



Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting
Via Zoom Teleconference
August 17, 2020

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:31 p.m. on August 17, 2020 via Zoom teleconference in Marina, California.

2. Roll Call:

Board Members Present:

Thomas P. Moore – President
Jan Shriner – Vice President
Herbert Cortez
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
Michael Wegley, District Engineer
Derek Cray, Operations and Maintenance Manager
Patrick Breen, Water Resources Manager
Rose Gill, Human Resources/Risk Administrator
Teo Espero, IT Administrator
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler
Douglas Dove, Bartle Wells
Abigail Seaman, Bartle Wells
Dennis Martin, BIA Bay Area
John Kinsey, Wanger Jones Helsley PC
Doug Yount, Shea Homes
Tony Akel, Akel Engineering
Kevin Tuttle, Akel Engineering
Shawn Storm, Marina Resident
Richie Andazola, Teamsters Local 890

Chris Stump, Shea Homes
Andy Hunter, Whitson Engineers

President Moore commented that Pacific Gas & Electric notified the public that there could be rolling blackouts, and if the electricity goes out during the meeting it would be adjourned to Thursday, August 27, 2020 at 6:30 p.m. He added that if the electricity goes out before the Public Hearing is closed, the Public Hearing will remain open until the August 27th meeting where it will be completed at that time.

3. Public Comment on Closed Session Items:

There were no comments.

The Board entered into closed session at 6:35 p.m. to discuss the following items:

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation

- 1) 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)
- 2) 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)
- 3) Appeal No. A-3-MRA-19-0034 by California-American Water Company to the California Coastal Commission over Denial by the City of Marina for a Coastal Development Permit for Construction of Slant Intake Wells for the Monterey Peninsula Water Supply Project
- 4) City of Marina vs. RMC Lonestar [CEMEX], California-America Water Company, et al., Defendants, Marina Coast WD, et al., Real Parties in Interest, Monterey County Superior Court Case No. 20CV001387 (Complaint for Breach of Contract, Declaratory Relief under the Agency Act, and Tortious Interference with Existing Contract)
- 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 Damages, Breach of Warranties, etc.)

- B. Pursuant to Government Code 54956.8
Conference with Real Property Negotiator
Property: Armstrong Ranch Property
Negotiating Parties: Sunberry Growers, LLC. and MCWD Negotiators (Legal Counsel and General Manager)
Under Negotiation: Price and Terms

The Board ended closed session at 6:58 p.m. President Moore reconvened the meeting to open session at 7:00 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.

6. Pledge of Allegiance:

Mr. Masuda led everyone present in the pledge of allegiance.

President Moore stated that he would move Items 10-A and 11-A up on the agenda before Item 7 to try to get through them before the possibility of a power outage.

10. Public Hearing:

President Moore opened the Public Hearing at 7:06 p.m.

- A. Public Hearing for Proposed Changes in Water and Wastewater Capacity Fees for Central Marina and Ord Community Service Areas:

Mr. Michael Wegley, District Engineer, introduced this item noting that the Public Hearing had been published in the Monterey County Weekly and was also sent to the email distribution list for District agendas.

While waiting to fix the glitch preventing the audience from speaking, President Moore allowed Director Le to ask clarifying question on the Capacity Fees and Master Plans.

Mr. Dennis Martin, BIA Bay Area, commented that they have been involved in this process for over a year. He stated that a year ago the fees were quite high and after going through the process, many of their questions and concerns have been addressed to which he thanked staff. Mr. Martin stated that there is a projection for a lot of growth in the next 20 years and hopes that the District will be prepared for that growth with water and sewer services. He commented that although many of their concerns have been addressed they still had questions, e.g. on the Master Plans - high contingency allowances for each project; the methodology being used in calculating the fees; and, if the costs are being fairly shared between new development and existing development.

Mr. John Kinsey, Wanger Jones Helsley PC, asked if the July 20, 2020 minutes could be modified to include staff's affirmative answer to his question regarding if Table S7 included \$4,598 per EDU in FORA obligations in the Capacity Fees. He said he would like to see something in writing.

Mr. Doug Yount, Shea Homes, echoed Mr. Kinsey's request to include staff's affirmative comment in the minutes. He also stated that they appreciated the District's staff and consultants with their help in facilitating the meetings over the last year and working through most of their concerns. Mr. Yount added that there were some questions that he would like answers to including Mr. Kinsey's request for staff to confirm that the augmented water portion from FORA was included in the Capacity Fees; and a request for confirmation that water Capacity Fees for each single family dwelling would be 1 EDU, not calculated by fixture count.

President Moore closed the Public Hearing at 7:35 p.m.

President Moore asked if staff could confirm they made the comment at the July 20th Board meeting that the FORA obligations of \$4,598 were included in the Capacity Fees. Mr. Wegley stated that he did confirm that at the July 20th meeting. President Moore also asked for clarification that single family dwelling units would be charged with Capacity Fees for 1 EDU no matter how many fixture units there were. Mr. Wegley confirmed that was correct. The Board asked clarifying questions. Mr. Keith Van Der Maaten, General Manager, noted that in Section 6.08.090-B, of the Code, the Capacity Fees may be adjusted July 1 of each year based on the change in the Engineering News Record.

11. Action Item:

- A. Consider Second Reading and Adoption of Ordinance No. 61 Approving New District Water and Wastewater Capacity Charges for the Central Marina and Ord Community Service Areas:

Mr. Wegley introduced this item. Director Le suggested changing the title "Capacity Charge" in Section 6.12.020 to "Collection Charge". Mr. Masuda suggested making the change next time there is a change to the Ordinance so as not to have to start the whole process again. He added that the table in 6.12.040 clarifies that it is a Sewer Capacity Charge.

Mr. Yount asked for clarification on the \$24M CIP shortfall, as noted on page 44 of the Board Packet. Mr. Douglas Dove, Bartle Wells, said that number should have been updated to \$23.2M and it was referring to a shortfall if the Average Coast Approach was used, not the Hybrid Buy-In method + marginal future cost.

Director Zefferman made a motion to wave the reading of the entire Ordinance No. 61 - An Ordinance Amending Sections 1.04.010, 6.08.090, 6.12.020, 6.12.040, and Appendix C of the District Code Changing Capacity Charges for Water and Sewer Services for the Central Marina Service Area and the Ord Service Area. Vice President Shriner seconded the motion.

Agenda Item 11-A (continued):

The motion was passed by the following vote:

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

7. Oral Communications:

There were no comments made.

8. Presentation:

- A. Consider Adoption of Resolution No. 2020-49 to Recognize Kelly Cadiente, Director of Administrative Services, for 10 Years of Service to the Marina Coast Water District:

Vice President Shriner made a motion to adopt Resolution No. 2020-49 recognizing Kelly Cadiente, Director of Administrative Services, for 10 Years of Service to the Marina Coast Water District. Director Cortez seconded the motion. Director Le noted that the Resolution named Ms. Cadiente's previous employer as "Monterey County Pollution Control Agency" and it should be the "Monterey Regional Water Pollution Control Agency". Vice President Shriner amended her motion to make the correction to the Agency name. Director Cortez seconded the amendment. Mr. Yount congratulated Ms. Cadiente on her achievement. The amended motion was passed by the following vote:

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

- B. Consider Adoption of Resolution No. 2020-50 in Recognition of Keith Van Der Maaten, General Manager, for 5 Years of Service to Marina Coast Water District:

President Moore made a motion to adopt Resolution No. 2020-50 recognizing Keith Van Der Maaten, General Manager, for 5 Years of Service to Marina Coast Water District. Vice President Shriner seconded the motion. The motion was passed by the following vote:

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

9. Consent Calendar:

Director Le requested to pull Item D from the Consent Calendar. Director Zefferman requested to pull item B from the Consent Calendar.

Agenda Item 9 (continued):

Vice President Shriner made a motion to approve the Consent Calendar consisting of: A) Receive and File the Check Register for the Month of July 2020; and, C) Consider Renumbering Resolution No. 2020-41, Congratulating and Recognizing Joe Correa on his Retirement as the Electrical/Mechanical Field Supervisor with Nearly 28 Years of Service to MCWD, to Resolution No. 2020-48. Director Cortez 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	-	Abstained			

B. Approve the Draft Minutes of the Regular Joint Board/GSA Meeting of July 20, 2020:

Director Zefferman asked to include Mr. Wegley's affirmative response on Page 5 of the minutes as requested by Mr. Kinsey. Mr. Van Der Maaten stated that Mr. Wegley's response will also be included in the minutes for this meeting.

Director Zefferman made a motion to approve the draft minutes of July 20, 2020 with the requested comment added. Vice President Shriner seconded the motion. The motion was passed by the following vote:

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

D. Consider Adoption of Resolution No. 2020-51 to Authorize a Notice of Completion for the Emergency Generator Project to be Filed with the Monterey County Recorder:

Director Le asked if the District had As-Built plans. Mr. Cray answered they did not have any.

Vice President Shriner made a motion to adopt Resolution No. 2020-51 to authorize a Notice of Completion for the Emergency Generator Project to be filed with the Monterey County Recorder. Director Zefferman asked if District experienced any issues with the recent power outage. Mr. Cray answered that thanks to this project, there were no issues, but had it not been for this project, there would have been many issues and more than likely a boil water notice. 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	-	Abstained			

11. Action Items:

B. Consider Complaints Against Director Le for Alleged Violations of the Board Procedure Manual and Provide Direction to Staff:

Mr. Van Der Maaten introduced this item noting that Director Zefferman sent an email to the Board President requesting to consider a censure of Director Le. A letter had also been received from Mr. Richard Andazola, Teamsters Local 890, regarding Misconduct/Harassment/Retaliation. Mr. Van Der Maaten said that there are five options for the Board to consider: 1) Consider whether an additional investigation is needed or that the Board has sufficient information to provide direction to staff. If the Board determines that an additional investigation is needed, determine who should conduct the investigation; 2) Consider whether to censure Director Le; 3) Training for the Board; 4) Consider taking some other action(s) as determined by the Board; and, 5) Take No Action.

Director Le asked why he had not been notified of the complaint when it was made, instead of finding out about it when he received the Board packet. President Moore asked if there was a policy or procedure stating that there was a deadline to inform a Director of a complaint against them. Both Mr. Van Der Maaten and Mr. Masuda stated that they were unaware of any deadline.

Director Le said that this was a serious complaint and even though the complaints were made in late July, he did not find out about them until he received his packet on August 13th. He asked what the results were of the investigation and referred to the report that was provided by Jeanine DeBacker in a previous investigation as an example. President Moore answered that the information in the staff report was the result of the investigation, and the investigation made by Ms. DeBacker was done after the Board authorized an investigation by outside legal counsel.

Director Cortez, President Moore, and Vice President Shriner made comments. Mr. Van Der Maaten suggested having the two people who wrote the letters make comments.

Director Zefferman commented that the difference between his letter and the one from the Union, were that his letter focused on the Board Procedures Manual (BPM) and the Union's letter mentioned the BPM and also brought attention to the CBA and Social Media Policy. He stated that he wrote the letter because he was very surprised to log into the NextDoor Marina App and see that Director Le was criticizing staff publicly and falsely, including accusing them of illegal behavior. Director Zefferman stated that he felt it would be remiss of the Board to let this behavior go unchallenged. He noted that he would like to focus on the violation of the BPM and would like to see the Board move forward on Option 2, because it was obvious that staff was criticized and it was done in a public forum. Director Zefferman said that even though he doubted that staff did what Director Le accused them of doing, the proper recourse was to speak with the General Manager about it and not broadcast it in a public forum.

Mr. Andazola commented that his letter outlined the violation and that this behavior is inappropriate and requests the Board take action as they are the only authority to do so. President Moore asked what Mr. Andazola would like to see done to make then employee whole. Mr. Andazola answered that he was requesting that Director Le cease and desist in his attacks and bullying and rescind his false statements.

Agenda Item 11-B (continued):

Director Cortez and Vice President Shriner made comments.

Ms. Paula Riso, Executive Assistant/Clerk to the Board, commented that when she saw the post by Director Le in NextDoor accusing staff of not rotating roll call votes, manipulating votes, and recording closed sessions, she was very upset. Although staff names were not mentioned, Ms. Riso stated that as she was the Board Clerk who calls roll call, it was obviously directed at her. She stated that as a 22-year employee of the District she prided herself on her integrity and work ethics and would never do what Director Le accused her of. Ms. Riso said she would be agreeable to receiving an apology from Director Le and that he ceases from publicly criticizing District staff.

Director Le responded that there was no written report provided to the Board, and the staff report did not mention who did the investigation and which employees were talked to. He commented that when he was elected to the Board, it did not mean he had to give up his First Amendment Rights. Director Le reiterated that the complaints were made on July 20 and July 29 and he did not know of the complaints until August 13 when he received his Board packet. He said he did not have much time to prepare a response and thought there was something in the BPM to notify a Director if they were involved in a complaint. Director Le commented the staff report, which did not mention his previous notification to the Board President and District Counsel on one of the issues, was incomplete. He added that Director Zefferman never mentioned that Director Le has a right to express his personal opinion as a private individual, and that Director Zefferman never checked the adopted Social Media Policy section that pertains to posts.

Director Le stated that in reading the letter from the Union, it was not clear if Ms. Riso was a member of Teamsters Local 890 or not, and if she's not a member, she should have to write a letter to agree to allow the Union to file a complaint on her behalf. He said that as he read the letter, there are a lot of statements but no back-up material, and it was not clear how Teo was involved in this complaint. Regarding the staff investigation, Director Le said that the staff report did not mention if the General Manager had discussed the issue with Ms. Riso in the last 8-12 months or not; nor, did the staff report say if the General Manager had asked any other District staff to check the accuracy of the minutes prepared by Ms. Riso for the last 5 years. He also added that the staff report did not provide a reason why Director Le was not notified when the District received the complaint on July 20 and 29th. Director Le said he would like to know whether the Union, the member, and Ms. Riso were involved in the investigation, and noted that he was never questioned so how could they know the other side of the information.

Director Le read the roll call from the minutes of July 20, 2020:

- Item 8-A – Le, Cortez, Zefferman, Shriner, Moore
- Item 9 – Zefferman, Cortez, Le, Shriner, Moore
- Item 10-A – Cortez, Zefferman, Le, Shriner, Moore
- Item 10-B – Zefferman, Cortez, Le, Shriner, Moore
- Item 10-C – Zefferman, Cortez, Le, Shriner, Moore
- Item 10-D – Cortez, Zefferman, Le, Shriner, Moore
- Item 10-G – Zefferman, Cortez, Le, Shriner, Moore

Agenda Item 11-B (continued):

Director Le read the roll call from the minutes of June 15, 2020:

- Item 8-A – Le, Cortez, Zefferman, Shriner, Moore
- Item 10-A – Zefferman, Cortez, Le, Shriner, Moore
- Item 11 – Cortez, Zefferman, Le, Shriner, Moore
- Item 12-A – Zefferman, Cortez, Le, Shriner, Moore
- Item 12-B – Cortez, Le, Zefferman, Shriner, Moore
- Item 12-C – Le, Cortez, Zefferman, Shriner, Moore
- Item 12-D – Zefferman, Cortez, Le, Shriner, Moore
- Item 12-E – Cortez, Zefferman, Le, Shriner, Moore

President Moore commented that the roll call votes Director Le just read sounded like there was rotation between them. Director Le said he wasn't through with his statement and asked not to be interrupted.

- Item 12-D – Zefferman, Cortez, Le, Shriner, Moore
- Item 12-E – Cortez, Zefferman, Le, Shriner, Moore
- Item 12-F – Zefferman, Cortez, Le, Shriner, Moore
- Item 12-G – Le, Cortez, Zefferman, Shriner, Moore
- Item 12-H – Cortez, Zefferman, Le, Shriner, Moore

Director Le read the roll call from the minutes of May 18, 2020:

- Item 12-A – Cortez, Le, Zefferman, Shriner, Moore
- Item 12-B – Le, Cortez, Zefferman, Shriner, Moore
- Item 12-C – Zefferman, Cortez, Le, Shriner, Moore
- Item 12-D – Zefferman, Cortez, Le, Shriner, Moore

Director Le read the roll call from the minutes of April 20, 2020:

- Item 9-A – Cortez, Zefferman, Le, Shriner, Moore
- Item 9-B – Zefferman, Cortez, Le, Shriner, Moore
- Item 9-E – Cortez, Le, Zefferman, Shriner, Moore
- Item 12-A – Le, Cortez, Zefferman, Shriner, Moore
- Item 12-B – Zefferman, Cortez, Le, Shriner, Moore
- Item 12-D – Zefferman, Cortez, Le, Shriner, Moore
- Item 12-E – Cortez, Le, Zefferman, Shriner, Moore
- Item 12-G – Cortez, Zefferman, Le, Shriner, Moore

Director Le said he read the roll call from four meetings to show the roll call was not rotated. He said that this shows the issue with the minutes, the issue with the recording, and the issue with the staff reports, and he went through these items so the Board can hear about it before they make their mind up and take action.

Agenda Item 11-B (continued):

Director Le said since he was elected to the Board in 2018, he is mostly the only one to pull minutes from the Consent Calendar to make a correction because sometimes the minutes did not reflect what he said. He questioned if sometime in 2019 or 2020, did the General Manager discuss this issue with Ms. Riso, and if any other employee checked on the accuracy of the minutes or not.

Director Le said that with regards to his claim of recording in closed session, he hasn't seen any evidence from the Union and how can they pick out an employee and file a claim against him without any evidence at all. He said the first time he noticed a recording during closed session at the City of Marina conference room, Mr. Van Der Maaten was in the room first and said he needed to turn on the recorder first and set it on the table, then when closed session was over, he turned it off. Director Le said the second time he noticed the recording during closed session was at the City of Marina Council Chambers when closed session was discussed after the meeting. He said he could not hear well so he walked to the front of the dais and noticed that the recorder was recording so he turned it off and gave it to Mr. Van Der Maaten. Director Le said Mr. Van Der Maaten took the recorder and walked out of the building for a few minutes and then he came back. He said a third time he noticed recording during closed session was at the Council Chambers, and a fourth time he noticed closed session was being recorded was at the District office, 11 Reservation Road. He said that after he noticed these events, he notified the Board President and District Counsel on February 24, 2020, and since that time, he hasn't heard anything from the Board President or District Counsel.

Ms. Riso replied that when the minutes show the roll call votes, they do not show the order in which they are called, they are merely a record of how the Directors voted on the item, not the order. She said that she has always done it that way and was told 20 years ago that when calling roll call, the first three Directors are rotated, and the Vice President and President are always called last. Mr. Riso said that even though the minutes may show a different order than what was called, it is simply a cut and paste scenario when preparing the minutes, as they are not typed from scratch each time. With regards to recording closed session, Ms. Riso said that when her digital recorder is recording, the light on the recorder is solid red, and when the Board goes into closed session, she pauses the recording, causing the red light to blink, and upon return from closed session, she can then un-pause the recorder and continue the recording to keep the meeting on one digital file. She stated that anyone can listen to the recordings to hear that there is no closed session included in them.

Vice President Shriner asked Mr. Van Der Maaten for any response before she makes her motion.

Mr. Van Der Maaten clarified that what was clearly written in both complaints had to do with violation of BMP Section 15, and that is really the extent of what was needed with regards to an investigation. He said that Section 15 clearly states that Directors shall refrain from publicly censoring and criticizing members of the District staff, and that it says nothing of the fact if a Director is right or wrong, only that a Director shall not publicly criticize staff. Mr. Van Der Maaten said that both complaints refer to this violation. He added that Section 15 was violated even further tonight, with new criticisms of staff, very unfounded, and regurgitated all over again in a public meeting.

Agenda Item 11-B (continued):

Mr. Van Der Maaten again clarified that what was before the Board was Section 15 of the BPM and if it is being adhered to or not.

Mr. Andazola commented that the statements and questions made by Director Le, further show an insensitivity to these basic rules and rights of employees. He said that to question any employee of their Union membership, e.g. whether they are a member or not, is a violation. Mr. Andazola stated that Union membership and Union activity are both protected classes', just like race, sexual orientation, or any others, and that these are additional new violations. He added that although Director Le stated that his statements are protected by the First Amendment of the Constitution, it has been clarified when the Board took similar action in the past that it is not the case.

Director Zefferman read the second to last paragraph of his letter, "While the lack of evidence or justification for Director Le's criticisms makes his violations of board procedures all the more concerning, the board should consider that even if a director has legitimate evidence-based criticisms of District staff, the Board Procedures Manual states that the board member shall refrain from making their criticisms publicly." He stated that with this paragraph, he was trying to preempt this whole discussion about whether Director Le had evidence or whether they were good claims. Director Zefferman said that staff had provided good explanations for that, but it is beside the point. He clarified that the point is that Director Le criticized staff and has not denied it, and it is pretty cut and dry. Director Zefferman said that although Director Le is claiming free speech, the BPM specifically states if you violate the BPM you may be censured, so in this case, the First Amendment Right does not hold water. He concluded that, although he did not expect it, he was disappointed that Director Le did not just apologize.

Mr. Masuda commented that Director Zefferman is correct that the BPM Section 15 limits the First Amendment Right. He said that when a Director accuses an employee of misconduct, the employee has certain rights, and even tonight crossed the line when more things came up that were inappropriate. Mr. Masuda said that giving the employees a right to respond to those criticisms was good. He added that even if Ms. Riso did change the order of a vote, how does that prove manipulation of a vote, which by the way, the complaint was never brought to the General Manager's attention. Mr. Masuda stated that he didn't recall the complaint of recording the closed session by Director Le, but if he did receive the complaint, he would have discussed it with the General Manager and thinks he got confirmation that it wasn't occurring. He concluded that it comes down to the public criticism made by Director Le, which he doesn't deny, and whether the Board thinks he violated the BPM.

Vice President Shriner made a motion to Censure Director Le and schedule a Board training session that focuses on the legal ramifications on slander and libel. The motion died for lack of a second.

Director Zefferman made an alternate motion to Censure Director Le. Director Cortez seconded the motion.

Agenda Item 11-B (continued):

President Moore clarified that this item started out with a staff report; followed by questions by Director Le; followed by comments by other Directors; comments were received by aggrieved parties; comments by Director Le; and now a motion, and second, to censure. President Moore verified with Mr. Masuda if the Board could deny the Director from placing any items on the agenda, for a period of time. Mr. Masuda affirmed that was correct. President Moore asked if Director Zefferman would amend his motion to include the prevention of Director Le from placing items on the agenda until Director Le publicly apologizes to the satisfaction of the aggrieved parties.

Director Zefferman amended his motion to prevent Director Le from putting items on the agenda until he apologizes to staff. Director Cortez seconded the motion.

President Moore read an excerpt from Section 15 of the BPM, "Directors should also be aware that their free speech rights may be limited when it comes to certain information related to District staff." stating that Director Le has deliberately ignored that. He added that if Director Le did not like the limitation, he could have requested it be changed or deleted. President Moore stated that he was disappointed that Director Le questioned the evidence against him and yet provided no evidence when he made the accusations on NextDoor.

Following discussion, Director Zefferman modified his amended motion to direct staff to agendize an item for the next public meeting of the Board to censure Director Le with the penalty pertaining to Section 41-B of the Board Procedures Manual (B - Preventing the offending Director from placing items on the agenda without the specific advance authorization of the Board). Director Cortez seconded the amended motion.

Director Le commented that he didn't get the roll call votes from the minutes. He then asked how he could present very important information to the Board if he wasn't allowed to add items to the agenda. President Moore answered that he would have to convince another Director to request it for him. Director Le said if that's the case, he wants the Board to think about when he has important information, he will just forget it because he doesn't want to try to convince another Board member to put it on the agenda.

The amended motion was passed by the following vote:

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

- C. Consider Adoption of Resolution No. 2020-52 to Approve a Water, Sewer and Recycled Water Infrastructure Agreement between the Marina Coast Water District and Shea Homes Limited Partnership for the Dunes on Monterey Bay Phase 2 East Development Project:

Mr. Wegley introduced this item. Director Le asked clarifying questions.

Agenda Item 11-C (continued):

Vice President Shriner made a motion adopt Resolution No. 2020-52 to approve a Water, Sewer and Recycled Water Infrastructure Agreement between the Marina Coast Water District and Shea Homes Limited Partnership for the Dunes on Monterey Bay Phase 2 East Development Project. Director Zefferman seconded the motion. The amended 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. 2020-53 to Award a Contract to Calcon System for Installation, Programming, and Integration of Human Machine Interfaces at the District's Water and Sewer Pump Stations:

Mr. Derek Cray, Operations and Maintenance Manager, introduced this item. The Board asked clarifying questions.

President Moore noted it was 10:00 p.m., and asked if a Director wanted to make a motion to continue. Director Zefferman made a motion to finish Item 11-D and schedule a special meeting on August 27, 2020 for the remaining items with updated staff reports, if needed, and add the item for the censure of Director Le. 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			

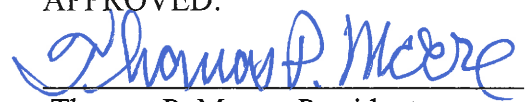
Returning to Item 11-D, Vice President Shriner made a motion to adopt Resolution No. 2020-53 to award a contract to Calcon System for installation, programming, and integration of Human Machine Interfaces at the District's water and sewer pump stations. Director Cortez seconded the motion. The motion was passed by the following vote:

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


16. Adjournment:

The meeting was adjourned at 10:04 p.m.

APPROVED:


Thomas P. Moore, President

ATTEST:


Paula Riso, Deputy Secretary