

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
October 20, 2014  
6:00 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on October 20, 2014.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

None

Staff Members Present:

Brian Lee, Interim General Manager  
Roger Masuda, Legal Counsel  
Jeanine DeBacker, Special Counsel  
Jean Premutati, Management Services Administrator  
Brian True, Capital Projects Manager  
Paula Riso, Executive Assistant

Audience Members:

Margaret Davis, Marina Resident, Friends of the War Horse  
Melvin Mason, Jr., Marina Resident  
Wendy Elliott, Marina Community Partners  
Don Hoeffler, Marina Community Partners  
Chris Stump, Shea Homes

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: Interim 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 6:01 p.m. The Board ended closed session at 6:55 p.m.

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

5. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, reported that the Board discussed items 4-A1, 4-B, 4-C, 4-D, 4-E, 4-F, 4-G, and 4-H during closed session and no reportable action was taken on any item with the exception of 5-E.

E. Consider Interim General Manager Evaluation including Compensation Review:

Mr. Masuda stated that the vote by the Board to authorize additional compensation for the Interim General Manager failed, 1-Aye (Moore) and 4-Nos (Shriner, Gustafson, Le, Lee).

6. Pledge of Allegiance:

Director Shriner led everyone present in the pledge of allegiance.

7. Oral Communications:

Ms. Margaret Davis, Friends of the War Horse, invited everybody to attend the 5th Annual Veteran's Day Celebration November 8<sup>th</sup> beginning at 8:00 a.m. with a bike ride followed by donuts at 9:00 a.m. and at 10:00 a.m. a history talk on the view from Fort Ord on the Viet Nam War.

8. Consent Calendar:

Director Gustafson made a motion to approve the Consent Calendar consisting of item:

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

Vice President Lee seconded the motion. The motion was passed.

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

9. Action Items:

- A. Receive a Report from Special Legal Counsel Regarding the Investigation on Director Peter Le's Complaint against Director Howard Gustafson:

Director Gustafson made a motion to drop this item from the agenda. Vice President Lee seconded the motion. Discussion followed.

Director Gustafson called for the question. Vice President Lee seconded the call for the question. The call for the question failed.

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

Board discussion followed.

Ms. Davis commented that she found it extraordinary that the Board would consider sweeping under the rug, the allegations of harassment. She said that this behavior disrupts business and brings down the tenor of the Board. Ms. Davis asked the Board to discuss this item and talk about realistic solutions that can be done.

Following discussion, Director Shriner made a substitute motion for all the Board members agreeing to attend ACWA/JPIA training in January 2015. President Moore seconded the motion. President Moore asked for clarification if the Board can take action at this meeting. Mr. Masuda answered that the Board can take action at this meeting or postpone it to the next meeting to allow for more detailed information.

The motion failed.

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

Agenda Item 9-A (continued):

Following further discussion, Director Shriner made a motion to censure Director Gustafson. Director Le seconded the motion. The motion was passed.

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

- B. Consider Adoption of Resolution No. 2014-43 to Approve a Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Marina Community Partners, LLC for the Dunes Phase 1B Retail Project in Marina, CA:

The Board asked clarifying questions.

Mr. Don Hoeffler, Marina Community Partners, explained where they were with the development and answered questions posed by the Board.

Following discussion, Director Gustafson made a motion to adopt Resolution No. 2014-43 to approve a Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Marina Community Partners, LLC for the Dunes Phase 1B Retail Project in Marina, CA. President Moore seconded the motion.

Ms. Davis voiced her concerns over water supply and that the aquifer was in overdraft.

Ms. Wendy Elliott, Marina Community Partners, thanked the Board for their consideration and stated that they had been working closely with the District staff over the last several months to bring this ten-year project together.

The motion was passed.

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

- C. Consider Adoption of Resolution No. 2014-44 to Approve a Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Shea Homes, LP for the Dunes Phase 1C Development in Marina, CA:

Following discussion, Director Gustafson made a motion to adopt Resolution No. 2014-44 to approve a Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Shea Homes, LP for the Dunes Phase 1C Development in Marina, CA. Vice President Lee seconded the motion.

Agenda Item 9-C (continued):

Mr. Chris Stump, Shea Homes, thanked staff for their hard work in bringing this project forward and thanked the Board for their consideration. Mr. Stump answered clarifying questions made by the Board.

Ms. Davis reiterated her concerns with the aquifer being in overdraft.

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:

The Board asked clarifying questions on the developer deposit accounts.

B. Counsel's Report:

1. General Counsel's Report:

None.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Shriner gave a brief update noting that a new member joined the WCC and there was also an opening for a public member.

2. Joint City District Committee:

President Moore stated the next meeting was October 22<sup>nd</sup>.

3. Executive Committee:

No meeting was held.

4. Community Outreach Committee:

Director Shriner gave a brief update of the October 13<sup>th</sup> meeting and noted that she gave a brief talk to a CSUMB class.

5. MRWPCA Board Member:

President Moore stated the next meeting was scheduled for October 27<sup>th</sup>.

6. LAFCO Liaison:

Director Shriner stated the next meeting was scheduled for October 27<sup>th</sup>.

7. FORA:

President Moore gave a brief update of the October 10<sup>th</sup> meeting.

8. WWOC:

No report.

9. JPIA Liaison:

Director Gustafson stated that he had received emails regarding training opportunities.

10. Special Districts Association Liaison:

The next meeting is October 21<sup>st</sup>.

11. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Shriner asked for a presentation on the Dunes on the Monterey Bay Project.

Director Le asked for: 1) review a proposal from Schaaf & Wheeler to review the SCSD study; 2) SCADA Master Plan; and 3) Board consider approval to attend the ACWA conference.

12. Director's Comments:

Director Gustafson, Director Shriner, Director Le, Vice President Lee, and President Moore made comments.

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13. Adjournment:

The meeting was adjourned at 8:50 p.m.

APPROVED:

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Thomas P. Moore, President

ATTEST:

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Paula Riso, Deputy Secretary