



Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting
211 Hillcrest Avenue, Marina
December 16, 2019

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:30 p.m. on December 16, 2019 at the Marina Council Chambers, 211 Hillcrest Avenue, Marina, California.

2. Roll Call:

Board Members Present:

Thomas P. Moore – President
Jan Shriner – Vice President
Herbert Cortez – arrived at 6:33 p.m.
Peter Le
Matt Zefferman

Board Members Absent:

None

Staff Members Present:

Keith Van Der Maaten, General Manager
Roger Masuda, District Counsel
Kelly Cadiente, Director of Administrative Services
Derek Cray, Operations and Maintenance Manager
Michael Wegley, District Engineer
Don Wilcox, Senior Engineer
Patrick Breen, Water Resources Manager
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler
Philip Clark, Seaside Resident, WCC Member
Gary Petersen, SVBGSA
Vera Nelson, EKI Environment & Water
Alessandra Bassanello, Marina Resident
June Leong, Marina Resident
Evy Smith, Marina Resident
Kellee Noonan, Marina Resident

3. Public Comment on Closed Session Items:

There were no 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) 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 Damages, Breach of Warranties, etc.)
- 2) Marina Coast Water District v, California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267, Sixth Appellate District Court of Appeals Case No. H045468
- 3) 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)
- 4) 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)
- 5) Marina Coast Water District, and Does 1-100 v, County of Monterey, Monterey County Board of Supervisors, and Does 101-110 (California-American Water Company, Real Property in Interest), Monterey County Superior Court Case No. 19CV003305 (Petition for Writ of Mandate and Complaint for Injunctive Relief)

B. Pursuant to Government Code 54956.9(d)(4)

Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation – Three Potential Cases

The Board ended closed session at 7:06 p.m.

President Moore reconvened the meeting to open session at 7:08 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. Roger Masuda, District Counsel, stated that there were no reportable actions taken during Closed Session and direction was given to staff and counsel.

6. Pledge of Allegiance:

Director Zefferman led everyone present in the pledge of allegiance.

7. Oral Communications:

Ms. Evy Smith, Marina resident, commented that they would like to address the fact that they don't have a variance. President Moore stated that Agenda Item 14-B would be addressing the issue and Ms. Smith was welcome to make her comments at that time.

8. Election of Board President and Vice President:

Vice President Shriner made a motion to continue with Director Moore as President and herself, Director Shriner, as Vice President. Director Cortez seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Abstained	President Moore	-	Yes
Director Cortez	-	Yes			

9. Presentations:

A. Receive a Presentation Regarding the Census Bureau's Upcoming 2020 Census:

Ms. Diana Malkin, Census Bureau Partnership Specialist, was making a call to see if it was allowable to show the Census information on live television. The presentation is on hold for now.

B. Receive a Presentation from the Fort Ord Regional Habitat Cooperative regarding the Habitat Conservation Plan:

President Moore commented that this item has been tabled.

10. Marina Coast Water District Groundwater Sustainability Agency Matters:

A. Groundwater Sustainability Plan Workshop – Public Hearing:

1. Open a Public Hearing and Receive a Staff Report on the 180/400 Foot Aquifer Groundwater Sustainability Plan:

Mr. Patrick Breen, Water Resources Manager, introduced this item and noted that Ms. Vera Nelson, EKI Environment and Water, would give a brief presentation.

Agenda Item 10-A1 (continued):

Ms. Nelson gave a brief technical overview of the Groundwater Sustainability Plan (GSP) including the estimated water budget; undesirable results; measurable objectives and minimum thresholds; and, management actions and potential projects. She discussed the GSP implementation and comments provided by MCWD. Ms. Nelson stated that MCWD will continue the inter-basin coordination with the Salinas Valley Basin Groundwater Sustainability Agency. The Board asked clarifying questions of Ms. Nelson and Mr. Gary Petersen, Salinas Valley Basin Groundwater Sustainability Agency General Manager.

President Moore opened the Public Hearing at 8:05 p.m.

There were no public comments.

President Moore noted that the Public Hearing would remain open until next meeting. Vice President Shriner stated that the public can submit comments before the next hearing or at the next meeting in January.

11. Return to Marina Coast Water District Matters:

Ms. Paula Riso, Executive Assistant/Clerk to the Board, informed the President Moore that the presentation for Item 9-A would have to be held at a later date.

Director Le made a motion to move to Item 14-B, Legal Counsel Report, up on the agenda to be discussed before Item 12. The motion died for lack of a second.

12. Consent Calendar:

Director Le requested to pull all items from the Consent Calendar.

A. Receive and File the Check Register for the Month of November 2019:

Director Le questioned the check paid to the State Water Resources Control Board referring to the Desal Plant Brine discharge. Ms. Cadiente answered that the District still pays for the permit even though the plant is inactive.

Director Zefferman made a motion to receive the check register for the month of October 2019. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

B. Receive the Quarterly Financial Statements for July 1, 2019 to September 30, 2019:

Director Le asked for clarification on the RUWAP costs and why it doesn't show the budgeted amounts. Ms. Kelly Cadiente, Director of Administrative Services, answered that CIP projects don't show the budgeted amounts.

Agenda Item 12-B (continued):

Vice President Shriner made a motion to receive the Quarterly Financial Statements for July 1, 2019 to September 30, 2019. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

C. Approve the Draft Minutes of the Regular Joint Board/GSA Meeting of November 18, 2019:

Director Le asked that page 4 of the minutes, Item E, include that he wanted the item brought back to discuss “goals and set policies”.

Director Zefferman made a motion to approve the draft minutes of the regular joint Board/GSA meeting of November 18, 2019 with the correction noted. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

D. Consider Adoption of Resolution No. 2019-85 to Approve the Purchase of a Dump Truck for the Operations and Maintenance Department:

Director Le asked when the truck would be delivered, who would put the logo on the truck and if there was a radio in the truck. Mr. Derek Cray, Operations and Maintenance Manager, noted that the truck would be delivered in approximately three weeks and staff would get the logo on the truck and get a radio installed.

Vice President Shriner made a motion to adopt Resolution No. 2019-85 to approve the purchase of a dump truck for the Operations and Maintenance Department. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

E. Consider Adoption of Resolution No. 2019-86 to Approve an Amendment to the Jones Hall Legal Services Agreement Increasing the Contract Amount from \$75,000 to \$80,000 for Bond Counsel and Disclosure Counsel Services on the 2019 Enterprise Revenue Certificates of Participation Financing:

Director Le said he did not have any questions but pulled this item to have a separate vote.

Agenda Item 12-E (continued):

Vice President Shriner made a motion to adopt Resolution No. 2019-86 to approve an amendment to the Jones Hall Legal Services Agreement increasing the contract amount from \$75,000 to \$80,000 for Bond Counsel and Disclosure Counsel Services on the 2019 Enterprise Revenue Certificates of Participation Financing. President Moore seconded the motion. The motion failed by the following vote:

Director Zefferman	-	Abstained	Vice President Shriner	-	Yes
Director Cortez	-	Abstained	President Moore	-	Yes
Director Le	-	No			

President Moore asked if there was a reason for the abstentions on the vote and if anyone had any clarifying questions. Director Zefferman asked what the increase was for. Ms. Cadiente answered it was because of the litigation that arose after the agreement was first approved. Director Zefferman stated that he thought this was a different item. Director Cortez asked for clarification on the additional \$5,000 charge. Ms. Cadiente answered that it was for the additional CPUC work and the litigation with Bay View.

Director Zefferman made a motion to adopt Resolution No. 2019-86 to approve an amendment to the Jones Hall Legal Services Agreement increasing the contract amount from \$75,000 to \$80,000 for Bond Counsel and Disclosure Counsel Services on the 2019 Enterprise Revenue Certificates of Participation Financing. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	No			

F. Consider Approving the Proposed Regular Board/GSA Meeting and Workshop Meeting Schedule for 2020:

Director Le asked to add a one-day retreat in March or April to the schedule and have all the attorneys present to go over all the open litigations. Director Cortez suggested increasing compensation for attending an all-day weekend meeting because it is difficult for childcare. Director Zefferman suggested holding the December 21, 2020 meeting on December 14, 2020. Mr. Keith Van Der Maaten, General Manager, noted that the first Monday of each month is held for special meetings or workshops and could be used whenever the Board wants.

Director Zefferman made a motion to approve the proposed regular Board/GSA meeting and Workshop meeting schedule for 2020 with the December meeting moved to December 14, 2020, and staff will check with Director and legal counsel availability for a possible March or April special meeting/workshop. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	No	President Moore	-	Yes
Director Le	-	Yes			

13. Action Items:

- A. Consider Adoption of Resolution No. 2019-87 to Approve Amendment No. 6 to the Professional Services Agreement of Carollo Engineers for Design of the Regional Urban Water Augmentation Project Distribution Mains Project:

Mr. Don Wilcox, Senior Engineer, introduced this item. Director Le questioned item 1 under the Resolved portion of the Resolution. Mr. Wilcox answered that he had used another Resolution as a template, and it should have been removed. Director Le noted that the Carollo letter had a typo calling this a “City Contract No. 2009-31”. Mr. Wilcox answered that they must have used an old letter as a template and missed that reference. Director Cortez asked if this project was within budget. Mr. Wilcox answered the budget was in good shape. President Moore suggested removing item 1 under the Resolved portion of the Resolution and renumbering the following findings. He also asked who installed the recycled water pipeline. Mr. Wilcox said that it looks like UCMBEST had the pipes installed. The Board asked clarifying questions.

Vice President Shriner made a motion to adopt Resolution No. 2019-87 approving Amendment No. 6 to the Professional Services Agreement of Carollo Engineers for design of the Regional Urban Water Augmentation Project Distribution Mains Project with the removal of item 1 under the Resolved section and renumbering the remaining findings; and at a future workshop look into the location and easements of the recycled water pipeline in question. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	No			

- B. Consider Adoption of Resolution No. 2019-88 to Reject all Bids on the Imjin Lift Station Improvement Project Phase I and Direct Staff to Rebid the Project:

Mr. Michael Wegley, District Engineer, introduced this item explaining that there were bidder irregularities where all but one bidder failed to list the Department of Industrial Relations Registration for their sub-contractors. He also noted that the second placed bidder filed a protest because the winning bid did not list the manufacturer for the panel. Mr. Wegley stated that for these reasons, staff would like to rebid the project. The Board asked clarifying questions.

Vice President Shriner made a motion to adopt Resolution No. 2019-88 rejecting all bids on the Imjin Lift Station Improvement Project Phase I and direct staff to rebid the project. President Moore seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

C. Consider Adoption of Resolution No. 2019-89 to Approve Three Grant of Easement Agreements Between Marina Coast Water District and the City of Seaside for the Ord Village Lift Station and Force Main Project:

Mr. Wilcox introduced this item noting the City of Seaside approved these easements on December 5, 2019 with only one small addition, that the site be esthetically pleasing. Director Le commented that the Resolution should be to “accept” the three easements, not “approve” the easements, also, the Now, Therefore be it Resolved should read: “authorize the General Manager to execute the Certificates of Acceptance for the three Grants of Easements”.

Director Le made a motion to adopt Resolution No. 2019-89 with the title changed to “Accept and approve three Grant of Easement Agreements between Marina Coast Water District and the City of Seaside for the Ord Village Lift Station and Force Main Project” and the Now, Therefore be it Resolved to read: “...authorize the General Manager to execute the Certificates of Acceptance for the three Grants of Easements...”. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

D. Consider Adoption of Resolution No. 2019-90 for the Purchase of One New Standby Generator for the Ord Village Lift Station:

Mr. Cray introduced this item explaining that there was a fire in the old generator, and it needs replacement sooner than expected. Director Le asked what the cause of the fire was. Mr. Cray answered that it was difficult to assess what caused the fire due to the extensive damage, but it was assumed that perhaps something rusted out and caused an arc which started the fire.

Director Zefferman made a motion to adopt Resolution No. 2019-90 for the purchase of one new standby generator for the Ord Village Lift Station. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Cortez	-	Yes	President Moore	-	Yes
Director Le	-	Yes			

E. Consider Adoption of Resolution No. 2019-91 to Approve District Collection of Delinquent Water Accounts Policy:

Ms. Cadiente introduced this item explaining that SB998 was recently passed and it affects the District’s notification and process to terminate service for non-payment. She stated that the District has to publish the notice in any language that at least 10% of the population spoke. Director Le asked what the required languages were. Ms. Cadiente answered that besides English, they were determined to be Spanish, Korean, Vietnamese, and Tagalog. Director Le asked when the Board would be able to see the translated policy. Ms. Cadiente answered it would probably take a few weeks to allow for translation. Mr. Masuda added that there were five specific languages to be spoken, as Ms. Cadiente mentioned, as well as any other language spoken by at least 10% of the customers in the District’s service area.

Agenda Item 13-E (continued):

Director Cortez asked how many customers end up getting shut-off for non-payment and how many get their service turned back on after paying the fees. Ms. Cadiente answered that last year there were 77 accounts that were shut-off but did not know how many did not get their service turned back on. Director Cortez asked staff to give an update at the next meeting on how many did not get their service turned back on.

Director Cortez made a motion to adopt Resolution No. 2019-91 to approve District Collection of Delinquent Water Accounts Policy. Director Zefferman seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

F. Consider Proposed Comment Letter to Monterey One Water on the Draft Supplemental Environmental Impact Report for the Proposed Modifications to the Pure Water Monterey Groundwater Replenishment Project:

Mr. Wegley introduced this item explaining that staff's questions were provided as well as comments provided by Director Le.

Director Le made a motion to direct the General Manager to work with Legal Counsel to refine the comments and submit them to Monterey One Water before the deadline. Vice President Shriner seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

G. Consider Adoption of Resolution No. 2019-64 to Approve the Addition of a Social Media Policy; and, Clarifying the Harassment and Bullying Language to the Board Procedures Manual:

President Moore noted that he and other Directors submitted comments and they could try to go through everything at the meeting or have staff incorporate the comments and bring them back at the next meeting.

Director Zefferman commented that the Outreach Committee worked on the Social Media Policy at their last meeting and it seems the entire Board Procedures Manual (BPM) is particularly unwieldy and he suggested to do a complete review to remove some of the redundant language.

Director Le commented the agenda only allows the Social Media Policy and Bullying language to be discussed and he would like to see each Director review the entire BPM and provide changes to be discussed over the next several meetings.

Agenda Item 13-G (continued):

Director Cortez stated that the BPM has been looked at piecemeal and not collectively as a whole and the whole document doesn't read well. He would like to review the document as a whole and streamline it.

President Moore asked if the Board would like to send the BPM to an Ad Hoc Committee for review. Director Zefferman said he would be interested in working on the BPM. Director Cortez said he would be interested as well, either as an Ad Hoc Committee or on the Outreach Committee.

Director Le made a motion to refer the revision of the BPM to an Ad Hoc Committee. President Moore seconded the motion. The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

H. Consider Director Appointments to Standing Committees of the Board and to Outside Agencies for 2020, and as Negotiators to any Ad Hoc Committees of the Board:

Vice President Shriner made a motion that all appointments to remain the same as 2019 with the following exceptions:

- Director Zefferman be the primary member to the Water Conservation Commission; with Vice President Shriner as the alternate;
- the General Manager the primary on FORA with Director Zefferman, and Director Shriner as alternates.

President Moore seconded the motion. Director Zefferman suggested an additional alternate to FORA.

Vice President Shriner amended her motion to have President Moore as the third alternate to FORA. President Moore seconded the amended motion. The appointments are as follows:

- | | | |
|---|-------------------------------|---|
| 1. | Water Conservation Commission | Zefferman - Shriner as Alternate |
| 2. | Joint City/District Committee | Moore, Shriner – Cortez as Alternate |
| 3. | Executive Committee | Moore, Shriner |
| 4. | Budget and Personnel | Cortez, Shriner – Zefferman as Alternate |
| 5. | Community Outreach | Cortez, Zefferman – Shriner as Alternate |
| Current appointments to outside agencies: | | |
| 1. | M1W | Moore – Zefferman as Alternate |
| 2. | FORA | General Manager – Zefferman, Shriner, Moore as Alternates |
| 3. | LAFCO | Cortez – Zefferman as Alternate |
| 4. | JPIA | Le – Cortez as Alternate |
| 5. | SDA | Le – Moore, Shriner, Cortez, and Zefferman as Alternates |
| 6. | FORA WWOC | GM – Zefferman as Alternate |

Agenda Item 13-H (continued):

The motion was passed by the following vote:

Director Zefferman	-	Yes	Vice President Shriner	-	Yes
Director Le	-	Abstained	President Moore	-	Yes
Director Cortez	-	Yes			

14. Informational Items:

A. General Manager's Report:

Mr. Van Der Maaten commented that the District's Annual Chili Cook-Off, and the Holiday Pancake Breakfast were great events for District staff and he appreciated that several Directors were able to attend and celebrate with everyone.

B. Counsel's Report:

a. Verbal Report on the Dunes Variance Request:

Mr. Roger Masuda, District Counsel, made the following statement: "The Dunes' hot water recirculation issue was resolved by the General Manager's September 19, 2018 letter to Shea Homes, which stated that a properly installed and operable Grundfos Comfort valve retrofit satisfies Shea Homes' obligation to comply with the District's requirements. Therefore, there is no basis for the District to consider anything further on this matter as explained in the General Manager's November 22, 2019 letter to Ms. Smith. The District understands that out of the 118 homes in which Shea Homes had not originally installed a hot water recirculation system: 1) retrofits have been installed in 105 homes and are operating satisfactorily; 2) 1 home was otherwise resolved; 3) 6 homeowners have refused a retrofit; and, 4) 6 homeowners could not be reached.

Mr. Van Der Maaten commented that Shea Homes also put in the pipe insulation and expansion tanks on the homes as well, and the City of Marina has signed off on them. Director Le asked if there is a deadline for the 12 homeowners that didn't get the retrofit. Mr. Van Der Maaten answered that he understood that Shea Homes would still be willing to put in the retrofit if the homeowners wanted it. President Moore clarified that the requirement only applies to brand new homes.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Mr. Breen stated they met on December 5th and the next meeting would be January 9, 2020.

2. Joint City District Committee:

President Moore stated they did not meet in December and the next meeting would be February 26, 2020.

3. Executive Committee:

President Moore noted that they met December 3rd and that the next meeting is scheduled for January 14, 2020.

4. Community Outreach Committee:

Director Zefferman gave a brief update stating they discussed the Board Procedures Manual.

5. Budget and Personnel Committee:

Director Cortez stated they did not meet in December.

6. M1W Board Member:

President Moore gave a brief update and noted there is a special meeting scheduled for December 19th.

7. LAFCO Liaison:

No report was given.

8. FORA:

No report was given.

9. WWOC:

Mr. Van Der Maaten noted the next meeting was in January.

10. JPIA Liaison:

No report was given.

11. Special Districts Association Liaison:

President Moore stated the next meeting is scheduled for January 21st.

12. SVGSA Liaison:

No report was given.

15. Correspondence:

There were no comments made.

16. Board member Requests for Future Agenda Items:

President Moore noted that the Board members can email in their requests. Director Le stated that on December 2, 2019 he submitted a report on the conference he attended in November. President Moore asked that it be included in the next Board packet. Director Cortez asked to discuss Board member compensation for 2020. Director Le also asked to see the results from the AEM 2.0; discussion on how much to charge for recycled water; what to do with the 600 feet of recycled water the District would get next year, and status of the master plans including the timeline.

17. Director's Comments:

Director Cortez, Director Zefferman, Vice President Shriner, and President Moore made comments.

18. Adjournment:

The meeting was adjourned at 9:48 p.m.

APPROVED:



Thomas P. Moore, President

ATTEST:



Paula Riso, Deputy Secretary