



## **Marina Coast Water District**

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting  
July 16, 2018

Draft Minutes

### 1. Call to Order:

President Moore called the meeting to order at 6:30 p.m. on July 16, 2018 at the Marina Council Chambers, 211 Hillcrest Avenue, Marina, California.

### 2. Roll Call:

Board Members Present:

Thomas P. Moore – President  
Jan Shriner – Vice President  
Bill Lee  
Howard Gustafson  
Herbert Cortez

Board Members Absent:

None.

Staff Members Present:

Keith Van Der Maaten, General Manager  
Roger Masuda, Legal Counsel  
Mike Wegley, District Engineer  
Rose Gill, Human Resources/Risk Administrator  
Kelly Cadiente, Director of Administrative Services  
Derek Cray, Operations and Maintenance Manager  
Brian True, Senior Civil Engineer  
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler	Lisa Berkley, Marina Resident
Philip Clark, Seaside Resident/WCC Chair	Mike Dinkle, Marina Resident
Paula Pelot, Marina Resident	Sarah Rubin, Monterey County Weekly
Kathy and Harvey Biala, Marina Residents	David Brown, Marina Resident
Margaret-Anne Coppernoll, Marina Resident/WCC Member	

3. Public Comment on Closed Session Items:

There were no public comments.

The Board entered into closed session at 6:32 p.m. to discuss the following items:

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation

- 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) Marina Coast Water District v. California Public Utilities Commission, California Supreme Court Case No. S230728, Writ of Review
- 4) 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); First Appellate District Court of Appeals Case No. A145604, A146166, A146405
- 5) Marina Coast Water District vs. California-American Water Company, Monterey County Water Resources Agency; and, California-American Water Company, Monterey County Water Resources Agency vs Marina Coast Water District, San Francisco Superior Court Case Nos. CGC-15-547125, CGC-15-546632 (Complaint for Breach of Warranties, etc.)
- 6) Marina Coast Water District v, California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267
- 7) Bay View Community DE, LLC; Bryan Taylor; Greg Carter; and Brooke Bilyeu vs Marina Coast Water District; Board of Directors of Marina Coast Water District; County of Monterey and Does 1-25, inclusive, Monterey County Superior Court Case No. 18CV000765 (Petition for Writ of Mandate or Administrative Mandate, and Complaint for Declaratory and Injunctive Relief and Breach of Contract)

- 8) LandWatch Monterey County v Marina Coast Water District and Does 1 through 25, inclusive, Monterey County Superior Court Case No. 18CV000877 (Petition for Writ of Mandate)
- 9) Keep Fort Ord Wild v Marina Coast Water District, Marina Coast Water District Board of Directors, and Does 1 through 25, Monterey County Superior Court Case No. 18CV000883 (Petition for Writ of Mandate)
- 10) Marina Coast Water District, and Does 1-100 v, County of Monterey, County of Monterey Health Department Environmental Health Bureau, and Does 101-110, Monterey County Superior Court Case No. 18CV000816 (Petition for Writ of Mandate and Complaint for Injunctive Relief)

B. Pursuant to Government Code 54956.8  
Conference with Real Property Negotiator  
Property: Sewer Infrastructure  
Negotiating parties: Thomas Moore and Jan Shriner  
Under Negotiation: Price and Terms

C. Pursuant to Government Code 54957  
Conference with Labor Negotiators  
Unrepresented Employee: General Manager

The Board ended closed session at 7:00 p.m.

President Moore reconvened the meeting to open session at 7:01 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. Roger Masuda, Legal Counsel, stated that there was an additional claim for item 4-A7 and the Board rejected the claim with a vote of 5-Ayes and 0-Noes.

C. Adopt Resolution No. 2018-40 to Approve an Amendment to the General Manager's Contract:

Director Gustafson made a motion to adopt Resolution No. 2018-40 approving an amendment to the General Manager's contract. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

6. Pledge of Allegiance:

Director Lee led everyone present in the pledge of allegiance.

7. Oral Communications:

Mr. Phil Clark, Seaside Resident WCC Chair, commented that several members of the Water Conservation Commission helped District staff work the conservation booth at the Fort Ord Clean Up event on July 14th and there was a nice turnout of about 200 people that passed by the booth.

Mr. Harvey Biala, Marina Resident, voiced his protests over Director Gustafson's tweets on Social Media stating he felt they were racist and sexist and asked that the Board listen to the public's concerns without responding to them.

Ms. Lisa Berkley, Marina Resident, voiced her protests over Director Gustafson's tweets on Social Media. She shared several of the tweets she felt were racist and sexist.

Mr. Mike Dinkle, Marina Resident, stated that he agreed with the comments previously made. He said that he felt Director Gustafson was an embarrassment to MCWD and the City. Mr. Dinkle encouraged the Board to create a Social Media Policy and hoped that Director Gustafson would make a public apology to the citizens of Marina.

Ms. Kathy Biala, Marina Resident, voiced her protests over Director Gustafson's tweets on Social Media. She read several tweets from his Twitter account that had been removed. Ms. Biala stated that she was hurt by the racist and sexist remarks made on his Twitter account and wanted people to be aware of his views before the next election.

Ms. Paula Pelot, Marina Resident, stated that she agreed with the prior speakers and finds the tweets vile and hurtful. She said they are hurtful to classes of people, races of people, the community, and hurtful to the Water District. Ms. Pelot agreed that the District needs to have a Social Media Policy and would like Director Gustafson to post that his views do not reflect the views of the District.

Ms. Pelot also asked how much longer will the surcharges be on the accounts at the University Village Apartments and if the District has an accounting of how much have been paid thus far.

8. Consent Calendar:

Director Gustafson made a motion to approve the Consent Calendar consisting of: A) Receive and File the Check Register for the Month of June 2018; B) Approve the Draft Minutes of the Joint Board/GSA Meeting of June 18, 2018; and, C) Adopt Resolution No. 2018-41 to Approve Prepayment of Marina Coast Water District's CalPERS Annual Employer Unfunded Accrued Liability Contribution for FY 2018-2019 in the Amount of \$140,699. Director Lee seconded the motion.

Agenda Item 8 (continued):

The motion was passed by the following vote:

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

9. Action Items:

A. Consider Approving the Realignment Plan for the Water Conservation Commission:

Mr. Keith Van Der Maaten, General Manager, introduced this item explaining that staff has been looking into ways to improve the effectiveness of the Commission; including formalizing the proceedings, clarifying the roles and responsibilities, and realigning their connection to the Board. Vice President Shriner stated that at the last Water Conservation Commission meeting it was noted that there were some public events already planned for the next couple of months and they would like to keep those commitments. The Board questioned who would select the Chair for the Commission and how long the seat would last. Director Cortez asked for clarification on working group meetings and suggested the possibility of providing a stipend for the Commissioners. Mr. Van Der Maaten answered that the working group meetings became more popular over the last year and had the potential to cause Brown Act violations.

Mr. Clark stated that it was unclear of what was being asked of the Commissioners with this recommendation. He asked if they were being asked to put together reports, and/or do research on their own time and bring those findings to the Commission meetings. Mr. Clark asked for clarification on what exactly the Board and staff were asking for.

Ms. Margaret-Anne Coppernoll, Marina Resident/WCC member, commented that it was unwise to abruptly disband the commission, especially as the new members might think it was disingenuous to be told their service was no longer needed. She said that all Commissioners already went through the Board selection process and that it would be better to phase this change in over time. Ms. Coppernoll voiced her support over keeping the Working Group meetings, and allowing the Commission to select their own Chair.

Ms. Pelot asked for clarification of the make-up of the Commission and agreed that the Commission should appoint their own Chair. She also advocated to leave the positions open to any interested public member, not only for ones who meet certain criteria, and putting a term limit on the Chair position.

The Board suggested allowing the Commission to appointing their own Chair, and the City and Board liaisons being a go-between by offering support but not sitting at the dais and attending meetings. The Board also suggested recognizing the volunteers for their contributions to the Commission.

Agenda Item 9-A (continued):

Director Gustafson made a motion to direct staff to bring back a draft proposal, including the comments made at this meeting, for discussion at the next meeting. Director Lee seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

B. Consider Adoption of Resolution No. 2018-42 to Approve a Memorandum of Understanding between Marina Coast Water District and Seaside County Sanitation District to Resolve the Potential Annexation Overlap:

Mr. Van Der Maaten introduced this item noting that staffs have been meeting over the last several months and have come to a tentative agreement for consideration. The Board asked clarifying questions. Several Directors suggested postponing this item until after Seaside County Sanitation District approves the MOU.

President Moore made a motion to adopt Resolution No. 2018-42 to approve a Memorandum of Understanding between Marina Coast Water District and Seaside County Sanitation District to resolve the potential annexation overlap and allow the General Manager to make non-substantive changes. Director Gustafson seconded the motion. The motion was passed.

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

C. Consider Adoption of Resolution No. 2018-43 to Authorize a Professional Services Agreement with EKI Environment & Water, Inc. for a Water Augmentation Alternatives Study:

Mr. Van Der Maaten introduced this item. The Board asked who would pay for this study. Mr. Van Der Maaten answered that all three agencies, MCWD, Monterey One Water, and FORA, would pay for it.

Director Gustafson made a motion to adopt Resolution No. 2018-43 authorizing a Professional Services Agreement with EKI Environment & Water, Inc. for a Water Augmentation Alternatives Study. President Moore seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

D. Consider Adoption of Resolution No. 2018-44 to Approve a Grants of Easements Between Marina Coast Water District and California State University at Monterey Bay:

Mr. Michael Wegley, District Engineer, introduced this item explaining that there were four easements being granted to the District from CSUMB in exchange for the District waiving capacity fees and in-tract improvement costs for the Academic and Student Union building. He added that these easements were needed for the Reservoir A1/A2, and B2 tanks that are needed for adequate fire flow for the District's service areas.

Director Gustafson made a motion to adopt Resolution No. 2018-44 approving a Grants of Easements between Marina Coast Water District and California State University at Monterey Bay. Director Lee seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

E. Consider Adopt Resolution No. 2018-45 to Approve a Grant of Easement Between Marina Coast Water District and the United States Department of The Army:

Mr. Wegley introduced this item noting that when the recycled water pipeline was put in the road years ago, FORA did not obtain a road right-of-way, and now the District needs to pay for an easement.

Vice President Shriner made a motion to adopt Resolution No. 2018-45 approving a Grant of Easement between Marina Coast Water District and the United States Department of The Army. Director Gustafson seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

10. Staff Reports:

A. Receive the 2<sup>nd</sup> Quarter 2018 MCWD Water Consumption and Sewer Flow Report:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item noting that the sewer flow information was received after the packet was produced and a handout with the latest information was available on the dais. Vice President Shriner asked for clarification on the Army water usage. Ms. Cadiente answered that it was due to the meter project.

B. Receive the Developer Account Quarterly Report as of March 31, 2018:

Mr. Brian True, Senior Civil Engineer, introduced this item. President Moore asked if staff was going to write-off Monterey Downs. Mr. True answered that he was waiting until the City of Seaside developments move forward, thus there would be no chance of Monterey Downs moving forward. Discussion on other delinquent accounts followed.

11. Informational Items:

A. General Manager's Report:

No report was given.

B. Counsel's Report:

No report was given.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Vice President Shriner gave a brief update.

2. Joint City District Committee:

Vice President Shriner stated they met on June 27th and the next meeting is scheduled for August 29th.

3. Executive Committee:

President Moore stated they met on July 10th and the next meeting is scheduled for August 14th.

4. Community Outreach Committee:

Director Gustafson gave a brief update.

5. Budget and Personnel Committee:

Director Gustafson gave a brief update.

6. M1W Board Member:

President Moore gave a brief update.

7. LAFCO Liaison:

Director Cortez noted the next meeting is scheduled for August 27th.

8. FORA:

President Moore gave a brief update.



9. WWOC:

Mr. Van Der Maaten noted the July meeting was canceled and the next meeting is scheduled for August 15th.

10. JPIA Liaison:

No report was given.

11. Special Districts Association Liaison:

The next meeting is scheduled for July 17th.

12. SVGSA Liaison:

No report was given.

12. Correspondence:

President Moore noted there was a complimentary letter from a customer in the packet.

13. Board Member Requests for Future Agenda Items:

President Moore noted that any requests could be emailed to staff. Director Cortez asked to see a Social Media Policy at the next meeting.

14. Director's Comments:

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

15. Adjournment:

The meeting was adjourned at 8:51 p.m.

APPROVED:

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Thomas P. Moore, President

ATTEST:

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Paula Riso, Deputy Secretary