

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
November 4, 2013
6:30 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:30 p.m. on November 4, 2013.

2. Roll Call:

Board Members Present:

Tom Moore – President
Jan Shriner – Vice President
Bill Lee
Peter Le

Board Members Absent:

Howard Gustafson

Staff Members Present:

Brian Lee, Interim General Manager
Roger Masuda, Legal Counsel
Jeanine DeBacker, Legal Counsel
Kelly Cadiente, Director of Administrative Services
Jean Premutati, Management Services Administrator
James Derbin, Operations and Maintenance Superintendent
Brian True, Capital Projects Manager
Ernest Pons, Customer Service Supervisor
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

David Moon, AMCAL
Lloyd Lowrey, Noland, Hamerly, Etienne & Hoss
Susan Kiefert
Tony Kelsey
Joshua Kelsey
Mark Duplissie
Rene Magdaleno
Warren Foster
Jose Rodriguez
Daniel Jackson
Tuan Nguyen
Joe Pineda

3. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:31 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)

- B. Pursuant to Government Code 54956.8
Conference with Real Property Negotiator
Property: District Owned Armstrong Ranch Property
Negotiating Parties: Orradre and MCWD

The Board ended closed session at 7:04 p.m.

President Moore reconvened the meeting to open session at 7:05 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 Mr. Brent Ives, BHI Consulting, to lead everyone present in the pledge of allegiance.

7. Oral Communications:

No comments were received.

Agenda Item 7 (continued):

Mr. Kenneth Nishi, Marina resident, commented that the farmers were friends of the District and the District was not following agreements that were already signed. He also voiced his concerns over not following through with CIP projects.

8. Presentation:

- A. Receive a Presentation from Brent Ives, BHI Consulting, on the District's Draft Five-Year Strategic Plan and Provide Direction:

Mr. Brent Ives, BHI Consulting, gave an overview of the draft five-year Strategic Plan for the District. The Board of Directors gave direction and provided suggestions to Mr. Ives regarding the Strategic Plan. Mr. Brian Lee, Interim General Manager, stated that the draft Strategic Plan Word Document would be forwarded to the Board so they could submit their suggested changes, then returned to Mr. Ives for presentation of a final draft.

9. Consent Calendar:

Director Le requested to pull item 9-A from the Consent Calendar.

Vice President Shriner made a motion to approve the Consent Calendar consisting of item 9-B (Approve the Draft Minutes of the Regular Board Meeting of October 7, 2013). Director Le seconded the motion. The motion was passed.

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

- A. Adopt Resolution No. 2013-60 to Authorize the General Manager to Execute a Memorandum of Understanding between Monterey Regional Water Pollution Control Agency and Marina Coast Water District for Conducting a Public Education Program for the Southern Monterey Bay Dischargers Group:

Director Le made a motion to authorize the General Manager to execute a Memorandum of Understanding between Monterey Regional Water Pollution Control Agency and Marina Coast Water District for conducting a Public Education Program for the Southern Monterey Bay Dischargers Group with the corrected amount of \$2,106. Vice President Shriner seconded the motion. The motion was passed.

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

10. Action Items:

- A. Consider Adoption of Resolution No. 2013-59 to Approve an Agreement with AMCAL Monterey Bay, LLC for Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure at The Promontory, a CSUMB Housing Project:

Mr. Brian Lee, Interim General Manager, introduced this item. Following discussion, changes were suggested for Section 2.1.4, "...before Certificate of Occupancy is issued."; Section 5.1, correct date by removing the second 2013, the second sentence to read, "These charges must be paid prior to the installation..."; and revising the last sentence to read, "Developer agrees to pay the capacity charge in effect when paid."

Vice President Shriner made a motion to adopt Resolution No. 2013-59 to approve an Agreement with AMCAL Monterey Bay, LLC for Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure at The Promontory, a CSUMB Housing Project, with the suggested changes and including the meter agreement. President Moore seconded the motion.

Director Le asked to add language to Section 2.1.2 to read, "...at the time of commencement of construction of water and wastewater infrastructure when submitting project plans..."

Vice President Shriner amended her motion to adopt Resolution No. 2013-59 to approve an Agreement with AMCAL Monterey Bay, LLC for Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure at The Promontory, a CSUMB Housing Project, to include the additional suggested change. President Moore seconded the amended motion. The motion was passed.

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

- B. Second Reading of Ordinance No. 56 Approving New District Rates, Fees & Charges for Marina Water and Wastewater:

Mr. Lee introduced this item. President Moore requested language to be added to Sections 6.08.060, 6.08.080, 6.08.100, and 6.12.050 so they read, "...shall be no greater than..." Mr. Masuda stated that he proposes a new section to address Mr. Moore's concerns.

Section 19. Annual Modification of Rates and Charges. All rates and charges specified in this ordinance are the maximum amounts that may be imposed by the District for the applicable time period. The Board of Directors as part of its review and adoption of the annual District budget may determine by resolution to impose less than the applicable rate or charge set forth in this ordinance for all or a portion of the time period covered by that District budget.

Agenda Item 10-B (continued):

Director Lee made a motion to amend Ordinance No. 56 by adding Section 19. Vice President Shriner seconded the motion. The motion was passed.

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

Director Lee made a motion to waive the entire reading of the first reading of the altered Ordinance No. 56 an Ordinance Amending Sections 6.08.030, 6.08.060, 6.08.080, 6.08.090, 6.08.100, 6.12.020, 6.12.040, and 6.12.050 of the District Code Changing Rates, Fees and Charges for Water and Sewer Services for the Central Marina Service Area. Vice President Shriner seconded the motion. The motion was passed.

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

C. Provide Direction to MCWD's Interim General Manager Regarding an Access Agreement with Stanford University to Allow Crossing MCWD Property for Research Purposes:

Mr. Lee introduced this item.

Vice President Shriner made a motion to direct the Interim General Manager to sign the Access Agreement with Stanford University to allow crossing MCWD property for research purposes. Director Le seconded the motion. The motion was passed.

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

D. Consider Appointing Ad Hoc Committees of the District:

Director Le commented that forming Ad Hoc Committees comprised of two Directors with limited authority to provide direction will make things more effective and efficient. He suggested the following Ad Hoc Committees: FORA, RUWAP, Annexation, Surface Water Application, Operations Planning and Project, and Legal Cases.

No action was taken.

President Moore suggested moving to item 10-F.

President Moore opened the Appeal Hearing at 9:34 p.m.

F. Hold Hearing and Consider Action on the Appeal of Personnel Disciplinary Action:

President Moore stated that the purpose of the hearing was to determine the validity of the charges and the reasonableness of the discipline imposed pursuant to the charges.

Each side made a statement as to who was present on their behalf. No witnesses were excluded prior to testifying. President Moore confirmed with the employee that they wanted the hearing to be in open session.

Documents were presented by each side.

Noting that it was 10:00 p.m., Director Lee made a motion to continue the meeting until 2:00 a.m. unless completed earlier. Vice President Shriner seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Absent, the motion passes.

Witnesses were sworn in, gave their testimony and were cross-examined by both sides.

President Moore recessed the meeting from 10:53 until 11:03 p.m.

The employee testified on their own behalf. The Board asked clarifying questions. Additional documents were handed out and some were removed from evidence.

Vice President Shriner made a motion to admit the evidence as amended. Director Le seconded the motion. With a vote of 4-Ayes, 0-Noes, 1-Absent, the motion passes.

Closing statements were made by all parties. The Board of Directors deliberated the case.

Director Lee made a motion on the following findings: 1) procedural steps and deadlines in the MOU with the employees have been properly complied with; 2) considered the testimony and all the documentary and demonstrative evidence admitted into the record; 3a) the charges against the employee, based on the evidence appear to be valid; and, 4a) the discipline imposed is reasonable and upheld. Vice President Shriner seconded the motion. With a vote of 3-Ayes, 1-Noes, 1-Absent, the motion passes.

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

President Moore tabled this item until the next meeting.

11. Informational Items:

No report.

12. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

None.

13. Director's Comments:

Vice President Shriner made comments.

14. Adjournment:

The meeting was adjourned at 12:07 a.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary