

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
October 7, 2013
6:00 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on October 7, 2013.

2. Roll Call:

Board Members Present:

Tom Moore – President
Jan Shriner – Vice President
Howard Gustafson
Peter Le

Board Members Absent:

Bill Lee

Staff Members Present:

Brian Lee, Interim General Manager
Roger Masuda, Legal Counsel
Kelly Cadiente, Director of Administrative Services
Jean Premutati, Management Services Administrator
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Paula Pelot, Preston Park Tenants Association
Ken Nishi, Marina Resident
Denise Turley, Marina Resident

3. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:01 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)

The Board ended closed session at 7:00 p.m.

President Moore reconvened the meeting to open session at 7:02 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:

Ms. Paula Pelot, Preston Park Tenants Association, commented that the District Board meetings were not available on Video by Demand and suggested that, in the future, the Board discuss paying the extra fee for Video by Demand.

Mr. Kenneth Nishi, Marina resident, commented that he did not get his full four minutes of public comment at the last meeting. He asked when the minutes of July 15th were going to be corrected. Mr. Nishi also commented that unagendized items which are discussed in closed session are a violation and each Board member is liable.

Ms. Denise Turley, Marina resident, commented that she had a water leak and asked if staff could contact her to give her information on her meter.

Agenda Item 7 (continued):

President Moore commented that staff could check the public comment timer to see if it accurately allows four minutes. He asked that the July 15th minutes be brought back for correction.

Mr. Brian Lee, Interim General Manager, commented that he was not aware of Ms. Turley's meter issue, but would have staff check into it. He also noted that in response to Ms. Pelot's concern over the meeting videos, the District did have DVD's of all the meetings and they were available for the public to view.

8. Consent Calendar:

Ms. Pelot requested to pull items 8-A, 8-B, and 8-C from the Consent Calendar.

A. Approve the Draft Minutes of the Adjourned Regular Board Meeting of August 26, 2013

Ms. Pelot asked that the minutes be tabled until the next meeting to allow her time to review the audio and submit her corrections.

Vice President Shriner made a motion to table approval of the August 26th Board meeting until staff could review and revise the minutes. Director Le seconded the motion. The motion was passed.

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

B. Approve the Draft Minutes of the Regular Board Meeting of September 3, 2013

Ms. Pelot asked if the written document she turned in at the September 3, 2013 meeting was included in the administrative record. Ms. Riso answered affirmatively.

Vice President Shriner made a motion to approve the draft minutes of September 3rd. Director Le seconded the motion. The motion was passed.

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

C. Approve the Draft Minutes of the Regular Board Meeting of September 16, 2013:

Ms. Pelot commented that her comments noted in the first paragraph on page 4 of the minutes were not correct. She also stated that her comments at the bottom of page 9 of the minutes were not correct.

Agenda Item 8-C (continued):

Director Le made a motion to table approval of the September 16th Board meeting until staff could review and revise the minutes. Vice President Shriner seconded the motion. The motion was passed.

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

9. Action Items:

A. Consider Adoption of Resolution No. 2013-55 to Amend the Policy for Recruitment and Selection of Positions Reporting Directly to the Board of Directors:

Ms. Jean Premutati, Management Services Administrator, introduced this item. Director Le asked that language be added to the Section: Selection of Candidate. He asked that the verbiage be revised to "...has been identified by the Board, the recruiting firm..."

Vice President Shriner made a motion to adopt Resolution No. 2013-55 to amend the Policy for Recruitment and Selection of positions reporting directly to the Board of Directors with the language suggested by Director Le and correction of the formatting. Director Le seconded the motion. The motion was passed.

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

B. Consider Adoption of Resolution No. 2013-58 to Approve the Revised General Manager Job Description:

Vice President Shriner asked that the "Safety regulations and programs" be moved under the "Qualifications" heading instead of "Examples of Duties".

President Moore suggested adding language to "Safety regulations and programs" so that it reads, "Implements the principals and practices of safety regulations and programs established by OSHA."

Vice President Shriner made a motion to adopt Resolution No. 2013-58 to approve the revised General Manager job description. Director Le seconded the motion. Ms. Pelot suggested adding "Implements the principals and practices of safety regulations and programs including but not limited to those established by OSHA." The motion was passed.

Vice President Shriner amended her motion to include the language suggested by Ms. Pelot. Director Le seconded the amendment.

Agenda Item 9-B (continued):

The motion was passed.

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

C. Receive District's Procedure for Tracking Proposition 218 Protest Letters, Provide Direction and Input to Staff in Preparation of Formalizing the Procedure into a District Policy; and, Consider Authorizing the Board President to Appoint up to Two Non-District Employee Observers to Review the District Staff's Work in Verifying and Counting Protests:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item explaining that the policy provided was the District's current policy. Discussion followed with a suggestion to add a step to the process for two observers to oversee the protest count. There was a suggestion to add language to step 8 so that it reads, "...received prior to the hearing are checked by and brought to the hearing..." and revise step 10 to read, "If Protest letters total preliminary count for each cost center is 50% or less than the total parcels of the cost center then a majority protest has not occurred." Discussion followed regarding verification of protests.

President Moore appointed himself and Vice President Shriner to an Ad Hoc Committee to work with staff on getting two neutral observers to oversee the protest count.

Ms. Pelot suggested the Board review sections 53750-53756 of the Government Code which have to do with this process. Ms. Pelot voiced her concerns over steps 2-9 of the Prop. 218 process, particularly what the definition of "returned notices" was, and stated that she hoped the Board would study the actions listed for the process. Ms. Pelot offered her assistance to staff.

President Moore commented that he and Vice President would also look at steps 2-9 of the Prop. 218 process.

Ms. Turley questioned if a customer sends in a protest and it is determined that it is not complete, is the District required to notify the customer and let them know that their protest needed to be resubmitted. Mr. Masuda answered that the Ad Hoc Committee would look at that issue and decide a process for staff to follow.

Vice President Shriner clarified that "returned notices" were items of mail that were undeliverable for various reasons.

President Moore commented that staff was corresponding with the League of Women Voters for volunteers to verify the protest count.

D. Consider Adoption of Resolution No. 2013-57 to Amend Section 16 of the Board Policy Manual:

Mr. Lee introduced this item.

Director Le stated that he wanted to make significant changes to bring the authority back to the Board of Directors and provided written copies of his suggested changes to Section 16 of the Board Procedures Manual. Discussion followed.

Vice President Shriner asked for a copy of the changes to be provided electronically and that a scope-of-work for individuals reporting to the board be discussed in the upcoming Strategic Plan.

Mr. Lee stated that staff would email the Word Document of the draft of Section 16 to the Board for them to revise in track changes for discussion at the next meeting.

10. Informational Items:

A. General Manager's Report:

Mr. Lee reported that there was not any significant correspondence items received other than closed session items. He noted that the meter reading dates for September resulted in 23 days for the billing and October resulted in 36 days of billing so there may be some phone calls regarding higher bills for October. Mr. Lee gave an update on the Prop. 218 protest hearing noting that mailings for Central Marina were sent out with the November 18th hearing date and postcards were sent to the Ord Community clarifying that the hearing date was October 21st at the Marina Council Chambers. He added that staff would be at the Carpenters Union Hall and Marina Council Chambers on October 11th in case any public shows up with protests and will direct them to the October 21st hearing at the Marina Council Chambers. Mr. Lee commented that Schaaf & Wheeler had been hired to do a parcel count and the preliminary result was 3,519 unique APN's in Central Marina receiving service from the District and 439 unique APN's in Ord Community receiving service from the District. He added that there were 682 accounts not connected to a parcel or matching an APN as provided by Monterey County and most were irrigation or fire meters, but that staff was going through them one-by-one. Mr. Lee stated that there was a possibility that the preliminary unique APN numbers may change slightly after the last of the 682 accounts were reviewed. He said that the final numbers would be available by next week.

President Moore stated that he would be at the Carpenters Union Hall on October 11th in case any public shows up and wants to discuss the rate increase. He encouraged other Board members to be available as well.

B. Counsel's Report:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner commented that they held a joint meeting with the Community Outreach Committee and there was good discussion. She stated that they would like to hold another joint meeting.

2. Joint City District Committee:

President Moore commented that the next meeting was scheduled for October 23rd.

3. Executive Committee:

No meeting was held.

4. Community Outreach:

Director Le said that they held a joint meeting with the Water Conservation Commission and want to hold joint meetings for the remainder of the year. Vice President Shriner stated that they were still scheduled to meet with CSUMB on October 15th.

5. MRWPCA Board Member:

President Moore stated that the next meeting was October 28th. He stated that staff and Board Chairs of both agencies met and held a discussion on possible future projects.

6. LAFCO Liaison:

Director Le reported that the September 23rd meeting was canceled and the next meeting was October 28th.

7. FORA:

President Moore stated that the next meeting was October 11th. He noted that there was a two-day colloquium on issues to get the base redevelopment kick-started to be held at the CSUMB University Center sponsored by CSUMB and FORA. Mr. Lee commented that the rate study was going to be presented to the FORA Board on Friday with the District consultant present to answer any questions

8. WWOC:

Mr. Lee commented that there was a draft presentation that will be going to the November FORA Board meeting to help simplify the decision making process

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison

Director Gustafson stated that the next meeting is October 15th.

11. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

President Moore stated that he received a request from Director Le to put together a work program looking out a year into the future and that this would probably get put into the Strategic Plan.

Vice President Shriner stated that at a future meeting, she would like to discuss the video-on-demand by AMP as requested by Ms. Pelot; and, to correct the July 15, 2013 minutes.

Director Le suggested the Board appoint a committee to work on the RUWAP with FORA and the MRWPCA; and, a committee to work on the Ag Land Trust and County cases to make it more efficient. He also suggested reactivating the Projects and Planning and Operations and Maintenance Committees.

Vice President Shriner commented that she would like to revisit the capacity charge credit and how it works with new meters.

12. Director's Comments:

Director Gustafson, Director Le, Vice President Shriner, and President Moore made comments.

Director Gustafson left the meeting at 8:39 p.m.

President Moore recessed the meeting from 8:41 until 8:48 p.m.

The Board returned to closed session at 8:48 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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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)

The Board ended closed session at 9:25 p.m.

5. Possible Action on Closed Session Items:

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

13. Adjournment:

The meeting was adjourned at 9:25 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary