

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
December 16, 2013
6:00 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on December 16, 2013.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

Staff Members Present:

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

Audience Members:

Kenneth Nishi, Marina Resident
Karin Sobichevski, Seaside Resident
Paula Pelot, Preston Park Tenants Association
Allan Groves, Seaside Resident
Camilla Groves, Seaside Resident

3. Election of Board President and Vice President:

Director Shriner nominated Director Moore for President. Director Moore seconded the nomination.

Director Lee nominated Director Gustafson for President. Director Gustafson seconded the nomination.

Mr. Kenneth Nishi, Marina resident, commented that the President needs to put the other Board members ahead of himself and try to get everyone to work together. He voiced his concerns over the Regional Desalination Project litigation process.

Agenda Item 3 (continued):

Director Lee voted for Director Gustafson.
Director Gustafson voted for Director Gustafson.
Director Le voted for none.
Director Shriner voted for Director Moore.
Director Moore voted for Director Moore.

A majority vote did not occur for either nomination.

Director Le made a motion to table election of the President until the January 6, 2014 meeting. Director Lee seconded the motion. Mr. Nishi suggested holding the election later in the meeting so it could be televised. The motion was passed.

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

Director Moore made a motion to nominate Director Shriner for Vice President. The motion died for lack of a second.

Director Le made a motion to table election of the Vice President until the January 6, 2014 meeting. Director Shriner seconded the motion. The motion was passed.

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

President Moore and Vice President Shriner will continue as President and Vice President until another election is held in January 2014.

4. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:20 p.m.

5. 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

Agenda Item 5 (continued):

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 6:55 p.m.

President Moore reconvened the meeting to open session at 7:00 p.m.

6. Possible Action on Closed Session Items:

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

7. Pledge of Allegiance:

President Moore asked Director Gustafson to lead everyone present in the pledge of allegiance.

8. Oral Communications:

Ms. Paula Pelot, Preston Park Tenants Association, commented that she still had an outstanding Public Records Request and was waiting for the last of the items to be delivered to her.

Mr. Allan Groves, Seaside resident, provided Ms. Riso with the contact information for the Seaside Highlands Home Owners Association.

Mr. Nishi stated that he several comments: 1) he has yet to receive answers to his questions about the Teen Center; 2) what was the percentage of expenditures cut from the present budget; 3) the Board President is responsible for the actions of the Board members and if there is a lack of understanding of the job description when it comes to bullying of the public and consultants, and if the rest of the Board stays silent, they are also responsible and it doesn't look good to the public if it occurs; 4) did the attorney ask Peter Le not to attend the July 15, 2013 closed session because of conflict of interest; and, 5) the attorney does not charge for travel time for the first meeting, does he charge for the second meeting and special meetings, does he charge for time to travel, does any Board member know those questions or do they need to ask the attorney.

9. Consent Calendar:

Director Le requested to pull items 9-A, 9-B, and 9-D from the Consent Calendar.

Agenda Item 9 (continued):

Vice President Shriner made a motion to approve the Consent Calendar consisting of the following item:

C) Approve the Draft Minutes of the Regular Board Meeting of November 4, 2013

President Moore seconded the motion. The motion was passed.

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

A. Approve the Proposed Regular Board Meeting Dates for 2014:

Director Le made a motion to approve the proposed regular Board meeting dates for 2014. Vice President Shriner seconded the motion. Ms. Pelot stated that with staff schedules, the Board should consider some amendment to meeting schedules so that there are not issues with staffing to provide requested Board meeting information. The motion was passed.

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

B. Approve the Expenditures for the Month of November 2013:

Director Le made a motion to table the November expenditures until January 6, 2014. Vice President Shriner seconded the motion. The motion was passed.

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

D. Approve the Draft Minutes of the Regular Board Meeting of November 18, 2013:

Director Le made a motion to only include comments from the public and table this item until next meeting so staff can bring revised minutes for consideration. Vice President Shriner seconded the motion. Mr. Nishi commented on the draft minutes. The motion was passed.

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

10. Action Items:

- A. Consider Validating the Number of Proposition 218 Protests Tabulated on October 21, 2013 for the Proposed Increases in District Rates, Fees, and Charges for the Ord Community or Providing Other Direction to Staff:

Ms. Pelot gave examples of the corrupted mailing list and voiced her concern over the integrity of the process. She also commented that she was still waiting for information from her Public Records Request to be provided.

Mr. Groves questioned the Seaside Highlands irrigation accounts and if they were all counted as valid. He also voiced his concerns over the accounts that were counted as duplicates.

Mr. Nishi commented that this was the first time the District has ever been taken to task. He stated that the District should have hired professionals to put the database together and not try to save money by having staff do it.

Ms. Karin Sobichevski, Seaside resident, voiced her concerns over the proposed rate increase and the notification errors.

Ms. Camilla Groves, Seaside resident, urged the Board not to validate the Proposition 218 protest tabulation due to the confusion and errors in the process.

Vice President Shriner made a motion that the Board consider hiring a consultant to advise the Board on how to properly prepare another Proposition 218 process for rate increases and if it should be for Ord Community only or both Central Marina and the Ord Community. President Moore seconded the motion. President Moore asked Vice President Shriner to amend her motion to include an Ad Hoc Committee of at least one public member and one Board member to work together on this issue. Vice President Shriner amended her motion to include a special committee of one Board member and one member of the public.

After being asked to clarify her motion, Vice President Shriner stated that her motion was to hire a Proposition 218 expert to advise the Board on how to properly prepare another Proposition 218 process for rate increases and if it should be for Ord Community only or both Central Marina and the Ord Community and that a special committee of one Board member and one member of the public work together to form a recommendation for the Board.

Mr. Nishi commented that the District is putting themselves into a box by not keeping up on the CIP projects on the Ord Community and by not making the hard decisions.

Ms. Pelot voiced her disappointment that the Board was leaving it open that it was a Central Marina versus Ord Community redo. She urged the Board to do the right thing and redo the Ord Community Prop 218 process.

Agenda Item 10-A (continued):

Vice President Shriner restated her amended motion to hire a Proposition 218 expert to advise the Board on how to properly prepare another Proposition 218 process for rate increases and if it should be for Ord Community only or both Central Marina and the Ord Community and that a special committee of one Board member and one member of the public work together to form a recommendation for the Board. President Moore seconded the amended motion. The motion failed.

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

Director Le made a motion to direct staff to check the remaining mail records and report the result to the Board at the next meeting. Vice President Shriner seconded the motion. Ms. Pelot commented that the process would be time consuming as it should include both owners and tenants mailing addresses. The motion was passed.

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

B. Approval by the Board of Directors of the Proposition 218 Protest Count for Central Marina and Determination by the Board of Directors Whether a Valid Majority Protest Occurred:

Director Le made a motion to approve the Proposition 218 protest count for Central Marina and determination that a valid majority protest did not occur. Vice President Shriner seconded the motion. Ms. Pelot again voiced her concerns over the data corruption with the mailing list and suggested the Board allow staff adequate time and resources to prepare a result that has more integrity. The motion failed.

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

Following discussion, Vice President Shriner made a motion to approve the Proposition 218 protest count for Central Marina and determination that a valid majority protest did not occur. Director Le seconded the motion. Mr. Nishi commented on the Proposition 218 process. The motion was passed.

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

- C. Consider Providing Direction to Staff to Prepare a Request for Proposals to Hire a Consultant to Address Concerns of the Audit Ad Hoc Committee, Including the Potential Conducting of a Forensic Audit of the District Financials:

Director Le made a motion to direct staff to provide a written report at the next meeting to explain the methodology of how they charge overhead, administration project costs. Vice President Shriner seconded the motion. Ms. Pelot commented that it was important to get the capital and operating information in order to show how it is used to distribute the administrative costs. Mr. Nishi commented that Director Le needed to put on his Director's hat and that there wasn't enough staff for the Board to get into all this minutia. He added that the Board needed to worry about policy and bigger issues, and let the General Manager worry about getting the information and cut staff some slack. The motion was passed.

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

- D. Receive Questions and Answers from the FORA Water/Wastewater Oversight Committee Discussions Regarding Proposed Ord Capacity Charges:

The Board received the draft questions and answers for the FORA Water/Wastewater Oversight Committee discussions regarding proposed Ord Capacity charges.

Director Gustafson left the meeting at 9:12 p.m.

- E. Consider Adoption of Resolution No. 2013-63 to Amend the Professional Services Agreement with Carollo Engineers to Provide a Five-Year Financial Plan and Rate Study to the District:

President Moore made a motion to adopt Resolution No. 2013-63 to amend the Professional Services Agreement with Carollo Engineers to provide a five-year Financial Plan and Rate Study to the District. Vice President Shriner seconded the motion. Ms. Pelot questioned if the amendment included additional work that has already occurred or additional work going forward. The motion was passed.

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

- F. Consider Adoption of Resolution No. 2013-64 to Amend a Professional Services Agreement with BHI Management Consulting to Complete a Five-Year Strategic Plan for the Marina Coast Water District:

Agenda Item 10-F (continued):

Vice President Shriner made a motion to adopt Resolution No. 2013-64 to amend a Professional Services Agreement with BHI Management Consulting to complete a five-year Strategic Plan for the Marina Coast Water District. President Moore seconded the motion. The motion was passed.

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

Director Lee left the meeting at 9:35 p.m.

G. Consider Adoption of Resolution No. 2013-65 to Direct Staff to Distribute a Request for Proposals to Hire an Executive Recruiter for Recruitment of a General Manager:

Director Le made a motion to adopt Resolution No. 2013-65 to direct staff to distribute a revised Request for Proposals to hire an Executive Recruiter for recruitment of a General Manager. Vice President Shriner seconded the motion. The motion was passed.

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

H. Consider a Scope of Topics for the Community Outreach Committee to Discuss with the Community:

Director Le made a motion to table this item until the next meeting. Vice President Shriner seconded the motion. The motion was passed.

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

11. Staff Report:

A. Receive 3rd Quarter 2013 Ord Community Water Consumption and Sewer Flow Reports:

No comments.

12. Informational Items:

A. General Manager's Report:

Mr. Lee noted that staff received a compliment from a satisfied customer and a copy was on the dais.

B. Counsel's Report:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner gave an update and the next meeting was January 9, 2014.

2. Joint City District Committee:

President Moore commented that the next meeting was scheduled for December 18th.

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Vice President Shriner gave an update.

5. MRWPCA Board Member:

President Moore stated that the next meeting is January 27th.

6. LAFCO Liaison:

Director Le gave an update.

7. FORA:

President Moore gave an update.

8. WWOC:

Mr. Lee stated the next meeting was scheduled for December 18th.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison

The next meeting is scheduled for January 21, 2014.

13. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Vice President Shriner and Director Le made requests.

14. Director's Comments:

No comments.

15. Adjournment:

The meeting was adjourned at 10:00 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary