

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
July 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 July 7, 2014.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None

Staff Members Present:

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

Audience Members:

Kenneth Nishi, Marina Resident
Mike McCullough, MRWPCA
Margaret Davis, Friends of the Fort Ord War Horse

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 – & A.13-05-017 Settlement Agreement

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

D. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator
Property: Recycled Water Pipeline
Negotiating Parties: Tom Moore and Peter Le
Under Negotiation: Price and Terms

E. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator
Property: Recycled Water
Negotiating Parties: To Be Determined under item 9-D
Under Negotiation

The Board entered closed session at 6:04 p.m. Director Le arrived at 6:06 p.m. and joined closed session. The Board ended closed session at 6:50 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, A2, A3, 4-B, 4-C and 4-D during closed session. He added that the Board would return to closed session at the end of the meeting to discuss item 4-E. Mr. Roger Masuda, Legal Counsel, stated that no reportable actions were taken in closed session.

6. Pledge of Allegiance:

President Moore asked Mr. Masuda to lead everyone present in the pledge of allegiance.

7. Oral Communications:

No comments.

8. Consent Calendar:

Director Le pulled item A, B, D, E, and F from the Consent Calendar

Director 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 June 2, 2014:

Director Gustafson seconded the motion. The motion was passed.

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

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

Director Le and Director Shriner asked clarifying questions.

Mr. Kenneth Nishi, Marina resident, voiced his concerns over not floating checks for longer periods of time and also inquired if the District was utilizing local businesses.

Director Shriner made a motion to receive and file the check register for the month of May 2014. Director Gustafson seconded the motion. The motion was passed.

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

B. Approve the Draft Minutes of the Regular Board Meeting of May 19, 2014:

Director Le asked that the minutes show his was an excused absence.

Director Shriner made a motion to approve the draft minutes of the regular Board meeting with the notation that Director Le's absence was an excused absence. Director Gustafson seconded the motion. The motion was passed.

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

D. Receive the Draft Notes of the Regular Board Meeting of June 16, 2014:

Director Le asked that the notes of June 16, 2014 and June 19, 2014 show his absences were excused absences. Vice President Lee asked for June 16, 2014 to show his absence was an excused absence as well.

Director Gustafson made a motion to receive the draft notes of the regular Board meeting of June 16, 2014 and the adjourned regular Board meeting of June 19, 2014 showing that both Director Le and Vice President had excused absences. President Moore seconded the motion.

Mr. Nishi commented that he had a change to item 8-C, page 31 of the Board packet. He asked to add the word "if" to the sentence, "Mr. Nishi commented that if the drought continues and the pumping..."

Vice President Lee made a motion to reconsider item 8-C. President Moore seconded the motion.

C) Approve the Draft Minutes of the Regular Board Meeting of June 2, 2014

Mr. Masuda suggested correcting the sentence to read, "Mr. Nishi commented that if the drought continues, ~~and~~ the pumping..."

Vice President Lee made a motion to approve the revised draft minutes of the regular Board meeting of June 2, 2014. President Moore seconded the motion. The motion was passed.

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

Return to item 8-D.

D. Receive the Draft Notes of the Regular Board Meeting of June 16, 2014:

The previous motion (Director Gustafson made a motion to receive the draft notes of the regular Board meeting of June 16, 2014 and the adjourned regular Board meeting of June 19, 2014 showing that both Director Le and Vice President had excused absences. President Moore seconded the motion.) was passed.

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

E. Receive the Draft Notes of the Adjourned Regular Board Meeting of June 19, 2014:

Received under the previous item.

F. Approve the Draft Minutes of the Special Board Meeting of June 27, 2014:

Director Le asked to add to the bottom of page 42, "Mr. Lee stated he would provide revised copies later."

Director Shriner made a motion to approve the draft minutes of the special Board meeting of June 27, 2014 with the noted correction. Director Le seconded the motion.

Mr. Nishi commented that the second paragraph on page 39 was misleading and asked that it show the question that was asked of President Moore which prompted President Moore to make his comment.

Director Shriner stated that they were discussing a meeting that was not even held and was already received by the Board under item 8-E.

The motion to approve the draft minutes of the special Board meeting of June 27, 2014, with the noted correction, was approved.

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

9. Action Items:

A. Consider Adoption of Resolution No. 2014-28 to Accept the Infrastructure Improvements Installed Under a Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement between the Marina Coast Water District and University Village Associates for the University Village Apartments Development:

Mr. Brian Lee, Interim General Manager, noted that a map showing water, sewer and recycled water infrastructure was on the overhead projector.

Agenda Item 9-A (continued):

The Board asked clarifying questions.

Director Shriner made a motion to accept the infrastructure improvements installed under a construction and transfer of water, sewer, and recycled water infrastructure agreement between the Marina Coast Water District and University Village Associates for the University Village Apartments Development with the condition of payment of the outstanding \$990 and the transfer of ownership is based on the discretion of the General Manager. President Moore asked for clarification on Director Shriner's motion. Director Shriner withdrew her motion.

Following further discussion, President Moore made a motion to accept the infrastructure improvements installed under a construction and transfer of water, sewer, and recycled water infrastructure agreement between the Marina Coast Water District and University Village Associates for the University Village Apartments Development with the condition of payment of the outstanding \$990 balance. Director Shriner seconded the motion.

Mr. Nishi questioned if capacity fee credits were given for the previously existing buildings.

The motion was passed.

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

B. Consider Adoption of Resolution No. 2014-30 to Declare the Fort Ord Station Veterinary Hospital Barracks as Surplus District Real Property, Designating District Real Property Negotiator(s), and Specifying Conditions of Sale:

Director Shriner made a motion to designate Director Gustafson as the real property negotiator to work with legal counsel to ensure the District is clear what the details of the conveyance were and to declare the land and the building as surplus. Following discussion, Director Shriner withdrew her motion.

Director Shriner made a motion for staff to bring this item back when details of the conditions of the transfer were understood and the Board could make an informed decision. Director Gustafson seconded the motion.

Ms. Margaret Davis, Friends of the Fort Ord War Horse, voiced her support of keeping the building historically intact and in conjunction with the other City of Marina owned buildings.

The motion to bring this item back to a future agenda was passed.

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

C. Consider Designating a Real Property Negotiator(s) to Discuss the Armstrong Ranch and Possible Terms and Conditions with RAMCO Enterprises, LP:

Director Le made a motion to appoint President Moore and himself as the real property negotiators for the Armstrong Ranch property and discussions with RAMCO Enterprises, LP. Director Shriner seconded the motion.

Mr. Nishi commented that Director Le has time in his schedule to attend meetings, but President Moore is not as flexible with his time.

The motion was passed.

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

D. Consider Designating a Real Property Negotiator(s) to Discuss the CSIP Expansion and the Memorandum of Understanding with the Monterey Regional Water Pollution Control Agency:

Director Le made a motion to appoint President Moore and himself as the real property negotiators for the CSIP expansion and the Memorandum of Understanding with the Monterey Regional Water Pollution Control Agency. Director Shriner seconded the motion.

Mr. Nishi voiced his concern over District staff meeting with the other agencies who were all being represented by elected officials except MCWD. He added that Director Le is thorough in reviewing documents and suggested Director Le be appointed a negotiator and volunteered to join Director Le in the negotiations.

The motion was passed.

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

E. Receive a Verbal Update on the General Manager Recruitment Process and Provide Guidance:

President Moore noted that over 100 applications had been received and the recruiter, Mr. Neher, has narrowed it down to 12 candidates. President Moore stated that Mr. Neher would like to hold a special meeting for the Directors to review and discuss the 12 applications. He added that Mr. Neher will provide copies of the resumes as soon as possible.

Agenda Item 9-E (continued):

President Moore made a motion to hold a special meeting on Wednesday, July 9th at 6:15 p.m. at the District offices, 11 Reservation Road, Marina. Director Shriner seconded the motion.

Mr. Nishi commented that the Board members needed all the information on the applicants so they can google them and get as much information as possible before making any decisions.

The motion was passed.

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

F. Receive Staff Analysis on an In-House Information Technology Position and Provide Direction to Staff:

Director Le made a motion to direct staff to issue a Request for Proposals before the next budget cycle begins in January 2015. Director Shriner seconded the motion. The motion was passed.

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

G. Review and Discuss Developer Projects Summary Sheet:

Discussion was held and the Board asked clarifying questions regarding developer funds owed to the District.

H. Discussion and Possible Action on Acquiring the Chular Wastewater Services:

Following discussion, there was consensus on the Board to not take any action on this item at this time.

I. Consider Providing Direction Regarding the Election to Region 5, Seat C of the 2014 California Special Districts Association Board:

Director Le made a motion to elect Vince Ferrante for Region 5, Seat C of the 2014 California Special Districts Association Board. Director Shriner seconded the motion. The motion was passed.

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

10. Informational Items:

A. General Manager's Report:

1. Correspondence Received by Board or General Manager:

Mr. Lee noted that the District sent a response letter to the City of Marina regarding the IS/MND for the Cal Am slant wells. The City of Marina's Planning Commission was scheduled to review the City staff's recommendation on July 10th and District staff would be there to reaffirm the points made in the District letter. He added that there was also an Initial Study Environmental Assessment/Notice of Intent to Adopt a Mitigated Negative Declaration for the Veterans Cemetery Phase I. Mr. Lee said that there was also a Notice of Preparation for the Salinas Valley Water Project Phase II.

B. Counsel's Report:

Mr. Masuda commented that an attorney in his firm, Mr. David Hobbs, recently won a LAFCO case.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Shriner noted the next meeting was July 17th at 5:30 p.m. followed by a tour to a graywater facility.

2. Joint City District Committee:

President Moore noted that they on met June 23rd and the meeting was boiler plate.

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Director Shriner commented that she attended the City Council meeting and asked if Vice President Lee was ready to schedule an Outreach Committee meeting.

5. MRWPCA Board Member:

President Moore noted that the next meeting was July 28th, and gave a brief update of the last meeting.

Director Gustafson left the meeting at 9:02 p.m.

6. LAFCO Liaison:

Director Shriner stated that she was unavailable for the June meeting and noted that there was no meeting scheduled for July.

7. FORA:

President Moore stated that there was a special meeting in June and Vice President Lee attended for him.

8. WWOC:

Mr. Lee stated that there was discussion at the Admin Committee and gave a brief update.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison

President Moore stated that the next meeting is scheduled for July 15th.

11. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Shriner asked for 1) discussion regarding participation in the Labor Day Festival; 2) submitting a letter regarding the Veterans Cemetery NIO/MND; and 3) consider creating a Fort Ord Committee.

Director Le asked for: 1) District Counsel to review the Cal Am Wheeling Agreement; 2) draft a District Procedure on how to respond to customer questions at Board meetings; and, 3) address the remaining sections of the Board Procedures Manual.

President Moore asked for 1) consider a formal evaluation for Special and General Counsel, and 2) look at procuring low-flow toilets for the Council Chambers.

12. Director's Comments:

Director Le, Director Shriner, and President Moore made comments. Director Shriner stated that she would like to close the meeting in the memory of her neighbor who recently passed away, Angela Ojuati.

The Board returned to Closed Session to discuss agenda item 4-E.

- E. Pursuant to Government Code 54956.8
Conference with Real Property Negotiator
Property: Recycled Water
Negotiating Parties: Tom Moore and Peter Le
Under Negotiation

President Moore reconvened the meeting to open session at 10:18 p.m.

5. Possible Action on Closed Session Items:

President Moore noted that the Board approved a motion to proceed past 10:00 p.m. until the closed session discussion was complete.

Mr. Masuda stated that no reportable actions were taken in closed session.

13. Adjournment:

The meeting was adjourned at 10:19 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary