

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
April 21, 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 21, 2014.

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, 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:

Jim Brezack, Brezack and Associates
Jose Cruz, Clark Realty Capital
Kenneth Nishi, Marina Resident
Paula Pelot, Preston Park Tenants Association
Talli Robinson, UCP East Garrison
Hans-Uli Siebeneick, Seaside Highlands Resident

3. Public Comment on Closed Session Items:

No comments.

President Moore stated that the Board would enter into closed session to discuss the following items as time permits:

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 54957
Public Employee Performance Evaluation
Title: Interim General Manager

The Board entered closed session at 6:01 p.m. The Board ended closed session at 6:59 p.m.

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

5. Possible Action on Closed Session Items:

President Moore reported that the Board discussed items 4-A1, 4-A2, 4-A3, 4-B, and 4-C during closed session. Mr. Roger Masuda, Legal Counsel, stated that no reportable actions were taken in closed session.

6. Pledge of Allegiance:

President Moore asked Vice President Shriner to lead everyone present in the pledge of allegiance.

7. Oral Communications:

Mr. Kenneth Nishi, Marina resident, asked how the meeting was being held because the meeting room did not meet ADA compliance requirements. He also wanted to know what liability the District had for not changing all the wharf hydrant heads when they were identified and all were not changed out. Mr. Nishi commented that the culture of the District is set by the leadership of the Board and reflected by the staff. He noted that when public comments on agenda items are not addressed, they become a Public Records Request and can get quite costly. Mr. Nishi stated that at the last meeting, staff pulled an item from the consent calendar to table it and President Moore would not take public comment.

8. Election of Board Vice President:

Noting that there was not a full Board present, Director Lee made a motion to table this until the next meeting and continue bringing it back until it is resolved. 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 | - | No | | | |

9. Public Hearing:

A. Receive Public Comment on Proposed Changes in District Capacity Charges for the Ord Community Service Area:

President Moore opened the Public Hearing at 7:10 p.m.

Ms. Paula Pelot, Preston Park Tenants Association, provided a handout to the Board with her concerns regarding the proposed capacity charge changes. Ms. Pelot briefly reviewed her concerns and requested the Board not increase the capacity charges until all issues have been resolved.

Ms. Talli Robinson, UCP East Garrison, commented that she had several questions on Carollo's Revisions to Capacity Fees Update dated February 2014: 1) Table 2 - exactly how the replacement costs new less depreciation (RCNLD) were derived; 2) Table 2 - how the subtotal of the adjustments were derived; 3) Table 2 - infrastructure related future CIP costs-what projects make up those total costs; and 4) confirmation that the most current codes and efficiency requirements are being used when determining the cost of the CIP projects.

Seeing that there were no other public comments, President Moore closed the Public Hearing at 7:15 p.m.

Director Le asked questions.

10. Presentation:

- A. Consider Adoption of Resolution No. 2014-16 in Recognition of Thomas Barkhurst, Laboratory Supervisor, for 15 Years of Service to the Marina Coast Water District:

President Moore made a motion to adopt Resolution No. 2014-16 in recognition of Thomas Barkhurst, Laboratory Supervisor, for 15 years of service to the Marina Coast Water District. 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 | | | |

President Moore presented Mr. Barkhurst with a plaque and gift certificate.

11. Consent Calendar:

Director Le stated he wanted to pull Item D from the Consent Calendar. Mr. Nishi requested to pull Item A from the Consent Calendar.

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

- B) Approve the Draft Minutes of the Regular Board Meeting of March 3, 2014
C) Approve the Draft Minutes of the Regular Board Meeting of March 17, 2014

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 | | | |

- A. Receive and File the Check Register for the Month of March 2014:

Mr. Nishi asked to see a copy of the invoice for check number 57651. Mr. Nishi also voiced his concerns over paying invoices before they are due.

Vice President Shriner made a motion to receive and file the Check Register for the month of March 2014. President Moore seconded the motion. The motion failed.

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

Following discussion, Mr. Masuda noted that the Check Register needed to be brought back to the next meeting.

D. Approve the Draft Minutes of the Regular Board Meeting of April 7, 2014:

Director Le asked that page 3, Item 8-A of the minutes, state that he asked questions. Director Lee seconded the motion. Mr. Nishi asked that page 5, item D, of the minutes include that he wanted to ask questions but was informed that there was no public comment allowed because the item was pulled from the agenda. Director Le amended his motion to include Mr. Nishi's request. Director Lee seconded the amended motion. The motion was passed.

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

12. Action Items:

A. Consider Request by Clark Realty Capital to Grant a Variance from District Code Section 3.28.020 – Cross Connection Control:

Mr. Jose Cruz, Clark Realty Capital, introduced Mr. Jim Brezack, Brezack Associates and Planning, noting that Mr. Brezack would be talking on behalf of Monterey Bay Military Housing. Mr. Brezack explained that they were requesting a variance from testing of the individual backflow devices until graywater was actually being used in the system. Discussion followed.

Director Le made a motion to deny the variance request and direct staff to work with Clark Realty to explore credit options and bring them back to the Board for consideration. Director Shriner seconded the motion. Mr. Lee clarified that the motion was to deny the variance request and direct staff to work with Clark Realty to explore credit options, up to \$10,000, for potable water use in the graywater system until the graywater system is actually using graywater. Mr. Nishi commented that this was a gift of public funds for \$10,000 and voiced his concerns. President Moore clarified that the Board was not approving any credits at this time, but that staff would be bringing options back to the Board for approval. The motion was passed.

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

B. Receive a Revised Draft 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, presented a revised budget for review and comment.

Agenda Item 12-B (continued):

The Board discussed the revised budget and noted several corrections.

Mr. Hans-Uli Siebeneick, Seaside Highlands resident, voiced his concerns over the cost allocation split.

Director Le made a motion to provide direction to staff to: fix the header on page 8 and the missing amounts from pages 6, 7 and 8; put the split costs on all CIP sheets to reflect what year the project was approved, and to include \$100,000 in the Ord Water CIP for an Augmented Water Project. President Moore seconded the motion. Following discussion, President Moore asked if Director Le would modify his motion to direct staff to develop task codes to track activities on water augmentation going forward. Director Le said he would amend his motion to include the task codes in his original motion.

Mr. Siebeneick commented that he still had concerns over the cost allocations.

The motion failed.

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

President Moore made a motion to provide direction to staff to: fix the header on page 8 and the missing amounts from pages 6, 7 and 8; put the split costs on all CIP sheets to reflect what year the project was approved; and to direct staff to develop task codes to track activities on water augmentation going forward. Vice President Shriner seconded the motion. The motion failed.

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

Mr. Lee noted that staff had enough direction and would add a paragraph to the budget explaining the task code usage.

C. Discussion on Hand-Out Regarding Potential Revisions to Section 42 of the Board Procedures Manual:

Mr. Lee noted that Mr. Masuda drafted a proposed change to Section 42 of the Board Procedures Manual. Following discussion, this item will be tabled until next meeting.

D. Consider Reactivating the District's 300 Acre-Foot Desalination Plant:

Following discussion, this item will be tabled until next meeting whereupon augmented water will also be discussed.

13. Informational Items:

A. General Manager's Report:

Mr. Lee stated that he would appreciate it if the Board would clarify their motions to help staff understand them better. He stated that the explanatory discussion needs to be separate from the motion and can either be before or after the motion. Mr. Lee noted that the City of Marina invited him, along with other agencies, to provide a presentation on water projects to the Marina City Council and Planning Department on April 29th.

B. Counsel's Report:

Mr. Masuda noted that there was a hand-out on private email accounts provided at the last meeting and stated that he would answer any questions the Board had.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner noted that the next meeting was May 1st.

2. Joint City District Committee:

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

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Vice President Shriner noted that she and Director Le attended Earth Day on April 12th.

5. MRWPCA Board Member:

President Moore noted the next meeting was April 28th.

6. LAFCO Liaison:

Vice President Shriner noted that the next meeting was April 28th. President Moore commented on the proposed allocations of the LAFCO budget.

7. FORA:

President Moore gave a brief update.

8. WWOC:

Mr. Lee noted that they have been discussing the budget and the next meeting was scheduled for April 30th.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison

Vice President Shriner and President Moore gave a brief update.

13. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Lee made a request for water augmentation with input from other municipalities regarding what they are looking for.

Director Le requested a closed session item regarding discussion on the recycled water pipeline with MRWPCA; a status report on the Cal Am Wheeling Agreement; receive a report and dissolve the Audit Ad Hoc Committee; and re-adopt resolutions for the Ad Hoc Committees.

Vice President Shriner asked for training on the Brown Act.

Mr. Masuda stated that a negotiator needed to be appointed for negotiations with MRWPCA regarding the recycled water pipeline.

Vice President Shriner requested to appoint a negotiator for negotiations with MRWPCA regarding the recycled water pipeline, and training on how to act as both an individual member and a Board member.

14. Director's Comments:

Director Le and Vice President Shriner made comments.

15. Adjournment:

The meeting was adjourned at 9:54 p.m.

Regular Board Meeting
April 21, 2014
Page 9 of 9

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary