



Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting
Via Zoom Teleconference
July 20, 2020

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:30 p.m. on July 20, 2020 via Zoom teleconference in Marina, California.

2. Roll Call:

Board Members Present:

Thomas P. Moore – President
Jan Shriner – Vice President
Herbert Cortez
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
Michael Wegley, District Engineer
Derek Cray, Operations and Maintenance Manager
Patrick Breen, Water Resources Manager
Don Wilcox, Senior Engineer
Rose Gill, Human Resources/Risk Administrator
Paul Lord, Conservation Specialist
Teo Espero, IT Administrator
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler
Douglas Dove, Bartle Wells
Dennis Martin, BIA Bay Area
John Kinsey, Wanger Jones Helsley PC
Doug Yount, Shea Homes
Tony Akel, Akel Engineering
Brian McMinn, City of Marina
Mike Whipple, Development & Financial Advisory

Paul Sciuto, M1W General Manager
Mike Owen, Marina Resident
Robert Porr, Fieldman, Rolapp
Lora Carpenter, Fieldman, Rolapp
Jim Brezack, Brezack & Associates
Grace Silva-Santella, Marina Resident
Abigal Seamon, Bartle Wells

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)
- 3) Appeal No. A-3-MRA-19-0034 by California-American Water Company to the California Coastal Commission over Denial by the City of Marina for a Coastal Development Permit for Construction of Slant Intake Wells for the Monterey Peninsula Water Supply Project
- 4) City of Marina vs. RMC Lonestar [CEMEX], California-America Water Company, et al., Defendants, Marina Coast WD, et al., Real Parties in Interest, Monterey County Superior Court Case No. 20CV001387 (Complaint for Breach of Contract, Declaratory Relief under the Agency Act, and Tortious Interference with Existing Contract)
- 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 Damages, Breach of Warranties, etc.)

B. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator

Property: Armstrong Ranch Property

Negotiating Parties: Sunberry Growers, LLC. and MCWD Negotiators (Legal Counsel and General Manager)

Under Negotiation: Price and Terms

The Board ended closed session at 6:47 p.m. President Moore reconvened the meeting to open session at 7:00 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:

Mr. Masuda led everyone present in the pledge of allegiance.

7. Oral Communications:

Mr. Mike Owen, Marina resident, commented that in 1990 the City of Marina was planning on removing the Eucalyptus trees by Windy Hill Park. He appealed to the Council and hired an arborist to review the Eucalyptus trees and give an estimate to the cost of the trees. Mr. Owen said people were amazed the trees were worth tens of thousands of dollars each, and he added that they are literally irreplaceable.

8. Presentation:

- A. Consider Adoption of Resolution No. 2020-41 Congratulating and Recognizing Joe Correa on his Retirement as the Electrical/Mechanical Field Supervisor with Nearly 28 Years of Service to MCWD:

President Moore made a motion to adopt Resolution No. 2020-41 congratulating and recognizing Joe Correa on his retirement as the Electrical/Mechanical Field Supervisor with nearly 28 years of service to MCWD. 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			

- B. Receive a Presentation from Monterey One Water on Their Proposed Prop. 218 Rate Increase:

Mr. Keith Van Der Maaten, General Manager, introduced Mr. Paul Scuito, Monterey One Water General Manager, who gave a brief presentation and update on the Prop. 218 rate increase his agency is proposing. He explained the reason for the increase is due to delinquent accounts and a projected revenue loss of \$4.9-\$6.1 million dollars. The Board asked clarifying questions.

9. Consent Calendar:

No items were pulled from the consent calendar.

Agenda Item 9 (continued):

Director Zefferman made a motion to approve the Consent Calendar consisting of: A) Receive and File the Check Register for the Month of June 2020; B) Approve the Draft Minutes of the Regular Joint/Board Meeting of June 15, 2020; C) Approve the Draft Minutes of the Special Joint Board/GSA Meeting of June 30, 2020; D) Consider Adoption of Resolution No. 2020-42 to Approve Prepayment of Marina Coast Water District's CalPERS Annual Employer Unfunded Accrued Liability Contribution for FY 2020-2021 in the Amount of \$222,024; and, E) Consider Adoption of Resolution No. 2020-43 to Authorize the General Manager to Sign a Memorandum of Understanding between Marina Coast Water District and the Monterey Peninsula Unified School District Regarding the Water Conservation Education Program. 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	-	Abstained			

President Moore stated that he had a request from a Board member to move Item 10-E up on the agenda. He asked for a consensus from the other Board members. Following discussion, it was decided to keep the order of the agenda as is.

10. Action Items:

- A. Receive a Presentation of the Water, Wastewater and Recycled Water Capacity Fee Study; and, Consider Adoption of Resolution No. 2020-44 to Approve the District's Capacity Fee Study:

Mr. Michael Wegley, District Engineer, introduced this item. Mr. Van Der Maaten briefed the Board on the process and actions to approving the Fee Study. Mr. Doug Dove, Bartle Wells, gave a presentation on the Capacity Fee Study. The Board asked clarifying questions.

Vice President Shriner made a motion to receive the presentation of the Water, Wastewater and Recycled Water Capacity Fee Study and adoption of Resolution No. 2020-44 to approve the District's Capacity Fee Study. President Moore seconded the motion.

Mr. Dennis Martin, BIA Bay Area, requested that the Board postpone approval of the Study and direct staff to continue to revise the report to correct deficiencies, errors and omissions as outlined in their report. He thanked staff for their hard work over the last year and that of the consultants. Mr. Martin asked for justification of the decision to change from the average cost to the hybrid buy-in; suggested that Table S7 needed more explanation; and asked for clarification of the practice to charge per fixture count and not EDU. He said all they are asking for is that the fees to be assessed are fair and equitable.

Mr. Mike Whipple, Development & Financial Advisory, commented that they provided a write-up on the previous tables that were distributed but they have not been able to look at the revised tables yet.

Agenda Item 10-A (continued):

Mr. Whipple commented that there was a concern over the change in methodology from average cost to the hybrid buy-in method. He questioned if the District could even meet the requirements for a buy-in approach due to the age and size of the infrastructure. Mr. Whipple asked for a more in-depth discussion on the change in methodology and explained several other concerns over the proposed fees as well as a request for an asset summary for both the Central Marina and Ord Community.

Mr. John Kinsey, Wanger Jones Helsley PC, commented that they were still evaluating the documents and asked how the fees relate to the obligations MCWD assumed from FORA. He said it is his understanding that Table S7 applies \$4,598 per EDU, which is an amount that is attributable to obligations from FORA. Mr. Kinsey asked for confirmation from staff if that was the case and asked how the figure was calculated and include it in written materials.

Mr. Doug Yount, Shea Homes, thanked District staff and consultants for their efforts in working with the development community over the last year. He asked how capacity fees will be calculated in the future e.g. fixture count or EDU. Mr. Yount stated that customers in Ord pay a capacity surcharge for developments completed prior to 2014. He asked how the resources being collected through the capacity surcharge being accounted for in this capacity fee study.

Staff responded to questions asked by members of the public and affirmed that the \$4,598 per EDU was an amount that is attributable to obligations from FORA.

The motion by Vice President Shriner to receive the presentation of the Water, Wastewater and Recycled Water Capacity Fee Study and adoption of Resolution No. 2020-44 to approve the District's Capacity Fee Study, and seconded by President Moore, was passed by the following vote:

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

B. Consider Approval of Public Notice and Set Date, Time and Location for a Public Hearing for Proposed Changes in Capacity Fees for Marina and Ord Community Service Areas:

Mr. Wegley introduced this item. The Board asked clarifying questions.

Vice President Shriner made a motion to approve the Public Notice and set the date as August 17, 2020, the time at 7:00 p.m., and a Zoom meeting location for a Public Hearing for proposed changes in Capacity Fees for Marina and Ord Community Service Areas. Director Cortez seconded the motion.

Director Zefferman suggested directing staff to publish the Public Notice in the newspaper with the least expensive fees.

Agenda Item 10-B (continued):

Vice President Shriner amended her motion to include direction to staff to publish the Notice in the newspaper with the least expensive fees. Director Cortez seconded the amendment. The amended 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 First Reading of Ordinance No. 61 to Adopt New District Capacity Charges for Marina Water and Wastewater for the Central Marina and Ord Community Service Areas:

Mr. Wegley introduced this item. The Board asked clarifying questions.

Mr. Yount commented that he thought the Public Hearing should be held when the Ordinance is first introduced then continued at the next meeting for the second reading of the Ordinance.

Mr. Martin commented that Section 2-E of the Ordinance states “No written requests are on file with the District for mailed notice of meetings on new or increased capacity charges pursuant to Government Code Section 66016.” Mr. Martin stated that he is confident that BIA has notified MCWD to provide notification of fee increases or new fees pursuant to Code 66016 and suggested that perhaps the finding needs to be updated to accept written and electronic communications. Discussion followed.

Vice President Shriner made a motion to introduce Ordinance No. 61 and waive the entire reading of Ordinance No. 61, an Ordinance amending Sections 1.04.010, 6.08.090, 6.12.020, 6.12.040, and Appendix C of the District Code Changing Capacity Charges for Water and Sewer Services for the Central Marina Service Area and the Ord Service Area. Director Zefferman seconded the motion. The motion was passed by the following vote:

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

D. Consider Adoption of Resolution No. 2020-45 to Approve the First Amendment to the Loan Agreement with BBVA Mortgage Corporation for Interim Financing of the Regional Urban Water Augmentation Recycled Water Pipeline and Distribution System:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item. The Board asked clarifying questions.

Vice President Shriner made a motion to adopt Resolution No. 2020-45 to approve the First Amendment to the Loan Agreement with BBVA Mortgage Corporation for Interim Financing of the Regional Urban Water Augmentation Recycled Water Pipeline and Distribution System. Director Zefferman seconded the motion.

Agenda Item 10-D (continued):

Noting it was 10:00 p.m., Director Zefferman made a motion to continue past 10:00 p.m. to complete items 10-E and 10-G; and postpone item 10-F and the Staff Reports until later or a special meeting, if needed. 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			

The motion to approve the First Amendment to the Loan Agreement with BBVA Mortgage Corporation for Interim Financing of the Regional Urban Water Augmentation Recycled Water Pipeline and Distribution System was passed by the following vote:

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

- E. Consider Adoption of Resolution No. 2020-46 Approving Change Order #2 to the Construction Contract with Monterey Peninsula Engineering for the Regional Urban Water Augmentation Recycled Water Distribution Pipelines Project:

Ms. Don Wilcox, Senior Engineer, introduced this item and briefed the Board on the arborist report recently received regarding the Eucalyptus trees. The Board asked clarifying questions.

Mr. Owen asked the District to modify the report to be presented to the Marina City Council on July 21st and explain the reason for no action on this item. He also commented that had the potholing been performed earlier, the District would not be in the situation they are in now. Mr. Owen also stated that the District would need to notify the City if a tree removal permit would need to be taken per City Code 17.51. He also suggested notifying all residents before doing any work near the trees.

No action was taken on this item.

- G. Consider Adoption of Resolution No. 2020-47 for the Purchase of a New Vactor Ramjet Hydro-cleaner from Owens Equipment for the Operations and Maintenance Department:

Mr. Derek Cray, Operations and Maintenance Manager, introduced this item. The Board asked clarifying questions.

Vice President Shriner made a motion to adopt Resolution No. 2020-47 for the purchase of a new Vactor Ramjet Hydro-cleaner from Owens Equipment for the Operations and Maintenance Department. Director Cortez seconded the motion.

Agenda Item 10-G (continued):

The motion was passed by the following vote:

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

15. Adjournment:

The meeting was adjourned at 10:29 p.m.

APPROVED:



Thomas P. Moore, President

ATTEST:



Paula Riso, Deputy Secretary