Initiation of Litigation
One Case – MCWD Claims against Monterey County and MCWRA

C. Pursuant to Government Code Section 54956.9(b)(1) and 54956.9(b)(3)(C)

Conference with Legal Counsel – Anticipated Litigation
Potential Litigation
Two Cases

- 1) Claims of MCWRA and Monterey County against MCWD
- 2) Claims of California–American Water Company against MCWD

D. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator (General Manager, District Counsel)
Property: Water Rights
Negotiating Parties: Clark Colony Water Company and MCWD
Under Negotiations: Price and Terms

The Board ended closed session at 7:01 p.m.

President Moore reconvened the meeting to open session at 7:05 p.m.

5. Possible Action on Closed Session Items:

President Moore stated that no reportable actions were taken in closed session.

6. Pledge of Allegiance:

President Moore asked Director Gustafson to lead everyone present in the pledge of allegiance.

7. Oral Communications:

Mr. Ben Smith, Marina resident, commented that backflow devices are not being installed to plumbing codes and suggested working with the City of Marina and local contractors to make sure the requirements are the same with all entities.

Ms. Amelia Dow, Marina resident, commented that her bill was very high over the last several months although she is very conscious of conserving water. She asked for consideration on her bill.

Mr. Kenneth Nishi, Marina resident, commented that it wasn't appropriate for a Board member to write a guest commentary in the newspaper expressing their own personal opinion and not clarifying that it wasn't a Board policy. He added that if it was on behalf of the Board, he wanted to know when it was discussed.

8. Consent Calendar:

President Moore stated that staff requested to pull agenda items 8-A, 8-E, and 8-F from the Consent Calendar. Mr. Nishi requested to pull agenda items 8-D, 8-F, 8-G, 8-H, 8-I, and 8-J from the Consent Calendar.

Director Gustafson made a motion to approve the Consent Calendar consisting of the following items:

- B) Adopt Resolution No. 2013-34 to Extend the Current FY 2012-2013 District Budget;
- C) Adopt Resolution No. 2013-35 to Approve a Professional Services Agreement with Mr. Ron Allen to Provide Consultant Services for the Water Conservation Education Program;
- K) Receive the Draft Notes of the Adjourned Regular Board Meeting of June 10, 2013.

Vice President Shriner seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | Absent | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Yes | | | |

- A. Adopt Resolution No. 2013-32 to Approve a Quitclaim Deed of Potable Water Pipe and Easements to California State University at Monterey Bay:

President Moore noted that the description needed to be added to the survey.

Director Gustafson made a motion to adopt Resolution No. 2013-32 approving a Quitclaim Deed of potable water pipe and easements to California State University at Monterey Bay. Vice President Shriner seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | Yes | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

- D. Adopt Resolution No. 2013-36 to Authorize the Purchase of a Used Industrial Loader for Maintenance and Repair Work:

Mr. Brian Lee, Deputy General Manager/District Engineer, introduced this item. Mr. Nishi asked several clarifying questions.

Vice President Shriner made a motion to adopt Resolution No. 2013-36 authorizing the purchase of a used industrial loader for maintenance and repair work. Director Gustafson seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | No | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

- E. Adopt Resolution No. 2013-37 to Approve a Professional Services Agreement with Monterey Bay Technologies to Provide Information Technology Support Services to the District for FY 2013-2014:

Mr. Lee introduced this item.

Vice President Shriner made a motion to approve a Professional Services Agreement with Monterey Bay Technologies to provide Information Technology support services to the District for FY 2013-2014. Director Gustafson seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | No | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

- F. Adopt Resolution No. 2013-38 to Approve an Agreement with Springbrook Software for the District's Utility Billing and Financial Software Migration to Version 7:

Mr. Lee introduced this item. Mr. Nishi asked several clarifying questions.

Agenda Item 8-F (continued):

Vice President Shriner made a motion to approve an agreement with Springbrook Software for the District's Utility Billing and Financial Software Migration to Version 7. Director Gustafson seconded the motion. The motion was passed.

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|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | Yes | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

G. Adopt Resolution No. 2013-39 to Authorize Investment of District Monies and Update Signatures for the Local Agency Investment Fund:

Mr. Lee introduced this item. Mr. Nishi asked several clarifying questions.

Director Gustafson made a motion to authorize investment of District monies and update signatures for the Local Agency Investment Fund (LAIF). Vice President Shriner seconded the motion. Director Lee suggested amending the motion to include a Director as a signatory for LAIF.

Director Gustafson amended his motion to authorize investment of District monies and update signatures to include Director Bill Lee for the Local Agency Investment Fund (LAIF). Director Lee seconded the amended motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | Yes | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

H. Approve the Expenditures for the Month of May 2013:

Mr. Nishi asked several clarifying questions.

Director Gustafson made a motion to approve the expenditures for the month of May 2013. Vice President Shriner seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | Yes | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

I. Approve the Draft Minutes of the Regular Board Meeting of May 20, 2013:

Vice President Shriner made a motion to table the draft minutes until the next meeting as there was not a quorum present to approve the draft minutes. Director Gustafson seconded the motion. Mr. Nishi questioned if the minutes were action minutes.

Agenda Item 8-I (continued):

The motion to table the draft May 20, 2013 minutes until the next meeting was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | No | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

J. Approve the Draft Minutes of the Regular Board Meeting/Budget Workshop of June 3, 2013:

Director Gustafson made a motion to adopt the draft minutes of the regular Board meeting/Budget Workshop of June 3, 2013. Vice President Shriner seconded the motion. Mr. Nishi questioned if the minutes were actions minutes. The motion failed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----------|
| Director Lee | - | No | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Abstained |
| Director Le | - | Absent | | | |

The minutes will be returned to the next meeting for approval.

9. Action Items:

A. Consider Adoption of Resolution No. 2013-40 Approving an Updated Infrastructure Agreement Template:

Mr. Lee introduced this item. There were clarifying questions and comments on sewer capacity charges.

Director Gustafson made a motion to adopt Resolution No. 2013-40 approving an updated Infrastructure Agreement Template. Vice President Shriner seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | Yes | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

B. Consider the Notice of Preparation for the Monterey Regional Water Pollution Control Agency Monterey Peninsula Groundwater Replenishment Project Environmental Impact Report and Provide Direction to Staff:

Mr. Lee introduced this item. President Moore voiced his concerns. Mr. Nishi voiced his concerns.

C. Provide Direction Regarding the Veterinary Hospital Nomination to the National Register of Historic Places:

Mr. Lee introduced this item. There were clarifying questions.

Ms. Margaret Davis, Friends of the Fort Ord War Horse, commented on the nomination that they made to the National Register of Historic Places for building T3132, the veterinary staff barracks.

Director Gustafson made a motion to have staff send a letter of support regarding the nomination to the National Register of Historic Places. Vice President Shriner seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | No | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

D. Consider Appointing Brian Lee as Interim General Manager and Appointing a Labor Negotiator(s):

Mr. Lee introduced this item. Director Lee asked several clarifying questions. Mr. Masuda answered the questions.

Vice President Shriner made a motion to appoint Mr. Brian Lee as the Interim General Manager. Director Gustafson seconded the motion. Mr. Nishi voiced his concerns. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | No | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

Vice President Shriner made a motion to appoint President Moore as the Labor Negotiator. The motion died for lack of a second.

President Moore made a motion to appoint Director Gustafson as the Labor Negotiator. Director Gustafson seconded the motion. The motion was passed.

| | | | | | |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee | - | No | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes | President Moore | - | Yes |
| Director Le | - | Absent | | | |

10. Informational Items:

A. General Manager's Report:

Mr. Lee noted that the latest WWOC report is provided for information. He also stated that three years of evaluation forms were provided by FORA.

B. Counsel's Report:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner noted that Commissioner Tom Jennings resigned following his appointment to the MPUSD and there is now a vacancy on the Commission.

2. Joint City District Committee:

President Moore stated that there was discussion on a State of the Water presentation.

3. Executive Committee:

No meeting was held.

4. Community Outreach:

Vice President Shriner suggested they consider scheduling another meeting.

5. MRWPCA Board Member:

President Moore stated that the next meeting would be held on June 24th and he was unable to attend the June 10th budget workshop as it conflicted with a District Board meeting.

6. LAFCO Liaison:

No report.

7. FORA:

President Moore commented that the June 14th meeting was rescheduled for June 21st and they will be looking at the CIP.

8. WWOC:

No report.

9. JPIA Liaison:

Director Gustafson stated that it was boiler-plate.

10. Special Districts Association Liaison

Director Gustafson stated that the next meeting is July 16th.

11. CalDesal:

Mr. Lee commented that the annual assessment was received and he would be bringing the invoice to the next meeting for consideration.

11. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Lee stated that he felt this was the wrong time to discuss requests and that it should be done offline. He commented that he would like to see the District create a trust fund that people can make an endowment into that would be used to pay the water bills for needy people.

Vice President Shriner suggested that the District consider participation in the Community Labor Day Parade but wasn't sure if it needed to go to the Community Outreach Committee first. Vice President Shriner asked if there was a way to recommend that contractors and consultants who travel to the District stay in Marina. She also asked if a briefing on Closed Session matters should be held for all the Directors.

12. Director's Comments:

Director Gustafson thanked everyone for their support and thanked staff for their hard work.

Vice President Shriner noted that she was concerned with Directors missing meetings over the last several months. She also voiced her concern that possibly some Directors were not reading confidential emails and they needed to be careful as a District.

Director Lee stated that this is not a place to start mudslinging and that several Directors have been restrained from making comments in an effort to get along. He said that if a Director was absent then it was for a reason.

President Moore commented that he appreciated that both Directors Lee and Gustafson were present for this meeting and also thanked staff for their hard work.

The Board recessed from 9:04 to 9:17 p.m.

The Board returned to closed session at 9:17 p.m.

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)

1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case No. H038550

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D. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator (General Manager, District Counsel)
Property: Water Rights
Negotiating Parties: Clark Colony Water Company and MCWD
Under Negotiations: Price and Terms

The Board ended closed session and reconvened the meeting to open session at 10:13 p.m.

5. Possible Action on Closed Session Items:

President Moore stated that no reportable actions were taken in closed session and direction was given to staff.

13. Adjournment:

The meeting was adjourned at 10:14 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary