

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
March 17, 2014
6:00 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on March 17, 2014.

2. Roll Call:

Board Members Present:

Tom Moore – President
Jan Shriner – Vice President
Bill Lee – arrived at 6:06 p.m.
Peter Le

Board Members Absent:

Howard Gustafson

Staff Members Present:

Brian Lee, Interim General Manager
Roger Masuda, Legal Counsel
Jeanine DeBacker, Special Legal Counsel
Patricia Quilizapa, Special Legal Counsel
Kelly Cadiente, Director of Administrative Services
Jean Premutati, Management Services Administrator
James Derbin, Operations and Maintenance Superintendent
Brian True, Capital Projects Manager
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Kenneth Nishi, Marina Resident
Dan Amadeo, Marina Resident
Luigi Oppido, Surfline
Brian Cullen, PERC
Johan Perslow, PERC
Floyd Wicks, PERC
Bob Rench, CSUMB
Wendy Elliott, Marina Community Partners

3. Public Comment on Closed Session Items:

Mr. Kenneth Nishi, Marina resident, asked if the Board has a General Manager on board in regards to item 4-D, and if not, would it be discussed in closed session. Mr. Roger Masuda, Legal Counsel, commented that it was understood that the position being discussed was the Interim General Manager position.

The Board entered into closed session at 6:03 p.m. to discuss the following items:

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, San Francisco Superior Court Case No. CGC-13-528312 (Complaint for Declaratory Relief)

B. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Anticipated Litigation
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9
Two Potential Cases

C. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Anticipated Litigation
Significant Exposure to Litigation Pursuant to Subdivision (b) of 54956.9
One Potential Case

D. Pursuant to Government Code 54957

Public Employee Performance Evaluation
Title: Interim General Manager

The Board ended closed session at 7:02 p.m.

President Moore reconvened the meeting to open session at 7:04 p.m.

5. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, stated that no reportable actions were taken in closed session. He added that the Board would return to closed session at the end of the meeting if there was time.

6. Pledge of Allegiance:

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

7. Oral Communications:

Mr. Nishi commented that the leadership of President Moore and Vice President Shriner has led the District to the following: 1) not passed the Ord budget for the last two years; 2) Central Marina ratepayers continue to subsidize the former Fort Ord ratepayers for the last two years; 3) why does the District continue to pay for the legal counsel's travel expenses after the first meeting of the month; 4) why are certain peoples comments answered while the President continues to ignore other peoples comments and questions.

8. Election of Board Vice President:

President Moore made a motion to appoint Director Shriner as Vice President. Director Shriner seconded the motion. Director Lee commented that they should wait to vote when a full Board is present. The motion failed.

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

9. Possible Action on the Special Legal Counsel Investigation Report:

- A. Consider Possible Board Action and Adoption of Resolution No. 2014-12 with Regards to the Harassment Investigation of Director Le:

Ms. Jeanine DeBacker, Special Legal Counsel, introduced this item.

Vice President Shriner made a motion that the Board start with a strong warning and that the full weight of the Board Procedures Manual would take place if the behavior continued. President Moore seconded the motion. Following discussion, Director Le requested to be removed from the Community Outreach Committee and the Audit Ad Hoc Committee. Mr. Nishi voiced his concerns that the Board's actions told Director Le what he was doing was okay because he was never gaveled by the Board President or informed by Legal Counsel that he was out of line. He added that being censured was nothing new as two sitting Board members had already been censured for their actions.

Agenda Item 9-A (continued):

Director Le made a motion to amend the previous motion to remove himself from the Community Outreach Committee and the Audit Ad Hoc Committee. He added that if no one seconded the motion, he would withdraw from the Committee's himself. The amendment died for lack of a second.

Vice President Shriner restated her motion that there be a warning with the potential of any further complaint, the full weight of the Board Procedures Manual be utilized. The motion failed.

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

President Moore made a motion for staff to focus the Resolution Whereas' on specific findings and the Resolved items focusing on numbers 1, 2, 3, 4, and 8, and bring it back to the next meeting for consideration. Vice President seconded the motion. The motion failed.

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

Vice President Shriner made a motion to maintain the same resolution and include numbers 1, 2, 3, 4, 8, and number 7 for a three month period. President Moore seconded the motion. Director Le stated that they should wait until the next meeting when the other Director would be present. President Moore withdrew his second.

10. Presentation:

A. Presentation from PERC Water for a Reclamation Conveyance Facility Water Supply Project:

Mr. Brian Cullen, PERC Water, introduced himself, Mr. Johan Perslow, and Mr. Floyd Wicks, then gave a brief presentation on a Reclamation Conveyance Facility Water Supply Project and answered the Board member's questions.

11. Budget Workshop:

A. Receive Draft District FY 2014-2015 Budget, Rates, Fees and Charges for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final Budget Documents:

Ms. Kelly Cadiente, Director of Administrative Services, gave a brief presentation of the draft FY 2014-2015 budget, rates, fees and charges for the Marina and Ord Community service areas.

Agenda Item 11-A (continued):

Director Le made a motion to direct staff to:

- 1) on page 2, correct the public hearing date;
- 2) on page 3, add a note that the assigned percentage is used for budgeting purpose only, but the actual costs will be based on the actual expenses incurred for each cost center;
- 3) on page 4, correct the average monthly bill with the effective date of July 1, 2014;
- 4) on page 7, add a footnote on the monthly capital surcharge to show the end date for whenever the Board approves the new budget;
- 5) on page 51, delay the Recycled Water Project;
- 6) on all the CIP pages, add a footnote on how the split percentages are calculated.

Director Lee seconded the motion. Discussion followed.

Director Le amended his motion to direct staff to:

- 1) on page 2, correct the public hearing date;
- 2) on page 3, add clarifying language on how the allocations are divided using the language from the presentation into the last paragraph stating that “The allocation rates for fiscal year 2014/2015 are based on fiscal year 2012/2013 audited operating expenses”;
- 3) on page 4, correct the average monthly bill with the effective date of July 1, 2014;
- 4) on page 7, add a footnote on the monthly capital surcharge to show the end date for whenever the Board approves the new budget.

Director Lee seconded the amended motion. The motion was passed.

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

- B. Receive Draft District Five-Year Capital Improvements Projects Budgets for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final CIP Budget Documents:

Mr. Brian Lee, Interim General Manager, introduced this item and gave a brief overview of the five-year CIP.

Director Le made a motion to direct staff to:

- 1) on page 30, correct the year and add surface water project to CIP list;
- 2) on page 51, delay the Recycled Water Project until the Board authorizes it;
- 3) on all the CIP pages, add a footnote on how the split percentages are calculated.

President Moore seconded the motion.

At 10:00 p.m. President Moore made a motion to continue until item 11-B is completed then decide what to do about the other items. Vice President Shriner seconded the motion.

Agenda Item 11-B (continued):

The motion to continue until item 11-B is completed then decide what to do about the other items was passed.

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

Director Le amended his motion to include a budget of \$100,000 for the surface water project. The motion failed.

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

President Moore made a motion to direct staff to:

- 1) on page 30, correct the year;
- 2) on page 51, delay the Recycled Water Project until the Board authorizes it;
- 3) on all the CIP pages, add a footnote on how the split percentages are calculated.

Vice President Shriner seconded the motion. The motion was passed.

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

Director Le made a motion to discuss item 13-A and hold a special meeting on March 24th to complete the rest of the items. Vice President Shriner seconded the motion. Mr. Bob Rench, CSUMB, asked the Board to discuss item 13-C as well. Director Le amended his motion to include item 13-C and any items not pulled from the Consent Calendar. Vice President Shriner seconded the amendment. The motion was passed.

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

12. Consent Calendar:

Director Le stated he wanted to pull all the items from the Consent Calendar.

President Moore stated that all the Consent Calendar items would then be discussed at the March 24th special meeting.

13. Action Item:

- A. Consider Approval of Proposition 218 Public Notice and Set Date, Time and Location for Public Hearing for Proposed Changes in Rates, Fees, and Charges for Marina and Ord Community Service Areas following Report from Special Legal Counsel:

Ms. Patricia Quilizapa, Special Legal Counsel, gave a brief report on the Proposition 218 Process.

Vice President Shriner made a motion to redo the Proposition 218 Process for the entire Marina and Ord Community combined in one process. Director Le seconded the motion. The motion was passed.

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

Following discussion, President Moore made a motion to approve the Proposition 218 notice with the following corrections:

1. Change the date shown and changes suggested by Counsel Masuda
2. Change the date of the 3rd, 4th, and 5th increases to January 1, 2016, 2017, 2018
3. Correct the bullets on page 7 of the notice.

Director Le seconded the motion. The motion was passed.

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

- C. Consider Request for Variance from District Code Section 5.20.050 – Grease Trap, Grease Interceptor or Other Device Required:

Director Le made a motion to grant the variance to CSUMB's Peet's Coffee Shop with regards to District Code Section 5.20.050 – Grease Trap, Grease Interceptor or Other Device Required provided they install the 75 GPM grease trap and the required signage at the hand wash sink. President Moore seconded the motion. The motion was passed.

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

The Board confirmed that the Consent Calendar items would be discussed on March 24th at a special meeting and legal counsel is not required to attend.

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14. Adjournment:

The meeting was adjourned at 10:55 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary