



Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting
March 12, 2018

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:15 p.m. on March 12, 2018 at the Marina Council Chambers, 211 Hillcrest Avenue, Marina, California.

2. Roll Call:

Board Members Present:

Thomas P. Moore – President
Jan Shriner – Vice President
Bill Lee
Howard Gustafson
Herbert Cortez

Board Members Absent:

None

Staff Members Present:

Keith Van Der Maaten, General Manager
David Hobbs, Legal Counsel
Kelly Cadiente, Director of Administrative Services
Mike Wegley, District Engineer
Jean Premutati, Human Resources/Customer Relations Manager
Derek Cray, Operations and Maintenance Superintendent
Barbara Montanti, Customer Service Supervisor
Lyssa Farrell, Customer Service Representative II
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler
Philip Clark, Seaside Resident
Jennifer Ivey, Carollo Engineers
Tom Britzman, East Garrison Resident
Therese Kollerer, Citizens for Just Water

Chandler Roland, Marina Resident
Brian Garcia, Marina Resident
Kathy Biala, Citizens for Just Water
Melissa Stevens, Property Manager
Melvin Mason, Marina Resident

President Moore announced that all protests to the proposed Central Marina and Ord Community water and wastewater rates must be submitted to the Board secretary by not later than 7:00 p.m. at this meeting. Any protests submitted after that time shall be rejected as late and shall not be considered.

3. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:17 p.m. to discuss the following items:

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation

- 1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case Nos. H038550 and H039559
- 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 & A.13-05-017 Settlement Agreement
- 3) Marina Coast Water District v. California Public Utilities Commission, California Supreme Court Case No. S230728, Writ of Review
- 4) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, San Francisco Superior Court Case No. CGC-13-528312 (Complaint for Declaratory Relief); First Appellate District Court of Appeals Case No. A145604, A146166, A146405
- 5) Marina Coast Water District vs. California-American Water Company, Monterey County Water Resources Agency; and, California-American Water Company, Monterey County Water Resources Agency vs Marina Coast Water District, San Francisco Superior Court Case Nos. CGC-15-547125, CGC-15-546632 (Complaint for Breach of Warranties, etc.)
- 6) Marina Coast Water District v. California State Lands Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. CV180895 (Petition for Writ of Mandate)
- 7) Marina Coast Water District v. California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267

- 8) Bay View Community DE, LLC; Bryan Taylor; Greg Carter; and Brooke Bilyeu vs Marina Coast Water District; Board of Directors of Marina Coast Water District; County of Monterey and Does 1-25, inclusive, Monterey County Superior Court Case No. 18CV000765 (Petition for Writ of Mandate or Administrative Mandate, and Complaint for Declaratory and Injunctive Relief and Breach of Contract)

B. Pursuant to Government Code 54956.8
Conference with Real Property Negotiator
Property: Sewer Infrastructure
Negotiating Parties: Howard Gustafson, Thomas Moore
Under Negotiation: Price and Terms

C. Pursuant to Government Code 54956.9 (d)(2)
Conference with Legal Counsel – Anticipated Litigation
Significant exposure to Litigation – Two Potential Cases

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

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

5. Reportable Actions Taken during Closed Session:

Mr. David Hobbs, Legal Counsel, stated that there were no reportable actions taken during Closed Session.

6. Pledge of Allegiance:

Director Cortez led everyone present in the pledge of allegiance.

7. Oral Communications:

Mr. Chandler Roland, Marina resident, commented that in 2006 the developers signed a lease agreement regarding the District's desal plant and then promptly defaulted on paying the lease because of the housing crash. He wanted to forewarn the Board that the developers may be wanting to make another lease agreement with the District to ensure water for their developments.

President Moore opened the Public Hearing at 7:05 p.m.

8. Public Hearing:

A. Receive Public Comment on Proposed Increases in District Rates, Fees, and Charges for the Central Marina and Ord Community Service Areas:

Mr. Tom Britzman, East Garrison resident, stated that he had a handout showing increases the District has issued over that last several years.

Agenda Item 8-A (continued):

Mr. Britzman commented that if the amounts were modified he wouldn't be opposed to the increase, but the proposed increases were too high. He also commented that, for years, he has been voicing his concern regarding the many people who live in the Ord Community that don't have the right to vote for Board members. He encouraged the Board to rectify that issue.

Mr. Roland commented that while the rates must be adequately funded to ensure the District runs smoothly, he is under the impression that the District owes \$18 million for expenses tied to the failed Regional Desal Plant. He said that by his calculations, it averages \$20k per reatepayer to pay it off. Mr. Roland said that the District's debt is not mentioned in the notice and questioned what the debt amount is, who it is owed to, and how much of his monthly bill goes to pay for that debt.

Ms. Kathy Biala, Citizens for Just Water, shared some thoughts on District rates compared to others in the region. She said that MCWD has been a true leader of affordable rates in the region, including those rates in the Ord Community. Ms. Biala added that Cal Am already has another rate increase ready to go into place in the near future and that MCWD's rates are among the lowest in the region. She voiced her support of the rates proposed by the MCWD Board.

Mr. Brian Garcia, Marina resident, stated that rate increases are a fact of life. He voiced his concerns over the Demand Management Rates proposed in case of another drought. Mr. Garcia said that with climate change, the environment and rain patterns will change. He advised the Board to not do what CalAm did to their customers, by increasing their bills when they conserved water as requested. Mr. Garcia said he wanted to see Marina remain a leader in taking care of their people in this area, and continue to have low water rates in the midst of a drought, and plan ahead to find funds in another fashion when drought hits.

President Moore closed the Public Hearing at 7:16 p.m.

9. Staff Report:

- A. General Manager's Verbal Report on the Result of Proposition 218 Protests to the Proposed Increases in District Rates, Fees, and Charges for the Central Marina and Ord Community Service Areas:

Mr. Keith Van Der Maaten, General Manager, stated that notices were sent out on January 25, 2018 and the District has been accepting protests since that date. He noted that of the 4,993 notices that were sent out, 7 protests were received.

10. Action Items:

- A. Consider Adoption of Resolution No. 2018-11 Declaring the Results of the Proposition 218 Protest Count for the Proposed Increases in District Rates, Fees, and Charges for the Central Marina and Ord Community Service Areas:

Agenda Item 10-A (continued):

Mr. Van Der Maaten introduced this item stating that 7 protests were received and of the 7, 6 were parcel owners and one was a tenant.

Mr. Garcia, Marina resident, commented that the vast majority of people will toss the circulator that comes with their bills right into the trash. He stated that times have changed and encouraged the Board to go out and talk to people with regards to rate hikes.

Ms. Melissa Stevens, Property Manager, stated that she is a property manager for 200 homes in Marina and noted that while a notice was sent with the bill, they receive one bill for 40 residences and notifications were not sent to individual residents. She added that the notices were not in Spanish, only English, so her many Spanish speaking residents were at a disadvantage.

Director Gustafson made a motion to adopt Resolution No. 2018-11 to declare the results of the Proposition 218 Protest count for the proposed increases in District rates, fees, and charges for the Central Marina and Ord Community service areas, filling the blank in Finding No. 2 with 7, and the blanks in Finding No. 3 with 7, and 6. Director Lee seconded the motion. Director Gustafson commented that he does attend public functions and speaks with the public frequently, but he has never heard one person comment on the rate increase, or complain about the rates. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

B. Consider Second Reading and Adoption of Ordinance No. 60 Approving New District Rates, Fees, and Charges for the Central Marina Water and Wastewater Service Area, excluding Capacity Charges:

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

Vice President Shriner clarified that the Demand Management Rates were only potential along with the other rates, and the Demand Management Rates were temporary and would only be implemented in the case of difficulty that creates fiscal instability within the District. She also clarified that the Prop 218 process is not for supporting rates, it is a way for setting the groundwork to allow increases, if needed, within the next five years. Vice President Shriner added that notices are only required to be sent to property owners, not tenants.

President Moore stated that a large portion of the District's costs are fixed, and that the rates are comprised mostly of fixed costs with the rest comprising of consumption costs. Ms. Jennifer Ivey, Carollo Engineers, confirmed that approximately 80% of the fixed costs are salaries, benefits, and debt. She said the other 20% of the fixed cost are variable costs, electricity and chemical costs. Ms. Ivey stated that by having the Demand Management Rate included in the rate increase, it will help the District manage their costs in case of drought.

Agenda Item 10-B (continued):

Director Gustafson made a motion to waive the reading of the entire Ordinance No. 60 an Ordinance Amending Sections 6.08.030, 6.08.060, 6.08.080, 6.08.100, and 6.12.050, and Establishing Section 6.08.110 of the District Code Changing Rates, Fees and Charges for Water and Sewer Services for the Central Marina Service Area. Director Lee seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

Director Gustafson made a motion to approve Ordinance No. 60 approving new District Rates, Fees, and Charges for the Central Marina Water and Wastewater Service Area, excluding Capacity Charges. Director Lee seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

C. Consider Adoption of Resolution No. 2018-12 to Approve New District Rates, Fees, and Charges for the Ord Community Water and Wastewater Service Area, excluding Capacity Charges:

Ms. Cadiente stated that the Ord Community rates are adopted by Resolution instead of Ordinance per agreement with FORA.

Vice President Shriner commented that at the last meeting the Board approved the annexation of the Ord Community and asked Mr. Van Der Maaten to explain the process. Mr. Van Der Maaten stated that the Board gave direction at the last meeting to submit an application with LAFCO to begin the annexation process, and hopefully in the near future the Ord Community will be annexed and allow those residents more participation in District processes.

Director Cortez commented that the Board did take into consideration the rate increase scenarios and what would be best for the District. He added that each Director is a member of the community, unlike a corporate company like CalAm, and the public has access to them if they have any questions or concerns. Director Cortez noted that although the District only received 7 protests, that didn't mean that people didn't read or receive the notices, and he thanked those that did comment and participate.

President Moore explained the difference in rates between the Ord Community and Central Marina was mainly due to the condition of the infrastructure received from the Army and the lack of customers in the Ord area to help pay for the maintenance of the large system.

Agenda Item 10-C (continued):

Director Cortez made a motion to approve new District Rates, Fees, and Charges for the Ord Community Water and Wastewater Service Area, excluding Capacity Charges. Director Gustafson seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

D. Consider Adoption of Resolution No. 2018-13 to Approve an Information Technology Plan FY 2018-2019:

Ms. Cadiente introduced this item.

Director Lee made a motion to approve an Information Technology Plan FY 2018-2019. Director Gustafson seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

E. Consider Adoption of Resolution No. 2018-14 to Approve New Classifications, Job Descriptions and Salary Ranges for a Water Resources Manager and a Water Resources Analyst I/II:

Ms. Jean Premutati, Human Resources/Customer Relations Manager, introduced this item explaining that District staff recommends creating a new position, Water Resources Manager, to oversee the development and implementation of strategies related to water resource planning and policy. She said that staff is also recommending reclassification of the Water Conservation Specialist I/II position to Water Resources Analyst I/II, and that position will report directly to the Water Resources Manager.

Vice President Shriner clarified that this position is needed because of the new State mandates and the Groundwater Sustainability Agency, and asked if the Water Conservation department would merge with the Water Resources department. Ms. Cadiente stated that the departments would function together, but the costs would be kept separate.

Director Cortez made a motion to adopt Resolution No. 2018-14 approving new classifications, job descriptions and salary ranges for a Water Resources Manager and a Water Resources Analyst I/II. Director Gustafson seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

11. Budget Workshop:

- A. Receive Presentation on Draft District FY 2018-2019 Budget, 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 draft budget with the Board and noted that FORA received a copy of the draft budget on March 8th. The Board asked clarifying questions and Director Cortez inquired about the District's debt that was brought up by Mr. Roland earlier in the meeting. Ms. Cadiente noted that the District's debt is listed on page 91 of the draft budget. President Moore commented that there has been a lot of talk about there being \$18 million in legal costs the District may owe because of the failed Regional Desal Project. He added that until the lawsuits were final, it was uncertain what might be owed or not.

Mr. Roland commented that the District may need to pay the \$18 million someday and questioned how the amount got so high. He also voiced his concern over the total debt of \$31 million as listed on page 91 of the draft budget. Mr. Roland said that he knows the Board members are doing a fine job and are doing their best, but he was still concerned over the high debt.

- B. Receive District Draft Five-Year Capital Improvements Projects Budget for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final CIP Budget Documents:

Mr. Michael Wegley, District Engineer, introduced this item. The Board asked clarifying questions. Director Cortez asked if there was going to be strategic messaging to notify the public of the District's projects. Mr. Van Der Maaten answered affirmatively.

12. Correspondence:

Mr. Van Der Maaten reviewed the correspondence received by the District noting the thank you from the Monterey County Food Bank and how the employees volunteered to collect food for the good cause.

13. Board Member Requests for Future Agenda Items:

President Moore noted that any requests could be emailed to staff.

14. Director's Comments:

Director Cortez, Director Lee, Director Gustafson, Vice President Shriner, and President Moore made comments.

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15. Adjournment:

The meeting was adjourned at 8:55 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Paula Riso, Deputy Secretary