

Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting
September 17, 2018

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:30 p.m. on September 17, 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
Roger Masuda, Legal Counsel
Michael Wegley, District Engineer
Rose Gill, Human Resources/Risk Administrator
Kelly Cadiente, Director of Administrative Services
Derek Cray, Operations and Maintenance Manager
Patrick Breen, Water Resources Manager
Brian True, Senior Engineer
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler
Andy Hunter, Whitson Engineers
Joel Johnson, Marina Resident
Philip Clark, Seaside Resident/WCC Chair

Jonathan Ingram, Century Communities
Evy Smith, Marina Resident
Matt Zefferman, Marina Resident
Craig Bronzan, East Garrison Resident

3. Public Comment on Closed Session Items:

There were no public comments.

The Board entered into closed session at 6:32 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 Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267
- 7) 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)

- 8) LandWatch Monterey County v Marina Coast Water District and Does 1 through 25, inclusive, Monterey County Superior Court Case No. 18CV000877 (Petition for Writ of Mandate)
- 9) Keep Fort Ord Wild v Marina Coast Water District, Marina Coast Water District Board of Directors, and Does 1 through 25, Monterey County Superior Court Case No. 18CV000883 (Petition for Writ of Mandate)
- 10) Marina Coast Water District, and Does 1-100 v, County of Monterey, County of Monterey Health Department Environmental Health Bureau, and Does 101-110, Monterey County Superior Court Case No. 18CV000816 (Petition for Writ of Mandate and Complaint for Injunctive Relief)

- B. Pursuant to Government Code 54956.8
Conference with Real Property Negotiator
Property: Sewer Infrastructure
Negotiating parties: Thomas Moore and Jan Shriner
Under Negotiation: Price and Terms
- C. Pursuant to Government Code 54956.9
Conference with Legal Counsel
Significant Exposure to Litigation Pursuant to Subdivision (b)
1 – Case

The Board ended closed session at 7:05 p.m.

President Moore reconvened the meeting to open session at 7:06 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. Roger Masuda, Legal Counsel, stated that the Board discussed the Settlement Agreement with Keep Fort Ord Wild and LandWatch regarding the District's Ord Community Sphere of Influence Amendment and Annexation application with the Monterey County LAFCO. He said that the Board approved the Settlement Agreement, with a vote of 4 Ayes – Moore, Shriner, Lee, Gustafson, and 1 No – Cortez.

- A. Consider Adoption of Resolution No. 2018-56 to Approve a Settlement Agreement with Keep Fort Ord Wild and LandWatch; Authorize the General Manager to file a Modified Ord Community Sphere of Influence Amendment and Annexation Application with the Local Agency Formation Commission that Includes Fewer Parcels than the Application Approved by the Board on February 20, 2018; Find that the Modified Application does not Require Additional Environmental Review Pursuant to Public Resources Code section 21166 and CEQA Guidelines section 15162; Find that the Modified Application is not a Project Subject to CEQA and is Exempt from CEQA under CEQA Guidelines Sections 15301 (Existing Facilities), 15319 (Annexations of Existing Facilities and Lots for Exempt Facilities), and 15061, subd. (b)(3) (the "common sense" exemption):

Agenda Item 5-A (continued):

Director Lee made a motion to Adopt Resolution No. 2018-56 to modify Resolution No. 2018-09 by excluding certain parcels and portions of parcels from the Ord Community Sphere of Influence Amendment and Annexation Application with the corrections to typos, page numbers added to the Exhibits, and, correcting a date on Exhibit A to “2018”. Vice President Shriner requested that the maps be printed in color and page numbered, as well. Director Lee amended his motion to include Vice President Shriner’s request. Vice President Shriner seconded the motion. The motion was passed.

Director Gustafson	-	No	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	No			

6. Pledge of Allegiance:

Vice President Shriner led everyone present in the pledge of allegiance.

7. Oral Communications:

There were no comments made.

8. Consent Calendar:

Director Gustafson made a motion to approve the Consent Calendar consisting of: A) Receive and File the Check Register for the Month of August 2018; B) Approve the Draft Minutes of the Joint Board/GSA Meeting of August 20, 2018; and, C) Adoption of Resolution No. 2018-51 to Amend the Marina Coast Water District Conflict of Interest Code by Updating Position Titles. Vice President Shriner seconded the motion.

The motion was passed by the following vote:

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

9. Action Items:

A. Consider Adopting Resolution No. 2018-52 to Approve the Water Conservation Commission’s Procedures and Guidelines:

Mr. Patrick Breen, Water Resources Manager, introduced this item. Director Cortez asked if the application was modified as discussed at the last meeting. Mr. Breen stated that it had been modified. Vice President Shriner asked that the “Commission Responsibilities” include an additional item – *F. Review and advise the Board on commercial, large landscapes, and institutional customer conservation goals.*

Agenda Item 9-A (continued):

Vice President Shriner made a motion to adopt Resolution No. 2018-52 approving the Water Conservation Commission's Procedures and Guidelines. President Moore seconded the motion.

Mr. Phil Clark, Seaside resident/WCC Chair, commented that during the June election, the school district received \$213 million for large landscaping.

The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	No	President Moore	-	Yes
Director Cortez	-	Yes			

- B. Consider Adoption of Resolution No. 2018-53 to Accept the Infrastructure Improvements Installed Under a Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District, UCP East Garrison, LLC, and East Garrison Public Finance Authority for the East Garrison Phase 3 Development Project:

Mr. Brian True, Senior Engineer, introduced this item noting that this development has been progressing fast. The Board asked clarifying questions.

Vice President Shriner made a motion to adopt Resolution No. 2018-53 accepting the Infrastructure Improvements installed under a Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District, UCP East Garrison, LLC, and East Garrison Public Finance Authority for the East Garrison Phase 3 Development Project; and, requiring master valves on any lot with more than 500 square feet of front yard landscaping. Director Cortez 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. 2018-54 to Authorize a Notice of Completion for the Clark and Cosky Lift Station Improvement Project be Filed with the Monterey County Recorder:

Mr. Michael Wegley, District Engineer, introduced this item. Vice President Shriner commended staff on getting the job completed for less than the authorized amount.

Director Gustafson made a motion to adopt Resolution No. 2018-54 authorizing a Notice of Completion for the Clark and Cosky Lift Station Improvement Project be filed with the Monterey County Recorder. 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			

- D. Consider Adoption of Resolution No. 2018-55 to Approve Amendment #1 to the Memorandum of Understanding Regarding Fort Ord Water Augmentation and a Three Party Effort to Study Alternatives between Monterey One Water, the Fort Ord Reuse Authority, and the Marina Coast Water District for a Water Augmentation Alternatives Study:

Mr. Breen introduced this item. Mr. Keith Van Der Maaten, General Manager, noted that FORA and Monterey One Water have both already approved the amendment.

Director Gustafson made a motion to adopt Resolution No. 2018-55 approving Amendment #1 to the Memorandum of Understanding Regarding Fort Ord Water Augmentation and a Three Party Effort to Study Alternatives between Monterey One Water, the Fort Ord Reuse Authority, and the Marina Coast Water District for a Water Augmentation Alternatives Study. Director Lee seconded the motion. Director Cortez voiced his concerns over FORA's treatment of the District. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	No			

10. Staff Reports:

- A. Receive a Report on the Hot Water Recirculation Issue within the Shea Homes in the Dunes Development:

Mr. Wegley introduced this item and gave a brief background. He explained that he personally went and tested the retrofit with the Conservation Specialist and compared them to a fully plumbed recirculation line, and the results were fairly similar and they both meet the District's minimum requirement. Mr. Van Der Maaten noted that this issue has been put on the Joint City District committee agenda for October 24th. He added that there have been letters going back and forth between the District and Shea Homes and the District is just waiting for a schedule of when the retrofit work would be done. Vice President Shriner asked how much time it takes to put in the retrofit. Mr. Wegley answered that it would take approximately 2-4 hours to install the retrofit. Director Cortez asked for clarification on the request for a waiver by the residents. Mr. Wegley stated that a waiver was for things that don't meet the District Code, and since this retrofit meets the Code, a waiver is not needed.

Ms. Evy Smith, Marina resident, commented that the number of affected homes is 118. She stated that her home has wasted about 32,000 gallons of water in the two years she lived there, and Mr. Johnson has lived in his home for three years and has wasted about 48,000 gallons. Ms. Smith stated that she has heard complaints from other residents with the retrofit and they are having operational problems with the device. She said that the homes with backflow preventers do not have thermal expansion tanks which is a violation of California Code 608.3 and they brought that to the Marina City Council on September 5th.

Agenda Item 10-A (continued):

Ms. Smith asked if she could get copies of blueprints and sign-offs from the District through a California Public Records Request. She also commented that they want a retrofit of the full hot water recirculation pipeline and not the simple retrofit. Ms. Smith stated that the residents want a town hall meeting with Shea Homes and would like a District representative present at the meeting to be a technical advisor. She asked to see the data that the retrofit is comparable with a full hot water recirculation system. As to the waiver, Ms. Smith stated that they want a letter, per address, stating that they comply with the District's Ordinance and an occupancy permit from the City.

Mr. Masuda commented that if the Board is going to authorize staff to attend the town hall meeting, they would not be attending as a technical advisor to the homeowners, they will be there as the Water District.

Vice President Shriner reminded staff that a Public Records Request had been mentioned. Mr. Van Der Maaten stated that the District would honor the request. Director Cortez commented that the District needed to be careful not to take sides in this matter and to remain neutral. Mr. Masuda emphasized that the developer proposed a solution and District staff looked at it and agreed that it was an equivalent to the full return system and it was not up to the District to ensure it works 100% that is up to Shea Homes.

B. Receive a Report on East Garrison Landscape Irrigation:

Mr. Wegley introduced this item and explained that the front yard landscaping for homes in East Garrison is irrigated off of the homeowner's water service, but the landscaping and irrigation controller is maintained by the Homeowner Association (HOA). He stated that there are about 1,000 homes and at buildout of this Phase, there will be about 1,500 homes and the HOA has to manually adjust each controller individually. Mr. Wegley said the HOA is looking to make this simpler for them. President Moore asked if the District had approved this system, and if the HOA gave the individual homeowner's back the ability to control their own irrigation, would it violate any of the District approvals. Mr. Wegley said the District had approved the system and didn't see that it would violate anything if the individual homeowners controlled their own irrigation controller.

Mr. Craig Bronzan, East Garrison resident, stated that they were not in violation of anything, as in the Dunes homes, but they had a system that was not efficient. He said that he was looking for solutions and if the District says it is not their problem, he will report that back to the HOA. Mr. Bronzan said that the way the system is now, homeowner's cannot see if they have a leak, or if there was a catastrophe, it would be difficult to shut down 1,500 systems at the same time.

Mr. Jonathan Ingram, Century Communities, commented that when East Garrison construction first began, the Code didn't allow them to do a two-wire system on the homes, but since then things have changed.

Agenda Item 10-B (continued):

Vice President Shriner asked if that was correct that the District Code didn't allow a two-wire system when East Garrison construction began. Mr. Wegley answered that was true at the time, but it had since changed.

C. Status Update for the Ord Community Sphere of Influence Amendment and Annexation with the Local Agency Formation Commission:

Mr. Wegley stated that the County has approved the Tax Sharing Agreement to not share taxes and following approval of Item 5-A earlier, an update would be forwarded to LAFCO in the morning. He added that staff was still working with Seaside County Sanitation on a Memorandum of Understanding.

11. Informational Items:

A. General Manager's Report:

Mr. Van Der Maaten commented that the Central Coast Regional Water Quality Control Board will be meeting in Watsonville on September 20th and staff would be in attendance asking them to be involved.

B. Counsel's Report:

No report was given.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner noted that there was not a meeting scheduled for October, but applications were due by October 5th.

2. Joint City District Committee:

President Moore stated they met on August 29th.

3. Executive Committee:

President Moore stated they met on September 11th.

4. Community Outreach Committee:

Director Gustafson gave a brief update.

5. Budget and Personnel Committee:

Director Cortez gave a brief update.

6. M1W Board Member:

President Moore gave a brief update.

7. LAFCO Liaison:

Director Cortez gave a brief update.

8. FORA:

President Moore said the meeting is scheduled for September 28th.

9. WWOC:

Mr. Van Der Maaten stated the next meeting is scheduled for October 17th.

10. JPIA Liaison:

No report was given.

11. Special Districts Association Liaison:

President Moore said the next meeting is scheduled for October 16th and Claudio Valenzuela, Monterey County Registrar of Voters, is scheduled to speak, along with several CSDA staff members.

12. SVGSA Liaison:

Mr. Van Der Maaten gave a brief update and stated that he was anticipating a Framework Agreement to come before the Board in October.

12. Board Member Requests for Future Agenda Items:

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

13. Director's Comments:

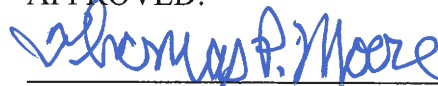
Director Lee, Director Cortez, Director Gustafson, Vice President Shriner, and President Moore made comments.

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14. Adjournment:

The meeting was adjourned at 8:53 p.m.

APPROVED:



Thomas P. Moore, President

ATTEST:



Paula Riso, Deputy Secretary