

Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
November 3, 2014
6:00 p.m.

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on November 3, 2014.

2. Roll Call:

Board Members Present:

Tom Moore – President
Jan Shriner
Peter Le

Board Members Absent:

Bill Lee – Vice President
Howard Gustafson

Staff Members Present:

Brian Lee, Interim General Manager
Roger Masuda, Legal Counsel
Kelly Cadiente, Director of Administrative Services
Patrick Breen, Capital Projects Manager
Paula Riso, Executive Assistant

Audience Members:

Margaret Davis, Marina Resident, Friends of the War Horse
Melvin Mason, Jr., 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)

4) California-American Water Company v. Lonestar California, Inc., CEMEX, Inc., et al., Monterey County Superior Court Case Nos. M129290 and M129303.

5) Appeal by California-American Water Co. of City of Marina decision denying permit for construction, operation, and decommissioning of slant test well, up to 4 monitoring well clusters, and related infrastructure at CEMEX sand mining plant, Lapis Road, Marina, Monterey County (California Coastal Commission Appeal No. A-3-MRA-14-0050).

6) Application of California-American Water Co. for permit to construct, operate, and decommission test slant well at CEMEX sand mining facility on Monterey Bay shoreline, Marina, Monterey County (California Coastal Commission Application No. 9-14-1735), this pertains to that portion of the proposed slant test well project below the mean-tide line for which the Coastal Commission has original jurisdiction.

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

One Potential Case

D. Pursuant to Government Code 54957

Public Employee Appointment

Title: General Manager

E. Pursuant to Government Code 54957

Public Employee Performance Evaluation

Title: Legal Counsel

- 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 7:00 p.m.

President Moore reconvened the meeting to open session at 7:06 p.m.

5. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, reported that the Board discussed items 4-A1, 4-A2, 4-A3, 4-A4, 4-A5, and 4-A6 during closed session and no reportable action was taken on any item. Mr. Masuda stated that the Board would go back into closed session immediately following the end of the open session items.

6. Pledge of Allegiance:

Mr. Masuda 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 8th beginning at 8:00 a.m. with a bike ride followed by donuts at 9:00 a.m. Ms. Davis stated that at 10:00 a.m. there would be a history talk on the view from Fort Ord on the Viet Nam War, and at 11:15 a tour of the historic veterinary hospital barracks.

8. Presentation:

- A. Discussion and Possible Action to Consider Adoption of Resolution No. 2014-45 in Recognition of Mr. Carroll Meuse, Public Member, for his Service on the Water Conservation Commission:

President Moore made a motion to adopt Resolution No. 2014-45 in recognition of Mr. Carroll Meuse, Public Member, for his service on the Water Conservation Commission. Director Shriner seconded the motion. The motion was passed.

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

9. Consent Calendar:

Director Shriner made a motion to approve the Consent Calendar consisting of items:

- A. Approve the Draft Minutes of the Regular Board Meeting of October 6, 2014
B. Approve the Draft Minutes of the Regular Board Meeting of October 20, 2014

Director Le seconded the motion. The motion was passed.

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

10. Action Items:

- A. Discussion and Possible Action to Consider Motion for Reconsideration of the Report from Special Legal Counsel Regarding the Investigation on Director Peter Le's Complaint against Director Howard Gustafson and the Censure of Director Howard Gustafson, if the Motion for Reconsideration Passes, to Vote on the Censure of Director Howard Gustafson:

Following clarification on the requirements of motions for reconsideration, Ms. Davis commented that incivility was not a trivial matter and supported the censure of Director Gustafson. Ms. Davis read a letter from Ms. Martha Diehl, Monterey County Planning Commissioner, supporting the censure, into the record.

There was no motion for reconsideration, therefore the previous action stands.

- B. Discussion and Possible Action to Consider Adoption of Resolution No. 2014-46 to Authorize a Construction Contract with Dilbeck & Sons Incorporated to Construct a Building E at 940 Imjin Office Parkway and Authorize the Interim General Manager to Execute General Services Administration Lease Amendments 1&2:

The Board made comments and asked clarifying questions.

Following discussion, Director Shriner made a motion to table this item until the next meeting. President Moore seconded the motion. The motion failed.

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

- C. Discussion and Possible Action to Consider Adoption of Resolution No. 2014-39 to Adopt an Updated Water Shortage Contingency Plan, and Resolution No. 2014-34 to Declare Water Conservation Stage 3 as Required by the State Water Resource Control Board's Emergency Mandatory Water Conservation Regulations:

Following discussion, Director Le made a motion to adopt an updated Water Shortage Contingency Plan amending it by deleting the fourth paragraph of the introduction and restricting outdoor landscape watering to three days per week; and to declare Water Conservation Stage 3 as required by the State Water Resource Control Board's Emergency Mandatory Water Conservation Regulations. Director Shriner seconded the motion. The motion was passed.

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

- D. Discussion and Possible Action to Consider Adoption of Resolution No. 2014-47 to Approve Funding for Directors to Attend the Association of California Water Agencies Fall Conference in San Diego:

Mr. Masuda noted that as the reimbursement directly benefits Director Le, he suggested Director Le recuse himself from voting on this item.

11. Informational Items:

A. General Manager's Report:

1. Correspondence Received by Board or General Manager:

Mr. Lee thanked Director Shriner and President Moore for their willingness to negotiate and compromise.

B. Counsel's Report:

1. General Counsel's Report:

Mr. Masuda commented that there was a handout of the Monterey County Water Resources Agency presentation on the 2014 California Groundwater Legislation.

Ms. Riso asked for clarification on the motion made item 10-C. She asked if the motion only included the Water Shortage Contingency Plan, or if it also included the Stage 3 water conservation.

Return to item 10-C.

Director Le clarified his motion to adopt Resolution No. 2014-39 adopting an updated Water Shortage Contingency Plan amending it by deleting the fourth paragraph of the introduction and restricting outdoor landscape watering to three days per week; and to Adopt Resolution No. 2014-34 declaring Water Conservation Stage 3 as required by the State Water Resource Control Board's Emergency Mandatory Water Conservation Regulations. Director Shriner seconded the motion. The motion was passed.

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

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Shriner noted that there was a meeting scheduled for November 6th at 5:30 p.m.

2. Joint City District Committee:

President Moore gave a brief update.

3. Executive Committee:

No meeting was held.

2. Community Outreach Committee:

Director Shriner noted that there was a meeting scheduled for November 5th at 3:00 p.m. and that she received a thank you card for speaking at a CSUMB class.

3. MRWPCA Board Member:

President Moore gave a brief update.

4. LAFCO Liaison:

Director Shriner stated that no meeting was held.

5. FORA:

President Moore commented that the next meeting would be held November 14th.

6. WWOC:

No report.

9. JPIA Liaison:

No report.

10. Special Districts Association Liaison:

President Moore gave a brief update.

12. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Le asked for: 1) the private fire service fee item; 2) review a proposal from Schaaf & Wheeler to review the SCSD study; and 3) public employee evaluation of the IGM. He stated that he would email the President and Vice President his requests that are still outstanding.

Director Shriner asked for harassment training in January 2015.

13. Director's Comments:

Director Shriner, and Director Le made comments.

President Moore recessed the meeting from 8:50 to 8:55 p.m.

The Board returned to closed session at 8:55 p.m. to discuss items 4-B, 4-C, 4-D, 4-E, 4-F, 4-G, and, 4-H.

4. Closed Session:

- 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

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

The Board ended closed session at 9:43 p.m.

5. Possible Action on Closed Session Items:

Mr. Masuda reported that the Board discussed items 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.

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14. Adjournment:

The meeting was adjourned in the memory of Kenneth Gray at 9:44 p.m.

APPROVED:

Thomas P. Moore, President

ATTEST:

Paula Riso, Deputy Secretary