

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
September 2, 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 September 2, 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  
Jeanine DeBacker, Special Legal Counsel  
Kelly Cadiente, Director of Administrative Services  
Jean Premutati, Management Services Administrator  
James Derbin, Operations and Maintenance Superintendent  
Brian True, Capital Projects Manager  
Paul Lord, Water Conservation Specialist  
Barbara Montanti, Customer Service Representative II  
Paula Riso, Executive Assistant

Audience Members:

Santino Montanti, Marina Resident  
Gary Stowe, Stowe Contracting  
Debbie Stowe, Stowe Contracting  
Scott Leavenworth, Leavenworth Contracting  
Kenneth Nishi, Marina Resident  
Margaret Davis, Marina Resident  
Jo Ann Cannon, Marina Resident  
Ben Smith, Marina Plumbing  
Larry Hampson, MPWMD

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 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 54957

Public Employee Evaluation  
Title: General Manager

- F. 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
  
- G. 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
  
- H. 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 6:59 p.m.

President Moore reconvened the meeting to open session at 7:02 p.m.

5. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, reported that the Board discussed items 4-A1, A2, A3, 4-C, 4-D, and 4-E during closed session. He stated that under Item 4-C, the Board approved a letter written by Chip Wilkins, Remy Moose and Manley, to be sent to the City of Marina via email and hand delivery, and authorized the Board President to appear before the Marina City Council and present the Board's position.

6. Pledge of Allegiance:

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

7. Oral Communications:

Ms. Margaret Davis, Marina resident, stated she had questions about Section 5.1.1 in the Marina Coast Water District Annexation Agreement and the water use in the 900, 180, and 400 foot aquifers; and, Section 8.1 where it states MCWRA will ensure MCWD, Armstrong, and Lonestar shall be no more affected than other eligible users; and, 8.3 states MCWRA will defend the rights of MCWD, Armstrong, and Lonestar to a supply of water. She asked if MCWD ever asked for MCWRA defense and that communications to the City of Marina include language that Lonestar was annexed.

8. Consider Adoption of Resolution No. 2014-35 in Recognition of Ms. Barbara Montanti, Customer Service Representative II, for 15 Years of Service to the Marina Coast Water District:

President Moore made a motion to adopt Resolution No. 2014-35 in recognition of Barbara Montanti, Customer Services Representative II, for 15 years of service to the Marina Coast Water District. Vice President Lee seconded the motion. The motion was passed.

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

- B. Consider Adoption of Resolution No. 2014-36 in Recognition of Community Member, Mr. Dan Amadeo, for his Dedicated Service to the Marina Coast Water District as a Member of the Water Conservation Commission:

President Moore postponed this item until Mr. Amadeo is available to attend the meeting.

9. Consent Calendar:

Mr. Nishi pulled item A from the Consent Calendar

- A. Approve the Draft Minutes of the Regular Board Meeting of August 18, 2014

Director Shriner made a motion to approve the August 18, 2014 minutes. Director Le seconded the motion. Mr. Nishi stated that under item 9-A on page 4 of the minutes he made the comment that the appointed delegate was supposed to be given a free meal and he had concerns that the non-appointed delegates were given a free meal. He said that on page 6 of the minutes, second paragraph, he asked how much it cost for the draft letter and the Interim General Manager said he would provide an answer but never has. Mr. Nishi commented that Section 4.1 of the Strategic Plan states that the District will establish clear lines of communication with other agencies and the public to ensure the message is clearly and quickly communicated to establish and maintain a positive reputation. He said that when he is at the podium, it is like talking to a wall and no one is listening to him. Mr. Nishi said that on page 7 of the minutes he asked several questions and have yet to receive an answer from anyone and he was again leaving without answers.

The motion was passed.

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

10. Action Items:

A. Discuss the Private Fire Service Fees:

Mr. Brian True, Capital Projects Manager, introduced this item. Director Le said that he requested a list of addresses with fire service and asked when he would receive it. He would like to receive the list before this item is back on an agenda. Mr. Masuda stated that the list can be provided to the Board but it was not a public document.

Mr. Ben Smith, Marina Plumbing, commented that he was never charged the \$20 fire service fee. He said that residents should have to pay their fair share for fire protection and it not rest only on the businesses. Mr. Smith stated that he hasn't been able to find how the calculations were done and added that his actual service line is 4" and not 6".

Mr. Gary Stowe, Stowe Contracting, commented that he has asked for the Carollo Study so he could see how everything was calculated. He agreed that the residents need to pay their fair share.

Mr. Scott Leavenworth, Leavenworth Contracting, commented that the main line for residential is the same size as businesses and although there is a 6" main, the laterals going to the businesses are only 4".

Mr. Nishi commented that if the Board is going to act on this at the next meeting, they should have Carollo here to explain how the fees were calculated. He added that although he was the one to recommend hiring Carollo Engineers, once they began the work, if the work product wasn't sufficient, that didn't mean the District had to keep them throughout.

Director Le made a motion to direct staff to bring back the calculations on fire service fees and provide a list of addresses with fire service connections to the Board. Vice President Lee seconded the motion.

Mr. Smith clarified that the businesses never received a bill from the District for fire service fees, not that they didn't pay their fire service bills.

Mr. Leavenworth commented that if they had known about the rate study last year, they would have been present for the discussions.

Mr. Nishi commented that because one resident complained to the Board several years ago about their fire meter charge, the Board reacted, and now the Board is treating these business owners indifferently because they are not residents. He added that the person who did the rate study needs to be present at the next meeting to explain how they came up with the charges. Mr. Nishi said that the District can't charge more than what it costs to provide the service and it needs to be a reasonable cost.

Director Le asked if the business owners could provide a list of the size of the connection going into the building.

Agenda Item 9-A (continued):

The motion was passed.

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

B. 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:

Following discussion, Director Shriner made a motion to defer this item until October 6<sup>th</sup> when all five Board members should be present. President Moore seconded the motion.

Ms. Jo Ann Cannon, Marina resident, commended Director Le for wanting to expand this program, but questioned if the District could expand the program, afford the cost, and if it would even be welcomed by the schools with their already tight education curriculum.

Ms. Margaret Davis, Marina resident, encouraged the Board to continue the program as it is now, and look at expanding it later.

The motion was passed.

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

C. 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 and reviewed the latest changes to the agreement.

Director Le made a motion to adopt Resolution No. 2014-33 to approve a CSUMB-MCWD Agreement for Placement of Students. Director Shriner seconded the motion.

Ms. Cannon voiced her support of the CSUMB-MCWD Agreement.

Ms. Davis voiced her support of the program.

The motion was passed.

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

D. Consider Adoption of Resolution No. 2014-37 to Adopt the Current Monterey Peninsula Integrated Regional Water Management Plan:

Mr. True introduced this item.

Mr. Larry Hampson, Monterey Peninsula Water Management District, gave a brief summary of the changes made to the Integrated Regional Water Management Plan. The Board asked clarifying questions.

Director Le made a motion to adopt Resolution No. 2014-37 to adopt the current Monterey Peninsula Integrated Regional Water Management Plan. Vice President Lee seconded the motion.

Mr. Nishi stated that he had concerns that District staff didn't provide the Board an objective report on this. He questioned why the Board was moving so quickly on this when the Peninsula has been adversarial to the District in the past. Mr. Nishi again expressed his concern that staff didn't provide a report on the plus and minus' of this Plan to the Board.

Director Shriner asked if the motion could be amended to include a press release stating that the District requested to be included in the group and was accepted.

Director Le amended his motion to include a press release. Vice President Lee seconded the amended motion. The motion was passed.

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

E. Discussion and Possible Action Regarding Possible Appointment of District Engineer to Monterey Peninsula Regional Water Authority Technical Advisory Committee:

President Moore made a motion to appoint Brian Lee to the Monterey Peninsula Regional Water Authority Technical Advisory Committee. Director Shriner seconded the motion.

Ms. Davis stated that MCWD expertise and perspective has not been adequately represented outside the District and Marina needs to know what's going on in the larger world.

The motion failed.

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

F. Discussion and Possible Action Regarding a Review of the District's Approved 2014 Five Year Strategic Plan:

Director Shriner noted that Goals 1.1, 1.2, 1.6, 1.7, and 5.5 were to be completed by the end of the year.

Director Le made a motion for staff to provide a status report on what can be completed in 2014 and what might need to be extended. Vice President Lee seconded the motion. The motion was passed.

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

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

President Moore stated that a special meeting was scheduled for Friday, September 5<sup>th</sup> to begin at 11:00 a.m. to interview the two candidates. Director Le suggested the Board meet at 10:30 a.m. to hold discussion before the interview begins. Discussion followed.

11. Informational Items:

A. General Manager's Report:

1. Correspondence Received by Board or General Manager:

Ms. Jean Premutati, Management Services Administrator, noted that there were several correspondence items provided to the Board and emphasized the complimentary email received for two of the System Operators for their professionalism and efficiency in responding to a service call.

B. Counsel's Report:

1. General Counsel's Report:

Mr. Masuda noted that there was a handout of the executive summary of the letter sent to the City of Marina regarding the slant well permit. He also stated that the Governor would be signing three Bills that will take into effect January 1, 2015 regarding high and medium priority groundwater sub-basins and the MCWRA has identified the 180' and 400' groundwater basins as high and medium priority and it could affect the District and FORA. Mr. Masuda gave a status report of his opinion on the Cal Am Wheeling Agreement.

2. Special Counsel's Report:

Mr. Masuda stated that Special Counsel provided a letter regarding Director's communications and this item will be continued when all the Board members were present.



C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

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

2. Joint City District Committee:

President Moore noted that they met on August 22<sup>nd</sup>, and he would be unavailable for the September meeting.

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Director Shriner stated that a meeting was set for September 10<sup>th</sup> at 2:00 p.m. and gave an update on the Labor Day Festival.

5. MRWPCA Board Member:

President Moore noted that he was unable to attend the August 25<sup>th</sup> meeting and the next meeting was September 29<sup>th</sup>.

6. LAFCO Liaison:

Director Shriner stated that the next meeting was scheduled for September 22<sup>nd</sup>.

7. FORA:

President Moore gave a brief update.

8. WWOC:

No report.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison:

President Moore stated the next meeting is October 21<sup>st</sup> and encouraged everyone to attend.

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

12. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Le asked for: 1) forensic audit of the regional desal and recycled water accounts; 2) an update on the developer deposit accounts; 3) SCADA Master Plan; and, 4) items from his previous list that were still outstanding.

President Moore requested to have an agenda item on October 6<sup>th</sup> to consider directing that the Water Conservation Commission assess the Water Conservation Program and potential revisions and improvements to the program.

13. Director's Comments:

Director Shriner and President Moore made comments.

President Moore recessed the meeting from 9:52 p.m. until 10:00 p.m.

Noting that it was 10:00 p.m., Director Le made a motion to continue the meeting until after Closed Session discussion. Director Shriner seconded the motion. The motion was passed.

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

4. Closed Session:

The Board returned to Closed Session at 10:00 p.m. to discuss the following items:

F. 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

G. 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

- H. 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 reconvened to Open Session at 10:09 p.m.

5. Possible Action on Closed Session Items:

President Moore reported that the Board discussed items 4-F, 4-G, and 4-H in closed session and no action was taken.

14. Adjournment:

The meeting was adjourned at 10:09 p.m.

APPROVED:

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William Y. Lee, Vice President

ATTEST:

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Paula Riso, Deputy Secretary