

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
April 7, 2014
6:00 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on April 7, 2014.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None

Staff Members Present:

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

Audience Members:

Kenneth Nishi, Marina Resident
Mike McCullough, MRWPCA

3. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:02 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 Nos. H038550 and H039559

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 6:56 p.m.

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

5. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, stated that no reportable actions were taken in closed session.

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 Executive Committee left the election of the Vice President off the agenda even though the Board Procedures Manual states that a Vice President shall be elected annually.

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

A. Consider Adoption of Resolution No. 2014-12 to Censure Director Peter Le:

Ms. Jeanine DeBacker, Special Legal Counsel, introduced this item. [Director Le asked questions of Special Legal Counsel.](#)

Director Lee made a motion that the Board adopt Resolution No. 2014-12 to Censure Director Peter Le with only findings 1 and 2 in the “NOW, THEREFORE, BE IT RESOLVED” section. Director Le seconded the motion.

President Moore made a motion to amend the previous motion to include findings 3 and 8. Director Gustafson seconded the motion. President Moore amended his motion to amend by adding the following language to finding 3, “The Special Investigator concluded that Director Le further violated...” Mr. Nishi commented it has been said that Director Le received training, and yet when he acted the way he did, the President let him go on and never did anything to stop him. He added that the Legal Counsel never said anything to stop him either. Mr. Nishi stated that when other Directors were censured, the book was never thrown at them so they shouldn’t throw the book at Director Le.

As to the amendment to include findings 3 and 8 in the original motion, the motion was passed.

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

As to the amended original motion to adopt Resolution No. 2014-12 to Censure Director Peter Le with only the findings 1, 2, 3 (as modified) and 8 in the “NOW, THEREFORE, BE IT RESOLVED” section, the motion was passed.

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

9. Consent Calendar:

Director Le stated he wanted to pull all the items from the Consent Calendar except Items L and N. Staff requested that item D be pulled and tabled until later.

Director Gustafson made a motion to approve the Consent Calendar consisting of the following items:

- L) Approve the Draft Minutes of the Special Board Meeting of March 10, 2014
- N) Approve the Draft Notes of the Special Board Meeting of March 24, 2014

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

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

A. Accept the District's Draft Five-Year Strategic Plan:

President Moore made a motion to accept the District's Draft Five-Year Strategic Plan. Vice President Shriner seconded the motion.

Director Le made a motion to amend the previous motion to include: directing staff to develop the safety plan element; address the unfunded liability; address the diverse workforce policy; and develop a level of service and performance indicator as part of the annual update in 2015. Director Lee seconded the motion. Discussion followed. The amendment to the motion failed.

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

The original motion to accept the District's Draft Five-Year Strategic Plan was passed.

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

B. Approve Letter to Seaside County Sanitation District:

Vice President Shriner made a motion to approve the letter to Seaside County Sanitation District as written. President Moore seconded the motion. Mr. Nishi voiced his concerns over sending the President as the negotiator with Seaside County Sanitation District. The motion was passed.

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

C. Adopt Resolution No. 2014-13 to Approve the Job Description, Salary Range, and Hiring of a Full-Time Engineering Technician:

Vice President Shriner made a motion to adopt Resolution No. 2014-13 approving the job description, salary range, and hiring of a full-time Engineering Technician. Director Gustafson seconded the motion. Mr. Nishi commented that the District should look into hiring a temporary employee instead of adding staff positions until the need to do so is determined. Mr. Brian Lee, Interim General Manager, answered that staff was not adding positions, but filling a position the Assistant Engineer held. The motion was passed.

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

D. Adopt Resolution No. 2014-14 to Authorize the General Manager to Execute an Agreement with Surfline/Wavetrak Inc. for Installation of a Surf Monitoring Camera on District Facilities at 11 Reservation Road:

Mr. Lee noted that staff wanted to pull this item to allow time for more review of the contract. Mr. Nishi wanted to comment but was informed public comment was not allowed since the item was pulled from the agenda.

E. Adopt Resolution No. 2014-15 to Approve the 2013-2014 District Investment Policy:

Vice President Shriner made a motion to adopt Resolution No. 2014-15 to approve the 2013-2014 District Investment Policy. Director Gustafson seconded the motion. Following discussion, Vice President Shriner amended her motion to include language to IV-E of the Investment Policy stating that if there is no Budget and Personnel Committee, the Board of Directors will review the policy. The motion was passed.

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

F. Approve the Draft MCWD 2013 Consumer Confidence Report for the Marina Coast Water District Water System, Central Marina and Ord Community:

Director Le made a motion to approve the draft MCWD 2013 Consumer Confidence Report for the Marina Coast Water District Water System, Central Marina and Ord Community with the addition of an email address for customers to use for any questions regarding the water quality. Vice President Shriner seconded the motion. The motion was passed.

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

G. Direct Board President Regarding Voting on the Mosquito and Disease Control Assessment Ballot by the Northern Salinas Valley Mosquito Abatement District:

Vice President Shriner made a motion to direct the Board President to support the Mosquito and Disease Control Assessment Ballot by the Northern Salinas Valley Mosquito Abatement District. Director Gustafson seconded the motion. The motion was passed.

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

H. Set a Public Hearing on April 21, 2014 for Ord Capacity Charges:

Vice President Shriner made a motion to set a Public Hearing on April 21, 2014 for Ord Capacity Charges. Director Gustafson seconded the motion. The motion was passed.

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

I. Receive and File the Check Register for the Month of February 2014:

Vice President Shriner made a motion to receive and file the check register for the month of February 2014. Director Gustafson seconded the motion. Mr. Nishi voiced his concerns over certain payment practices. The motion was passed.

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

J. Approve the Revised Draft Minutes of the Regular Board Meeting of February 3, 2014:

Vice President Shriner made a motion to approve the revised draft minutes of the Regular Board Meeting of February 3, 2014 with the correction to page 7 of the minutes at the top to read "Action Item 10-G (continued)". 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			

K. Approve the Draft Minutes of the Regular Board Meeting of March 3, 2014:

Following discussion, Vice President Shriner made a motion to table the draft minutes of the regular Board meeting of March 3, 2014 to allow staff time to review the recording for possible corrections. Director Gustafson seconded the motion. The motion to table was passed.

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

M. Approve the Draft Minutes of the Regular Board Meeting of March 17, 2014:

Following discussion, Vice President Shriner made a motion to table the draft minutes of the regular Board meeting of March 17, 2014 to allow staff time to review the recording for possible corrections. Director Gustafson seconded the motion. The motion to table was passed.

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

10. Action Items:

A. Consider First Reading of Ordinance No. 56 Approving New District Rates, Fees & Charges for Marina Water and Wastewater:

Vice President Shriner made a motion to introduce and waive the reading of the Marina Coast Water District Ordinance No. 56 an Ordinance amending sections 6.80.030, 6.08.060, 6.08.080, 6.08.100, and 6.12.050 of the District Code Changing Rates, Fees & Charges for water and sewer services for the Central Marina service area. Director Gustafson seconded the motion. The motion was passed.

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

B. Consider First Reading of Ordinance No. 57 Approving New District Capacity Charges for Central Marina:

Vice President Shriner made a motion to introduce and waive the reading of the Marina Coast Water District Ordinance No. 57 an Ordinance amending sections 6.80.090, 6.12.020, and 6.12.040 of the District Code Changing Capacity Charges for water and sewer services for the Central Marina service area. Director Gustafson seconded the motion. The motion was passed.

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

- C. Provide Direction to MCWD's Interim General Manager Regarding the Water Conservation Commission's Recommendation to Engage with CSUMB to Develop Water Conservation Outreach Activities:

Following discussion, Vice President Shriner made a motion to table the Water Conservation Commission's recommendation to engage with CSUMB to develop Water Conservation Outreach Activities until May to allow participation by the Water Conservation Commissioners. Director Lee seconded the motion. The motion to table was passed.

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

- D. Receive Audit Ad Hoc Recommendation and Provide Direction to Staff:

Director Gustafson left the meeting at 9:20 p.m.

Following discussion, Director Lee made a motion to table this item. 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			

- E. Receive a Report on the Improvements to the SCADA System and a Plan of Action:

Mr. Lee gave a brief report on the SCADA system.

- F. Receive a Report on the Status of the Salinas River Surface Water Application:

Mr. Lee gave a brief report/update on the 11043 Permit and what the next steps are.

- G. President Moore will Provide a Verbal Status Update on General Manager Recruitment and the Board will Review and Consider Approval of the Recruitment Brochure:

President Moore distributed copies of the draft recruitment brochure.

President Moore made a motion to approve the brochure with the following changes:

- Page 4, second bullet, add "near term" after the word potential in the third line so that it reads: "...potential near term Ord Community..."
- Page 4, second bullet, and "new" in place of "redundant" in the sixth line so that it reads: "...and pursuing a new source of potable water..."
- Page 4, third bullet, remove the word "failed"

Agenda Item 10-G (continued):

- Page 4 add two new bullets:
 - Update the District Master Plan
 - Assessment of current organization and recommendation of changes as necessary.
- Page 7, under How to Apply, add a request for five (5) references.

Vice President Shriner seconded the motion

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

11. Informational Items:

A. General Manager's Report:

Mr. Lee provided handouts of his items.

B. Counsel's Report:

Mr. Masuda provided handouts of his item.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner noted that there was no quorum for April 3rd and the next meeting was May 1st.

2. Joint City District Committee:

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

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Vice President Shriner noted that Earth day was April 12th.

5. MRWPCA Board Member:

President Moore gave a brief update.

6. LAFCO Liaison:

Vice President Shriner gave a brief update.

7. FORA:

President Moore gave a brief update.

8. WWOC:

Mr. Lee stated that the next meeting is April 16th.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison

The next meeting is scheduled for April 15, 2014.

13. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Lee made a request.
Director Le stated he emailed his requests.

14. Director's Comments:

Director Le and Vice President Shriner made comments.

15. Adjournment:

The meeting was adjourned at 9:53 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary