

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
August 18, 2014
6:00 p.m.

Draft Minutes

1. Call to Order:

Vice President Lee called the meeting to order at 6:00 p.m. on August 18, 2014.

2. Roll Call:

Board Members Present:

Bill Lee – Vice President
Howard Gustafson
Jan Shriner
Peter Le

Board Members Absent:

Tom Moore – President - excused

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
Joe Correa, Operations and Maintenance Supervisor
Kurt Gonzalez, Utility Laborer
Paula Riso, Executive Assistant

Audience Members:

Helen Gonzalez, Marina Resident
Kurt Gonzalez Jr., Marina Resident
Roxanne Gonzalez, Marina Resident
Gary Stowe, Stowe Contracting
Debbie Stowe, Stowe Contracting
Scott Leavenworth, Leavenworth Contracting
John Leding
Kenneth Nishi, Marina Resident
Margaret Davis, Marina Resident
Jo Ann Cannon, Marina Resident

3. Public Comment on Closed Session Items:

No comments.

Vice President Lee 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 54956.9

Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation Pursuant to Subdivision (c) of 54956.9
Two Potential Cases

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 6:52 p.m.

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

5. Possible Action on Closed Session Items:

Vice President Lee reported that the Board discussed items 4-A1, A2, A3, and 4-C during closed session. Mr. Roger Masuda, Legal Counsel, stated that the other items were not discussed and no reportable actions were taken in closed session.

6. Pledge of Allegiance:

Vice President Lee led everyone present in the pledge of allegiance.

7. Oral Communications:

Mr. Kenneth Nishi, Marina resident, commented that 6:30 p.m. on August 20th at the American Legion, was a pre-meeting of the September 6th election debate. The election debate will be held September 6th from 12:00 until 3:30 p.m. in the City Council Chambers.

Ms. Jo Ann Cannon, Marina resident, encouraged the Board to approve the Memorandum of Understanding with the Monterey Peninsula Unified School District and the Service Learning program with California State University Monterey Bay.

8. Consider Adoption of Resolution No. 2014-32 in Recognition of Kurt Gonzalez, Utility Laborer, for 5 Years of Service to the Marina Coast Water District:

Director Gustafson made a motion to adopt Resolution No. 2014-32 in recognition of Kurt Gonzalez, Utility Laborer, for 5 years of service to the Marina Coast Water District. Director Shriner seconded the motion. The motion was passed.

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

9. Consent Calendar:

Director Le pulled items A, B, and C from the Consent Calendar

Director Gustafson made a motion to approve the Consent Calendar consisting of the following item: D) Approve the Draft Minutes of the Special Board Meeting of August 8, 2014. Vice President Lee seconded the motion. The motion was passed.

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

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

Mr. Nishi inquired on the dates for check number 58356. He also voiced his concerns over check number 58424 and the Directors receiving free dinners even though they are not on the Special Districts Association Committee. Mr. Nishi noted that check number 58445 was paid after thirty days.

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

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

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

Director Shriner made a motion to approve the revised draft minutes of the regular Board meeting of July 21, 2014. Director Le seconded the motion. The motion was passed.

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

C. Approve the Draft Minutes of the Regular Board Meeting of August 4, 2014

Director Le requested to remove the discussion from pages 4 and 5 of the minutes.

Director Le made a motion to approve the August 4, 2014 minutes with the noted revisions. Director Shriner seconded the motion. The motion was passed.

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

10. Action Items:

A. Discuss the Private Fire Service Fees:

Mr. Gary Stowe, Stowe Contracting, commented that he had never received the Prop 218 notice, and neither had 12 of 13 businesses in the complex. He stated that the notice mentioned that the increase was for the cost of doing business, but he had already paid the buy-in when he had the building built and didn't understand why he still had to pay. Mr. Stowe questioned why they had to pay for water they haven't used. He urged the Board to place a moratorium on the charges until the issue is resolved.

Ms. Debbie Stowe, Stowe Contracting, commented that she was representing Marina Greens. She stated that she had contacted the surrounding communities to see what they charged and found that they did not charge as much as the District. Ms. Stowe added that they did not label it as a meter but as a connection. She said that it was hard to see the difference in charges. Ms. Stowe also agreed that the Board needed to place a moratorium on the charges until the issue is resolved.

Mr. Scott Leavenworth, Leavenworth Contracting, commented that he was stunned to see the rate increase and never received any notice of the increase. He added that the rate increase was excessive compared to other agencies and urged the Board to rescind and/or place a moratorium on the charges until the issue is resolved.

John Leding, Pacific Monarch, noted that he did receive the notice although others didn't and that the charges don't match or make sense. He stated that they felt the increase is directed at businesses and requested that the Board look at how they might consider this matter.

Board discussion followed.

Mr. Nishi commented that he talked to the Board when the rate study was done and he didn't have confidence in the consultant who did the rate study. He added that there must have been an error made because when capacity fees are paid, they are for the amount of water you use and on a fire system, it might never be used. Mr. Nishi stated that the District doesn't want to do like the Peninsula and have the businesses subsidize the residents. He added that the reason the businesses didn't know that they had to pay for the fire fees, it was because they hadn't already been paying for them.

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

Ms. Margaret Davis, Marina resident, commented that the Marina Planning Commission twice denied California American Water Company's (Cal Am) attempt to sidestep Marina's permits and processes. She stated that she was glad that MCWD was supporting the Planning Commission's denial and added that she would like to see stronger language in the letter.

Agenda Item 10-B (continued):

Ms. Davis added that Marina needed to protect its own needs and should be wary of what Cal Am has done in Carmel Valley.

Mr. Nishi asked who drafted the letter on page 39 of the packet, how much did it cost and why didn't the Board send it out. Mr. Nishi stated that the District should have used a knowledgeable and qualified person who can address the issues of the IS/MND Section 2.3 that states, "The purpose of the proposed project is to gather technical data related to the potential hydrogeologic and water quality effects of the proposed MPWSP." He stated that he didn't see any comments in either the June 17th or August 18th regarding hydrogeologic effects. Regarding the August 18th draft letter handed out at the meeting, he said that the conclusion should be changed. Mr. Nishi said it should be mitigated and they should be required to return anything over 500 AF of potable water and put it back in the basin. He added that he didn't believe the writers of the letter understand who can pump from the basin.

Board discussion followed.

Director Shriner made a motion to ask staff to incorporate the comments of the Board and anything they might consider from the letter Ms. Jane Haines provided to the Board; an executive summary to the letter, and an additional portion on slant wells and to bring a final draft to be brought back on September 2nd. Director Gustafson seconded the motion. The motion failed.

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

Director Le made a motion that the Board approve the draft letter and authorize staff to prepare the draft letter for signature by Vice President Lee. The motion died for lack of a second.

Director Shriner made a motion to have a final letter brought back on September 2nd with information on slant wells and an executive summary and prepare with the Board President's signature since he will be back. The motion died for lack of a second.

Director Le made a motion that the Board approve the draft letter with signature by Vice President Lee and staff prepare an executive summary to be brought back on September 2nd. Director Gustafson seconded the motion. The motion was passed.

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

C. Consider Appointments of Public Members to the Water Conservation Commission:

Director Shriner made a motion to extend the application period for two months and extend the terms of the two current members for two months. Director Gustafson seconded the motion.

Mr. Nishi asked why the Water Conservation Commission was making recommendations to the Board. He said it should be the prerogative of the Board.

Director Gustafson withdrew his second. Director Shriner's motion died for lack of a second.

Director Le made a motion that the Board appoint the two applicants, included in the Board packet, to the Water Conservation Commission. Director Gustafson seconded the motion. The motion was passed.

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

D. Consider Adoption of Resolution No. 2014-33 to Approve a CSUMB-MCWD Agreement for Placement of Students:

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

Mr. Nishi asked what the financial impacts were. He asked if it was cost effective to have the Special Legal Counsel working on this when it was a CSUMB Agreement and they haven't given their final approval.

Director Gustafson made a motion to not approve the agreement. The motion died for lack of a second.

Director Shriner made a motion to bring this item back on September 2nd. Director Le seconded the motion. The motion failed.

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

Director Le made a motion to adopt Resolution No. 2014-33 as received. Director Shriner seconded the motion. The motion failed.

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

- E. Consider Adoption of Resolution No. 2014-34 to Declare Water Conservation Stage 3 as Required by the State Water Resources Control Board's Emergency Mandatory Water Conservation Regulations:

Director Le made a motion to direct staff to prepare Stage 3 drought conditions and look at other cities and bring it back to the Board for consideration. Director Shriner seconded the motion. The motion was passed.

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

- F. Consider Requesting Director Le to Research Possible Funding Sources for Asbestos Removal on the District Owned Property in the Ord Community:

Vice President Lee stated that he requested that this item be presented to the Board but after further consideration, he believed this should be a job for staff.

11. Informational Items:

A. General Manager's Report:

1. Correspondence Received by Board or General Manager:

Mr. Lee noted that he would not be present for the September 2nd meeting. Mr. Lee stated that the Monterey Peninsula Regional Water Authority (MPRWA) asked him to serve on their technical advisory committee (TAC).

B. Counsel's Report:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Shriner stated that the next meeting is scheduled for September 4th at 5:30 p.m.

2. Joint City District Committee:

Vice President Lee noted that the next meeting was Friday, August 22nd.

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Director Shriner stated that a meeting was set for September 10th at 2:00 p.m.

5. MRWPCA Board Member:

No report.

6. LAFCO Liaison:

Director Shriner stated that the August meeting was canceled.

7. FORA:

No report.

8. WWOC:

No report.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison:

The next meeting is October 21st.

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

12. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Shriner asked for: 1) discuss the MPRWA nomination to their TAC; and, 2) Conservation Program.

Director Le asked for: 1) forensic audit of the regional desal and recycled water accounts; and, 2) an update on the developer deposit accounts.

13. Director's Comments:

Director Shriner made comments.

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Agenda Item 13 (continued):

Director Le requested the deadline be extended to September 15th for the Board Procedures Manual.

14. Adjournment:

The meeting was adjourned at 9:05 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Brian C. Lee, Deputy Secretary