



Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting
Via Zoom Teleconference
May 18, 2020

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:30 p.m. on May 18, 2020 via Zoom teleconference in Marina, California.

2. Roll Call:

Board Members Present:

Thomas P. Moore – President
Jan Shriner – Vice President
Herbert Cortez – joined at 6:31 p.m.
Peter Le
Matt Zefferman

Board Members Absent:

None

Staff Members Present:

Keith Van Der Maaten, General Manager
Roger Masuda, District Counsel
Kelly Cadiente, Director of Administrative Services
Derek Cray, Operations and Maintenance Manager
Michael Wegley, District Engineer
Teo Espero, IT Administrator
Patrick Breen, Water Resources Manager
Don Wilcox, Senior Engineer
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler
Dennis Martin, BIA Bay Area
John Kinsey, Wanger Jones Helsley PC
Kevin Tuttle, Akel Engineering
Tony Akel, Akel Engineering
Peter Mayer, WaterDM
Ruth Muzzin, Friedman & Springwater
Chip Wilkins, Remy Moose and Manley
Sarah Babcock, Marina Resident
Shawn Storm, Marina Resident

3. Public Comment on Closed Session Items:

There were no 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) 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)

2) Marina Coast Water District, and Does 1-100 v, County of Monterey, Monterey County Board of Supervisors, and Does 101-110 (California-American Water Company, Real Property in Interest), Monterey County Superior Court Case No. 19CV003305 (Petition for Writ of Mandate and Complaint for Injunctive Relief)

B. Pursuant to Government Code 54956.9(d)(4)

Conference with Legal Counsel – Anticipated Litigation

Initiation of Litigation – Three Potential Cases

The Board ended closed session at 7:11 p.m. President Moore reconvened the meeting to open session at 7:12 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. Roger Masuda, District Counsel, stated that there were no reportable actions taken during Closed Session.

6. Pledge of Allegiance:

Director Zefferman led everyone present in the pledge of allegiance.

7. Oral Communications:

There were no comments made.

8. Action Item:

A. Consider Adoption of Resolution No. 2020-27 to Receive the WaterDM Report and to Approve Submitting a Letter to the State Water Resources Control Board Regarding the Report's Conclusions and Supporting the Expansion of the Pure Water Monterey Project as an Alternative to the Monterey Peninsula Water Supply Project Desalination Proposal:

Agenda Item 8-A (continued):

Mr. Keith Van Der Maaten, General Manager, introduced this item and Mr. Peter Mayer, WaterDM. Mr. Mayer gave a brief presentation on his findings regarding water supply and demand on the Monterey Peninsula and analyzed a peer review prepared by Hazen and Sawyer on the Monterey Peninsula Water Management District's water demand report. The Board asked clarifying questions.

Vice President Shriner made a motion to adopt Resolution No. 2020-27 to receive the WaterDM Report and to approve submitting a letter to the State Water Resources Control Board regarding the Report's conclusions and supporting the expansion of the Pure Water Monterey Project as an alternative to the Monterey Peninsula Water Supply Project Desalination proposal. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	Abstained			

9. Marina Coast Water District Groundwater Sustainability Agency Matters:

A. Action Item:

1. Consider Adoption of Resolution No. 2020-02 to Approve Amendment 2 to the Professional Services Agreement with EKI Environment & Water, Inc. for Groundwater Sustainability Planning:

President Moore noted that this item is tabled until the June Board meeting.

10. Return to Marina Coast Water District Matters:

11. Consent Calendar:

Director Le requested to pull items A, and E from the Consent Calendar.

Vice President Shriner made a motion to approve the Consent Calendar consisting of: B) Receive the Quarterly Financial Statements for January 1, 2020 to March 31, 2020; C) Approve the Draft Minutes of the Regular Joint/Board Meeting of April 20, 2020; and, D) Approve the Draft Minutes of the Regular Board Meeting/Budget Workshop of April 28, 2020. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

A. Receive the Check Register for the Month of April 2020:

Director Le asked to see copies of the Wire payment to Friedman & Springwater; and, check number 69114. Staff will provide copies to Director Le. Director Zefferman noted that there isn't a need to take dais time to request a copy of an invoice. He said Board members can just email the request to the General Manager.

Vice President Shriner made a motion to receive the check register for the month of April 2020. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	Abstained			

E. Consider Adoption of Resolution No. 2020-28 Proclaiming the Week of May 17-23, 2020 National Public Works Week:

Director Le said he was surprised the District celebrated Public Works but didn't celebrate Special Districts. He noted that he would like the District to recognize Special Districts next year as well.

Director Zefferman made a motion to adopt Resolution No. 2020-28 proclaiming the week of May 17-23, 2020 National Public Works Week. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

12. Action Items:

A. Consider Adoption of Resolution No. 2020-29 to Accept the Water, Sewer, and Recycled Water Master Plans:

Mr. Michael Wegley, District Engineer, introduced this item. Mr. Tony Akel gave a brief presentation on the Water, Sewer, and Recycled Water Master Plans. Vice President Shriner inquired on the length and cost increase of this project. Director Cortez noted that the District held stakeholder meetings and listened to the concerns raised. Director Le asked who did the cost breakdown between existing and future users; asked for the methodology used in table 8.2; asked for information in Table 7.1 regarding how the gpm was obtained; questioned the supplemental pump in Figure 4.2; questioned the number of Pressure Reducing Valves in Section 7.2.2. Director Cortez commented that even though Director Le has questions and requests more information, ultimately, any changes would have to be approved by the entire Board. He added that this is not a "gottcha" moment and the consultant should be given time to address the questions made by the Board. Vice President Shriner noted that the cost estimates can vary greatly, depending on when the project is done.

Agenda Item 12-A (continued):

Vice President Shriner made a motion to adopt Resolution No. 2020-29 to accept the Water, Sewer, and Recycled Water Master Plans. Director Zefferman seconded the motion.

Director Zefferman commented that Master Plans are always a moving target and Developers can change their minds or other things can change. He stated the District needs to move forward as things stand today and if things change later, then they will be addressed at that time. President Moore agreed.

Mr. Dennis Martin, BIA Bay Area, respectively asked that the Board table this item until another meeting is held with the stakeholders and comments and concerns with the Capacity Fee Study and Master Plans are addressed. He voiced his concern that stakeholder meetings were promised but they have not met since September 2019.

Mr. John Kinsey, Wanger Jones Helsley PC, stated that they sent their comments in by letter earlier that morning. He added that they need more time to review the Master Plans and noted that their approval should be at the same time as the Capacity Fee Study. Mr. Kinsey stated that it would present an opportunity to work with stakeholders and interface with public agencies to avoid duplicative fee obligations and better understand the post-FORA obligations.

Mr. Wegley commented that although it is true that there had not been another stakeholder meeting, there are meetings planned to discuss the Capacity Fees prior to bringing them to the Board. He noted that the costs did increase due to several new projects in the cities of Marina and Seaside. Mr. Wegley stated that the concerns by Mr. Martin and Mr. Kinsey are related to the Capacity Fees which is planned to be discussed at future meetings.

Mr. Akel stated that they did meet with stakeholders several times, listened to their concerns and comments, and while some were incorporated, others were not. He added that a thorough process was accomplished, and the Master Plans are defensible and can stand on their own.

The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	Yes
Director Cortez	-	Yes			

- B. Consider Adoption of Resolution No. 2020-30 to Approve Amendment No. 8 with Denise Duffy & Associates under their RUWAP On-Call Professional Services Agreement to provide Environmental Services for the Regional Urban Water Augmentation Project Distribution Mains Project:

Mr. Don Wilcox, Senior Engineer, introduced this item. Director Le asked when the bid opening was scheduled. Mr. Wilcox answered that it was May 27, 2020.

Agenda Item 12-B (continued):

Vice President Shriner made a motion to adopt Resolution No. 2020-30 to approve Amendment No. 8 with Denise Duffy & Associates under their RUWAP On-Call Professional Services Agreement to provide Environmental Services for the Regional Urban Water Augmentation Project Distribution Mains Project. President Moore seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

- C. Consider Adoption of Resolution No. 2020-31 to Approve Task Order 18 with Harris & Associates under their On-Call Professional Services Agreement to Provide Construction Support Services for the Lower Stilwell Neighborhood Improvements Project, Phase 1:

Mr. Wilcox introduced this item. The Board asked clarifying questions with Mr. Wilcox explaining that there would be an external inspection only to the edge of the property.

Vice President Shriner made a motion to adopt Resolution No. 2020-31 approving Task Order 18 with Harris & Associates under their On-Call Professional Services Agreement to provide construction support services for the Lower Stilwell Neighborhood Improvements Project, Phase 1. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

- D. Receive the Revised Draft FY 2020-2021 District Budget and Update on the Budget Process:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item and reviewed the changes made since the Budget Workshop. Director Le stated that he had asked for additional information on the GSA to be included in the Summary regarding revenue and the methodology formula. He also inquired why the MIW RUWAP Reimbursement on page 20 of the Budget didn't include any funds for this year. Director Le commented that the Budget vs Budget % change on page 24 under CalPERS-62 Retirement (ER) should not be 100%. He stated that on page 31 there is no allocation for Professional Services for RUWAP. Ms. Cadiente answered that this account is only to keep track of the expense of the distribution system that is being built and the existing portion of the line of credit for existing debt on the previously built pipeline. Director Le asked where the legal fees for the RUWAP were located. Mr. Van Der Maaten noted that this was the Operating budget and Professional fees are located in the CIP and asked Ms. Cadiente to let Director Le know where to find the legal fees. Ms. Cadiente stated that legal fees are all included in one line item under Marina Water and Ord Water. Director Le asked if the Reserve detail on page 99 is before or after the \$4 million payment to Cal Am. Ms. Cadiente answered that it was after. Mr. Van Der Maaten commented that the GSA information Director Le asked about earlier is explained on page 206 of the Board packet.

Agenda Item 12-D (continued):

Director Zefferman asked if the comments Director Le is talking about were approved in the motion at the last meeting. Ms. Cadiente answered that the question on M1W RUWAP Reimbursement was answered at the last meeting when it was explained that there are no funds owed by M1W at this time and none will be owed until the project is finished, which isn't anticipated to be complete until the end of next fiscal year. Vice President Shriner thanked staff for adding the requested accomplishments that were mentioned at the last meeting.

Vice President Shriner made a motion to receive the revised draft FY 2020-2021 District Budget and update on the budget process. Director Zefferman seconded the motion. Director Le commented that his answer to his GSA question is not found on page 206 of the Board packet. He said is asking where the revenue and the methodology formula is for the GSA. Director Le also stated that the answer Ms. Cadiente gave regarding the M1W reimbursement was the same answer she gave last time, but he wants to see the documents on what she is talking about. President Moore commented that the documents he is talking about may be the State Revolving Fund loans to build the project. Ms. Cadiente reiterated that there would be no revenue until the project is complete which is why there is no revenue listed in the next fiscal year.

Director Cortez asked what the protocol was for requesting information. Mr. Van Der Maaten answered that if a Director has a question, they can ask staff and staff will respond. He added that sometimes the questions are of an operational nature and do not involve policy making, so those items are not brought to the Board. Mr. Van Der Maaten said that if it is something that requires a lot of staff time, it is discussed at the Committee level to see if it should go before the Board. Director Zefferman agreed that if the question will take a lot of staff time, it should go through the Board process.

Vice President Shriner's motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	No	President Moore	-	Yes
Director Cortez	-	Yes			

E. Consider Establishment of a Marina Coast Water District Customer Assistance Program:

Mr. Van Der Maaten introduced this item stating that there was discussion that there may be a way to set up some financial assistance for the District customers. He added that District funds cannot be used to fund this program. President Moore said that this item could be of interest to potential donors and potential customers. The Board asked clarifying questions.

President Moore made a motion to refer this item to the Budget and Personnel Committee for discussion. Director Cortez seconded the motion. The motion to was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

13. Staff Reports:

A. Receive a Report on the Fiscal Impacts to the District due to Covid-19:

Ms. Cadiente introduced this item. The Board asked clarifying questions and if there was a way to see how many accounts were delinquent.

B. Receive a Report on Current Capital Improvement Projects:

Mr. Wegley introduced this item. Director Zefferman asked if CSUMB has reviewed the tank drawings. Mr. Wegley answered that there was still time for them to comment. Director Le asked if these projects were in the fifteen-year plan. Mr. Wegley answered that these projects were in the annual fiscal year budget.

Noting the time was 10:00 p.m., Vice President Shriner made a motion to continue past 10:00 p.m. to complete the agenda and return to closed session. Director Cortez seconded the motion. Director Zefferman asked for a five-minute break prior to closed session. Vice President Shriner amended her motion to include a five-minute break. Director Cortez seconded the amended motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

C. Receive the 1st Quarter 2020 MCWD Water Consumption Report:

Ms. Cadiente introduced this item. Director Le stated that he would like to see a Water Production Report next quarter. Director Zefferman suggested the Executive Committee discuss adding a Water Production Report to the agenda.

D. Receive the 2020 Sewer Flow Report through March 31, 2020:

Ms. Cadiente introduced this item. Director Le asked for information on recycled water flows for next quarter. President Moore suggested the Executive Committee discuss this request as well.

14. Informational Items:

A. General Manager's Report:

No report was given.

B. Counsel's Report:

No report was given.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Zefferman stated that no meeting was held in April.

2. Joint City District Committee:

President Moore stated that no meeting was held and the next one is scheduled for June 26th.

3. Executive Committee:

President Moore stated they met via a Zoom teleconference meeting and the next meeting was set for June 9th via Zoom.

4. Community Outreach Committee:

Director Zefferman and Director Cortez gave a brief update.

5. Budget and Personnel Committee:

Vice President and 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:

Vice President Shriner gave a brief update.

9. WWOC:

The WWOC will no longer be meeting.

10. JPIA Liaison:

No report was given.

11. Special Districts Association Liaison:

President Moore noted the next meeting was scheduled for July 21st and will held via Zoom.

15. Board member Requests for Future Agenda Items:

President Moore noted that the Board members can email in their requests. Director Le requested the Executive Committee review his previous requests and why they have not been put on any agendas for over a year.

16. Director's Comments:

Director Le, Director Cortez, Director Zefferman, Vice President Shriner, and President Moore made comments.

President Moore recessed the meeting from 10:28-10:33 p.m.

The Board reentered into closed session at 10:34 p.m.:

4. Closed Session:

A. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Existing Litigation

- 1) 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)
- 2) Marina Coast Water District, and Does 1-100 v, County of Monterey, Monterey County Board of Supervisors, and Does 101-110 (California-American Water Company, Real Property in Interest), Monterey County Superior Court Case No. 19CV003305 (Petition for Writ of Mandate and Complaint for Injunctive Relief)

B. Pursuant to Government Code 54956.9(d)(4)
Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation – Three Potential Cases

The Board ended closed session at 11:36 p.m. President Moore reconvened the meeting to open session at 11:37 p.m.


5. Reportable Actions Taken during Closed Session:

Mr. Masuda stated that there were no reportable actions taken during Closed Session.

17. Adjournment:

The meeting was adjourned at 11:38 p.m.

APPROVED:



Thomas P. Moore, President

ATTEST:



Paula Riso, Deputy Secretary