

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
August 4, 2014  
6:00 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on August 4, 2014.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

Howard Gustafson - excused

Staff Members Present:

Brian Lee, Interim General Manager  
Roger Masuda, Legal Counsel  
Kelly Cadiente, Director of Administrative Services  
Jean Premutati, Management Services Administrator  
James Derbin, Operations and Maintenance Superintendent  
Paul Lord, Water Conservation Specialist  
Paula Riso, Executive Assistant

Audience Members:

George Riley, Monterey Resident  
Gail Morton, Marina Resident  
Kenneth Nishi, Marina Resident  
Margaret Davis, Marina 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 – & 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 54957

Public Employee Appointment  
Title: General Manager

E. Pursuant to Government Code 54956.8

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

F. Pursuant to Government Code 54956.8

Conference with Real Property Negotiator  
Property: Armstrong Ranch  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms

- G. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Sewer Infrastructure  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms

The Board entered closed session at 6:03 p.m. The Board ended closed session at 6:58 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 items 4-E, 4-F, and 4-G. Mr. Roger Masuda, Legal Counsel, stated that no reportable actions were taken in closed session.

6. Pledge of Allegiance:

President Moore asked Mr. Brian Lee, Interim General Manager, to lead everyone present in the pledge of allegiance.

7. Oral Communications:

No comments were made.

8. Consent Calendar:

Director Le pulled item A from the Consent Calendar

Director Shriner made a motion to approve the Consent Calendar consisting of the following item: B) Approve the Draft Minutes of the Special Board Meeting of July 23, 2014. Director Le seconded the motion. The motion was passed.

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

A. Approve the Draft Minutes of the Regular Board Meeting of July 21, 2014:

Director Le requested that page 5 of the minutes be corrected to show his motion was for the Water Conservation Commission Chair to sign the editorial/opinion letter.

Mr. Kenneth Nishi, Marina resident, asked that his comments on page 3 of the minutes include that he stated the Interim General Manager did not live in the District and asked if the Board worked for the Interim General Manager.

Agenda Item 8-A (continued):

Director Shriner made a motion for staff to review the recording of the July 21<sup>st</sup> meeting and bring back the minutes to the next meeting. President Moore seconded the motion. The motion was passed.

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

9. Action Items:

- A. Consider Adoption of Resolution No. 2014-31 to Approve a Memorandum of Understanding between Marina Coast Water District and the Monterey Peninsula Unified School District Regarding the In-School Water Conservation Education Program:

Director Le asked if the only difference from last meeting when this item was presented was the additional material provided this time. Mr. Lee answered that it was. Director Shriner inquired on the budget and evaluation for the program. Mr. James Derbin, Operations and Maintenance Superintendent, answered an evaluation had been done in 2008 and that staff could work throughout the year on a new one, but urged the Board to continue with the program in the meantime.

Mr. Nishi commented that the issue of rushing it was the Board's problem and issues from last year were never addressed. He added that someone dropped the ball.

Director Shriner made a motion to adopt Resolution No. 2014-31 to approve a Memorandum of Understanding between Marina Coast Water District and the Monterey Peninsula Unified School District regarding the in-school Water Conservation Education Program. President Moore seconded the motion. The motion failed.

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

Director Shriner suggested a motion to adoption Resolution No. 2014-31 to approve a Memorandum of Understanding between Marina Coast Water District and the Monterey Peninsula Unified School District regarding the in-school Water Conservation Education Program and encourage some credentialed Water Conservation Commission (WCC) members if they might want to work with the fourth and fifth graders.

President Moore asked if the Board could discuss the WCC members working with the classrooms. Mr. Masuda stated that this could be discussed as it was in the context of an alternative motion and cautioned that it would look politically incorrect to not have a Water Conservation Education Program in effect during a drought in which the Governor has declared as a drought emergency.

Agenda Item 9-A (continued):

Director Shriner suggested an alternate motion to leave out the fourth and fifth grade classroom education and to approve the MOU while appointing an Ad Hoc Committee to review the effectiveness of the last thirteen years.

President Moore suggested putting the item on the August 8<sup>th</sup> agenda for the special Board meeting.

Director Le voiced his concerns over continuing with this item. He stated that it was not appropriate to keep bringing it back. Director Le stated that the vote failed twice already, he would not support it, and the Board needed to move on.

B. Review the Proposed Revisions to the Board Procedures Manual and Provide Direction to Staff:

Director Le made a motion to have staff provide the Board members the Board Procedures Manual electronically so they can make their changes and return it with track-change edits for the staff to incorporate into one document. President Moore seconded the motion.

Mr. Nishi voiced his concerns over staff reviewing and editing the Board Procedures Manual as it is a Board document. He asked if the Board members knew what the lines in the left-hand column meant and why they couldn't see the comments made by legal counsel. Mr. Nishi also voiced his concerns over legal counsel allowing discussions to go on-and-on when the Board was discussing the previous item.

The motion was passed.

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

C. Discussion and Possible Action Regarding Providing Direction to Staff on the Mitigated Negative Declaration for the Proposed California American Water Company Slant Wells and the District's Potential Use of the CEMEX Property:

Director Shriner made a motion for staff to prepare a letter for use at the City Council meeting addressing District concerns. President Moore seconded the motion.

Following discussion, Director Shriner withdrew her motion.

Ms. Margaret Davis, Marina resident, asked the Board to address the concerns of the impact to the Marina citizens such as, 1) the Cemex site for Cal Am and the feasibility of providing desal water to Marina residents in the future; 2) is there a reliable projection on when Marina will need to augment its water given that there is no documentation on how much water is in the aquifer; and,

Agenda Item 9-C (continued):

3) why are the test wells treated as a separate project and not part of the total project with a very large scope and serious environmental questions attached. Ms. Davis asked that her concerns be included in the letter from the District to the City Council.

Mr. George Riley, Monterey resident, questioned if the response to the District's first comment letter was only from the City or if it was a coordinated response from Cal Am, too.

Mr. Nishi voiced his concern that the letter didn't come from the Board, it came from staff, and the emphasis was in the wrong area. He said the pumping allowed in the annexation agreement was 500 AFY but Cal Am said it was only for potable water and they could take as much as they want in desalinated water, which was not the intention of the annexation agreement.

Mr. Lee answered Mr. Riley stating that the comments were pulled directly from the City of Marina's website and assumed that they were coordinated with Cal Am.

D. Discussion and Possible Action Regarding Providing Direction to Legal Counsel to Review the Wheeling Agreement with California American Water Company:

Director Le requested that the District Counsel review the Agreement and provide a legal opinion to the Board.

Mr. Nishi commented that he agrees with the Agency Act but this Agreement was a loan of water to the Peninsula and the District was going to get the water back. He stated that there was no giving of the Salinas basin water to Cal Am, they needed the water for their aquifer storage testing and were going to give the water back.

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

President Moore commented that there was a special Board meeting scheduled for Friday to interview candidates.

F. Discussion and Possible Action Regarding Providing Direction to Staff Regarding Assembly Bill 1728 and Senate Bill 104:

Mr. Masuda explained Assembly Bill 1728 and how it might affect the District Board members regarding contributions they may receive. He also explained Senate Bill 104, adopted March 1, 2014, and the State Water Resources Control Board's recently adopted Mandatory Water Conservation Regulation went into effect on July 29, 2014. Mr. Masuda stated that this subject would be discussed in more detail at the next Board meeting.

10. Staff Report:

- A. Receive 1<sup>st</sup> and 2<sup>nd</sup> Quarter 2014 Ord Community Water Consumption and Sewer Flow Reports:

Director Le asked if staff could produce a similar report for Central Marina. Mr. Lee answered that staff would work on it.

11. Informational Items:

- A. General Manager's Report:

1. Correspondence Received by Board or General Manager:

- a. July 11, 2014 Letter from the Office of Historic Preservation:

Mr. Lee noted that the District received a letter from the Office of Historic Preservation noting that the Fort Ord Stations Veterinary Hospital Barracks was placed on the National Register of Historic Places. He added that the Board would be discussing what to do with this building on a future agenda. Mr. Lee informed the Board that he would be on vacation from August 8<sup>th</sup> through August 15<sup>th</sup> and returning to work on the 18<sup>th</sup>.

- B. Counsel's Report:

Mr. Masuda noted that Director Shriner had questions about Seaside County Sanitation District at the last meeting and he briefed that he had contacted the county counsel and was hoping to get a report back by the next meeting.

- C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Shriner stated that the next meeting is scheduled for August 7<sup>th</sup> at 5:30 p.m.

2. Joint City District Committee:

President Moore noted that they met on July 23<sup>rd</sup>.

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Director Shriner stated that she has been asking to schedule an Outreach Committee meeting with the alternate, Vice President Lee, and would like staff to set up a meeting for September 10<sup>th</sup> at 2:00 p.m.

5. MRWPCA Board Member:

President Moore noted that the next meeting is scheduled for August 25<sup>th</sup> and gave a brief update on the July 28<sup>th</sup> meeting.

6. LAFCO Liaison:

Director Shriner stated that there was no meeting held in July and the next meeting is scheduled for August 25<sup>th</sup>.

7. FORA:

President Moore stated that the next meeting is scheduled for August 8<sup>th</sup>.

8. WWOC:

No report.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison

No report.

12. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Vice President Lee asked to: 1) look at getting the desal plant operational; 2) look into the Armstrong Ranch purchase details; 3) discuss the unflattering comments made in emails; 4) ask Director Le to look for money for the asbestos remediation for the District buildings on the former Fort Ord; 5) look at the status of the Armstrong Ranch rental agreement; and, 6) the Executive Committee and agenda preparation.

Director Le asked to look at addressing public comments as part of the Board Procedures Manual.



13. Director's Comments:

Director Shriner made comments. President Moore noted that he would be out of town April 13-21<sup>st</sup>.

President Moore recessed the meeting from 8:45 until 8:52 p.m.

At 8:52 p.m., the Board returned to Closed Session to discuss agenda items 4-E, 4-F, and 4-G.

E. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Recycled Water Pipeline, Recycled Water  
Negotiating parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms

F. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Armstrong Ranch  
Negotiating parties: Tom Moore and Peter Le  
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G. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Sewer Infrastructure  
Negotiating Parties: Tom Moore and Peter Le  
Under Negotiation: Price and Terms

President Moore reconvened the meeting to open session at 9:58 p.m.

5. Possible Action on Closed Session Items:

President Moore reported that the Board discussed items 4-E, 4-F, and 4-G during closed session. Mr. Masuda stated that no reportable actions were taken in closed session.

14. Adjournment:

The meeting was adjourned at 9:59 p.m.

APPROVED:

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William Y. Lee, Vice President

ATTEST:

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Brian C. Lee, Deputy Secretary