



# Marina Coast Water District

Special Board Meeting/Groundwater Sustainability Agency Board Meeting  
Via Zoom Teleconference  
August 27, 2020

## Minutes

### 1. Call to Order:

President Moore called the meeting to order at 6:36 p.m. on August 27, 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  
Rose Gill, Human Resources/Risk Administrator  
Teo Espero, IT Administrator  
Paula Riso, Executive Assistant/Clerk to the Board

#### Audience Members:

Andrew Sterbenz, Schaaf & Wheeler  
Richie Andazola, Teamsters Local 890  
Larry Hampson, Monterey Peninsula Water Management District

### 3. Pledge of Allegiance:

Vice President Shriner led everyone present in the pledge of allegiance.

### 4. Oral Communications:

There were no comments made.

5. Action Items:

- A. Consider Adoption of Resolution No. 2020-54 to Approve the Monterey Peninsula, Carmel Bay, and South Monterey Bay Integrated Regional Water Management Plan Update and Authorize the General Manager to Enter into a Subgrantee Agreement with MPWMD for Prop 1 Funding Grant Administration:

Mr. Michael Wegley, District Engineer, introduced this item. Vice President Shriner asked clarifying questions.

Vice President Shriner made a motion adopt Resolution No. 2020-54 to approve the Monterey Peninsula, Carmel Bay, and South Monterey Bay Integrated Regional Water Management Plan Update and Authorize the General Manager to Enter into a Subgrantee Agreement with MPWMD for Prop 1 Funding Grant Administration. President Moore seconded the motion.

Director Le asked if there is surplus money from the other projects, could it be transferred to the District's project. Mr. Larry Hampson, Monterey Peninsula Water Management District, answered that the City of Monterey has not been able to move their project forward and will have to drop out. He added that in discussions with the Department of Water Resources (DWR), they informed him those funds can be available to other projects as long as they meet the criteria and have the information to DWR before the deadline of September 4, 2020. The Board asked clarifying questions.

Vice President Shriner amended her motion to include language by District Counsel to Resolution No. 2020-54 regarding a request for additional funds that may be available. President Moore seconded the amended motion. The amended motion was passed by the following vote:

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

- B. Consider Adoption of Resolution No. 2020-40 to Approve the District's Five-Year Capital Improvement Program Budget:

Mr. Wegley introduced this item explaining the Beach Road project will have to be further analyzed and the Board will be asked to amend the CIP when more information is available. He mentioned the options for the South Boundary Pipeline is still being looked at as well.

Vice President Shriner made a motion adopt Resolution No. 2020-40 to approve the District's Five-Year Capital Improvement Program Budget. The motion died for lack of a second.

The Board asked clarifying questions.

Vice President Shriner made a motion adopt Resolution No. 2020-40 to approve the District's Five-Year Capital Improvement Program Budget. Director Cortez seconded the motion.

Agenda Item 5-B (continued):

Director Le inquired about the Beach Road project and District easements. Vice President Shriner called a Point of Order. President Moore overruled the Point of Order to allow Mr. Wegley to answer Director Le's questions about Beach Road. Mr. Wegley answered that staff was still analyzing pipeline routes around Beach Road and the 30' easement was along Beach road between DeForest Road up to the Historic Tree Line. Mr. Van Der Maaten, General Manager, said that Beach Road was still an option, but there are other routes that might be easier than the Beach Road route.

Director Le asked if there was adequate fire flow for Olsen School and the surrounding apartments and houses if the Beach Road project was delayed for 1-2 years. Vice President Shriner called a Point of Order. Director Le asked to continue. Vice President Shriner called a second Point of Order. President Moore overruled the Point of Order to allow Mr. Wegley to answer Director Le's questions. Mr. Wegley answered that the model shows there is a deficiency to the West of DeForest Road which is the reason for the project.

Following discussion, the motion was passed by the following vote:

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

C. Consider Adoption of Resolution No. 2020-55 to Update Language in the Memorandums of Understanding with the Marina Coast Water District Employees Association and the Teamsters Local 890:

Ms. Rose Gill, Human Resources/Risk Administrator, introduced this item. The Board asked clarifying questions. President Moore asked if both groups had a meet-and-confer on this language. Ms. Gill answered that both groups approved of the language.

Vice President Shriner made a motion adopt Resolution No. 2020-55 to update language in the Memorandums of Understanding with the Marina Coast Water District Employees Association and the Teamsters Local 890. Director Cortez 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. 2020-56 to Censure Director Le for Violating the Board Procedures Manual:

Vice President Shriner asked if the Board could move ahead with this item if the action on the agenda was incorrect. Mr. Masuda answered that it could.

Mr. Van Der Maaten introduced this item.

Agenda Item 5-D (continued):

Vice President Shriner asked clarifying questions regarding the consequences of the censure.

Vice President Shriner made a motion adopt Resolution No. 2020-56 to censure Director Le for violating the Board Procedures Manual. Director Zefferman seconded the motion.

Director Le commented that the resolution said the General Manager investigated the claims and asked to see the results of the investigation and which employees were interviewed.

Director Zefferman called a Point of Order commenting that the employees are not the ones being censured, it is Director Le, and so it is unclear why they would be interviewed. He said that the Resolution before them is that Director Le publicly criticized staff and posted it on social media, in a public forum, and Director Le never denied he did it.

Director Le called a Point of Order. He said that there is a staff report and resolution that informed him of the censure and he is entitled to his questions. President Moore allowed Director Le to continue his questions. Director Le's question: 1) the General Manager stated he investigated the claims and asked to see the results of the investigation and which employees he talked to and why he did not talk to him.

Director Cortez called a Point of Order saying Director Le has a right to ask questions, but those questions do not all have to be answered. Director Cortez added that he and other Directors have questions as well. He suggested letting Director Le and all the other Directors ask their questions, then the General Manager and District Counsel can answer them.

Director Le asked the following questions:

- 2) why were the results of the investigation not provided to him.
- 3) the staff report and resolution...

Vice President Shriner called a Point of Order stating that she is concerned that the questions are a criticism of staff in an open public meeting. President Moore said there is no way to prevent it even if it does violate the Board Procedures Manual and allowed Director Le to proceed.

Director Le continued his questions:

3) on page 131 of the Board packet, the second paragraph states, "Director Le provided his response and defense." but it doesn't say what he provided, and the next sentence explained in detail the employee's response. He would like to know why his response was not included in both the staff report and the resolution.

4) there is no mention of the false accusations against him by the member of Teamsters Local 890.

5) why didn't the District follow the procedures described in the Board Procedures Manual and Employee Handbook.

- 6) did staff or District Counsel discuss the complaint with any Director.

Agenda Item 5-D (continued):

Director Le continued his questions:

7) Section I of the resolution, what employees did the District Counsel talk to, and when.

Vice President Shriner called a Point of Order stating that Director Le is repeating his questions. She said the investigation has concluded it was documented there was a Board Procedures Manual violation so there is no reason to have to listen to all of this.

Director Le continued his questions:

8) why didn't District Counsel talk to him regarding his complaint.

9) why didn't President Moore or District Counsel contact him for over 6 months after his complaint.

10) he wants on the record that there was no notification to him on his complaint.

Director Zefferman commented that the Board spent a lot of time on this issue, well over an hour at the last meeting. He said Director Le is asking a lot of the same questions and one thing that the Board needs to keep in mind is that this is not a resolution about the behavior of staff. Director Le reminded everyone that the Board Procedures Manual states this is not to be done in a public forum and whatever the staff did or didn't do is not part of this resolution. He added that this resolution is pretty straight forward – did Director Le criticize staff in a public forum – not about whether the criticisms were legitimate or not, or whether Director Le wasn't informed about a previous complaint he made seven months ago. Director Zefferman said he felt the Point of Orders earlier were justified and that Director Le got to ask his questions. He reiterated that this is about Director Le violating a specific line of the Board Procedures Manual that says you do not criticize staff in a public forum, and after evidence was presented at the last meeting, the Board looked at the evidence and decided to have a resolution at this meeting about it and all the other issues are beside the point. Director Zefferman concluded that Director Le has not ever denied writing the post, and even implied that he did, so it is pretty cut and dry and they do not need to waste more time discussing these other points.

President Moore asked if the District has a policy for investigations. Mr. Masuda answered that there was no formal policy and that Director Le has been given due time to ask his questions. He added that this investigation was different from the one in 2014 because there was direct evidence of the post which Director Le never denied posting, so there did not need to be any formal investigation.

Vice President Shriner called for the question. Director Zefferman seconded the call for the question. The call for the question was passed by the following vote:

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

Agenda Item 5-D (continued):

The motion by Director Shriner to Censure Director Le was passed by the following vote:

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

6. Staff Reports:

A. Receive an Update on the Fiscal Impacts to the District Due to Covid-19:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item. The Board asked clarifying questions.

B. Receive Information on the District's Water Quality Testing:

Mr. Derek Cray, Operations and Maintenance Manager, introduced this item. Director Le asked for a copy of the slides and suggested Mr. Cray check the website for PFAS requirements that came out in August.

C. Receive a Report on Current Capital Improvement Projects:

Mr. Wegley introduced this item. The Board asked clarifying questions.

D. Receive the Developer Account Update through March 31, 2020:

Mr. Wegley introduced this item. Director Le suggested separating out projects that owe the District from the ones that are current to make it easier to follow.

E. Receive the 2nd Quarter 2020 MCWD Water Consumption Report:

Ms. Cadiente introduced this item noting that a customer has informed the District that Bay View has been requiring their tenants to keep their lawns green since April. Director Moore suggested a graph on how close to their allocations the cities and developments are getting.

F. Receive the 2020 Sewer Flow Report through June 30, 2020:

Ms. Cadiente introduced this item. The Board asked clarifying questions.

G. Receive a Report on 2020 Pure Water Monterey and MCWD Recycled Water Flows through June 30, 2020:

Mr. Cray introduced this item. The Board asked clarifying questions.

H. Receive a Report on 2020 Potable Water Production through June 30, 2020:

Mr. Cray introduced this item. President Moore asked for a copy of the production spreadsheet as far back as possible.

7. Informational Items:

A. General Manager's Report:

Mr. Van Der Maaten stated that the Coastal Commission staff report had been released and it is requesting denial of the Cal Am application for the Desal Project.

B. Counsel's Report:

No report was given.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Zefferman stated that no meeting was held.

2. Joint City District Committee:

President Moore stated they met on August 26th and the next meeting is scheduled for October 28th. Vice President Shriner commented on the City of Marina's actions taken for the Equestrian Center.

3. Executive Committee:

President Moore gave a brief update.

4. Community Outreach Committee:

Director Zefferman gave a brief update.

5. Budget and Personnel Committee:

Vice President stated there was no meeting in July.

6. M1W Board Member:

President Moore said the next meeting is August 31st.

7. LAFCO Liaison:

Director Cortez said he had no update.

8. JPIA Liaison:

Director Le said they met on July 27th but did not attend the meeting as there were no relevant items.

9. Special Districts Association Liaison:

President Moore noted the next meeting was scheduled for October 20th and will held via Zoom.

8. Public Comment on Closed Session Items:

There were no comments.

President Moore recessed the meeting from 8:43-8:48 p.m. The Board entered into closed session at 8:48 p.m. to discuss the following item:

9. Closed Session:

- A. 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 9:58 p.m. President Moore reconvened the meeting to open session at 9:59 p.m.

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 the agenda. President Moore 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			

10. Reportable Actions Taken during Closed Session:

President Moore stated that there were no reportable actions taken during Closed Session.



11. Board member Requests for Future Agenda Items:

Board members can email in their requests.

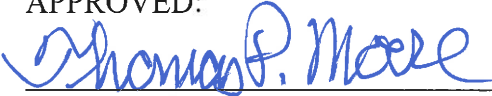
12. Director's Comments:

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

13. Adjournment:

The meeting was adjourned at 10:24 p.m.

APPROVED:



Thomas P. Moore, President

ATTEST:



Paula Riso, Deputy Secretary