



MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

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DIRECTORS

HOWARD GUSTAFSON
President

PETER LE
Vice President

THOMAS P. MOORE
WILLIAM Y. LEE
JAN SHRINER

Agenda

Regular Board Meeting, Board of Directors Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue, Marina, California
Monday, June 1, 2015, 6:30 p.m. PST

This meeting has been noticed according to the Brown Act rules. The Board of Directors meet regularly on the first and third Monday of each month. The meetings normally begin at 6:30 p.m. and are held at the City of Marina Council Chambers at 211 Hillcrest Avenue, Marina, California.

Our Mission: *We provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

1. Call to Order

2. Roll Call

3. Public Comment on Closed Session Items *Anyone wishing to address the Board on matters appearing on Closed Session may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

4. Closed Session

- A. Pursuant to Government Code 54957
Public Employee Appointment
Title: General Manager
- B. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)

This agenda is subject to revision and may be amended prior to the scheduled meeting. Pursuant to Government Code section 54954.2(a)(1), the agenda for each meeting of the Board shall be posted at the City of Marina Council Chambers. The agenda shall also be posted at the following locations but those locations are not official agenda posting locations for purposes of section 54954.2(a)(1): District offices at 11 Reservation Road, Seaside City Hall, the City of Marina Library, and the City of Seaside Library. A complete Board packet containing all enclosures and staff materials will be available for public review on Thursday, May 28, 2015. Copies will also be available at the Board meeting. Information about items on this agenda or persons requesting disability related modifications and/or accommodations should contact the Board Clerk 48 hours prior to the meeting at: 831-883-5910.

- 1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case Nos. H038550 and H039559
 - 2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019 & A.13-05-017 Settlement Agreement
 - 3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, San Francisco Superior Court Case No. CGC-13-528312 (Complaint for Declaratory Relief)
 - 4) Marina Coast Water District v. California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. CGC-13-528312 (Petition for Writ of Mandate).
 - 5) Marina Coast Water District v. California State Lands Commission (California-American Water Company, Real Party in Interest), case number pending (Petition for Writ of Mandate)
- C. Pursuant to Government Code 54957.6
Conference with Labor Negotiators
Agency Negotiators (Bill Kocher, Peter Le)
Employee Organization: Marina Coast Water District Employees Association
- D. Pursuant to Government Code 54957.6
Conference with Labor Negotiators
Agency Negotiators (Bill Kocher, Peter Le)
Employee Organization: Teamsters Local 890
- E. Pursuant to Government Code 54956.8
Conference with Real Property Negotiator
Property: Recycled Water Pipeline, Recycled Water
Agency Negotiators: Peter Le and Howard Gustafson
Negotiating parties: MRWPCA, MCWRA, MPWMD, City of Salinas, and others.
Under Negotiation: Price and Terms
- F. Pursuant to Government Code 54957
Public Appointment
Title: Legal Counsel

7:00 p.m. Reconvene Open Session

5. **Reportable Actions Taken During Closed Session** *The Board will announce any reportable action taken during closed session and the vote or abstention on that action of every director present, and may take additional action in open session as appropriate. Any closed session items not completed may be continued to after the end of all open session items.*

A. Consider Adoption of Resolution No. 2015-24 to Approve a Contract for the General Manager Position

6. **Pledge of Allegiance**

7. **Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to four minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

8. **Consent Calendar** *Board approval can be taken with a single motion and vote. A Board member or member of the public may request that any item be pulled from the Consent Calendar for separate consideration at this meeting or a subsequent meeting. The public may address the Board on any Consent Calendar item. Please limit your comment to four minutes.*

A. Receive the Quarterly Financial Statements for January 1, 2015 to March 31, 2015

B. Approve the Draft Minutes of the Special Board Meeting of May 15, 2015

C. Approve the Draft Minutes of the Regular Board Meeting of May 18, 2015

9. **Action Items** *The Board will review and discuss agenda items and take action or direct staff to return to the Board for action at a following meeting. The public may address the Board on these items as each item is reviewed by the Board. Please limit your comment to four minutes.*

A. Discussion and Possible Action to Authorize the Board President to Submit a Comment Letter on the Pure Water Monterey Groundwater Replenishment Project EIR

Action: The Board of Directors will consider authorizing the Board President to submit a comment letter on the Pure Water Monterey Groundwater Replenishment Project EIR.

B. Receive Information and Possible Direction to Staff on a Request for Use of an Easement on the Armstrong Ranch Property

Action: The Board of Directors will consider the letter received regarding using District easements on the Armstrong Ranch property.

C. Discussion and Possible Action to Consider Returning to a One Board Meeting Per Month Schedule

Action: The Board of Directors will consider returning to a one Board meeting per month schedule.

10. Informational Items *Informational items are normally provided in the form of a written report or verbal update and may not require Board action. The public may address the Board on Informational Items as they are considered by the Board. Please limit your comments to four minutes.*

A. General Manager's Report

1. Developer Account Update
2. Monterey Downs EIR Comment Letter

B. Counsel's Report

C. Committee and Board Liaison Reports

- | | |
|-----------------------------------|-----------------------------------|
| 1. Water Conservation Commission | 7. LAFCO Liaison |
| 2. Joint City-District Committee | 8. FORA |
| 3. Executive Committee | 9. WWOC Report |
| 4. Community Outreach Committee | 10. JPIA Liaison |
| 5. Budget and Personnel Committee | 11. Special Districts Association |
| 6. MRWPCA Board Member Liaison | |

11. Director's Comments *Director reports on meetings with other agencies, organizations and individuals on behalf of the District and on official District matters.*

12. Adjournment *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting: Monday, June 15, 2015, 6:30 p.m.,
Marina Council Chambers, 211 Hillcrest Avenue, Marina*

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8

Meeting Date: June 1, 2015

Prepared By: Bill Kocher

Approved By: Bill Kocher

Agenda Title: Consent Calendar

Staff Recommendation: The Board of Directors approve the Consent Calendar as presented.

Background: *“2014 Strategic Plan Mission Statement – To provide our customers with high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.”*

Consent calendar consisting of:

- A. Receive the Quarterly Financial Statements for January 1, 2015 to March 31, 2015
- B. Approve the Draft Minutes of the Special Board Meeting of May 15, 2015
- C. Approve the Draft Minutes of the Regular Board Meeting of May 18, 2015

Discussion/Analysis: See individual transmittals.

Environmental Review Compliance: None required.

Other Considerations: The Board of Directors can approve these items together or the Board can pull these items and discuss each one individually.

Material Included for Information/Consideration: Quarterly Financial Statements for January 1, 2015 to March 31, 2015; copy of the draft minutes of May 15, 2015; and, copy of the draft minutes of May 18, 2015.

Action Required: _____Resolution X Motion _____Review
(Roll call vote is required.)

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-A

Meeting Date: June 1, 2015

Prepared By: Kelly Cadiente

Approved By: Bill Kocher

Agenda Title: Receive the Quarterly Financial Statements for January 1, 2015 to March 31, 2015

Staff Recommendation: The Board receives the Quarterly Financial Statements for January 1, 2015 to March 31, 2015.

Background: *2014 Strategic Plan, Strategic Element No. 3.2 – Regular Financial Updates to Policymakers and Managers.*

Discussion/Analysis: All figures reported for the quarter are based on accrual basis accounting. The District's consolidated financial statement for the quarter includes revenues of \$2.919 million and expenses of \$1.744 million, resulting in net gain from operations of \$1.175 million. The District budget projected net gain from operations of \$0.830 million for the same period.

The net gain from operations was higher than the budget expectation by \$0.345 million due to the timing of when revenues are earned and expenses are accrued produce different results than those in which the annual budget amounts are divided evenly by quarter.

Summary of Cost Centers:

<u>Description</u>	<u>Actual Qtr</u>	<u>Budget Qtr</u>	<u>Actual FYTD</u>	<u>Budget FYTD</u>
Marina Water				
Revenue	879,127	1,051,865	2,869,915	3,155,594
Expenses	<u>501,126</u>	<u>647,839</u>	<u>1,542,605</u>	<u>1,943,519</u>
Net Gain	378,001	404,026	1,327,310	1,212,075
Marina Sewer				
Revenue	245,197	235,653	693,262	706,958
Expenses	<u>137,253</u>	<u>186,169</u>	<u>444,159</u>	<u>558,504</u>
Net Gain	107,944	49,484	249,103	148,454
Ord Community Water				
Revenue	1,291,316	1,631,950	4,616,861	4,895,847
Expenses	<u>887,591</u>	<u>1,362,872</u>	<u>3,246,621</u>	<u>4,088,614</u>
Net Gain	403,725	269,078	1,370,240	807,233
Ord Community Sewer				
Revenue	503,467	495,189	1,418,560	1,485,566
Expenses	<u>218,271</u>	<u>327,830</u>	<u>800,182</u>	<u>983,489</u>
Net Gain	285,196	167,359	618,378	502,077

Recycled Water Project				
Revenue	-	2,000	4,164	6,000
Expenses	-	<u>61,592</u>	<u>102,653</u>	<u>184,776</u>
Net Gain	-	(59,592)	(98,489)	(178,776)
Regional Project				
Revenue	-	-	-	-
Expenses	-	-	-	-
Net Gain	-	-	-	-
Consolidated Cost Centers				
Revenue	2,919,107	3,416,657	9,602,762	10,249,965
Expenses	<u>1,744,241</u>	<u>2,586,302</u>	<u>6,136,220</u>	<u>7,758,902</u>
Net Gain	1,174,866	830,355	3,466,542	2,491,063

As of March 31, 2015, the District had \$13.248 million in liquid investments. The District also had \$2.112 million of bond proceeds for construction purposes, \$3.084 million of 2006 bond proceeds and \$0.849 million of 2010 refunding bond proceeds for debt reserve purposes in the bank. The District owed \$36.160 million in debt for the 2006 Revenue Certificates of Participation Bond, \$5.670 million for the 2010 Refunding Bond and \$2.228 million for IOP Construction Loan.

Environmental Review Compliance: None required.

Financial Impact: Yes No Funding Source/Recap: None

Other Considerations: None

Material Included for Information/Consideration: Quarterly Financial Statements, Investments and Debt Summary Statements.

Action Required: Resolution Motion Review

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-B

Meeting Date: June 1, 2015

Prepared By: Paula Riso

Approved By: Bill Kocher

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of May 15, 2015

Staff Recommendation: The Board of Directors approve the draft minutes of the May 15, 2015 special Board meeting.

Background: *2014 Strategic Plan, Mission Statement – We Provide high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Discussion/Analysis: The draft minutes of May 15, 2015 are provided for the Board to consider approval.

Environmental Review Compliance: None required.

Financial Impact: _____Yes ___X___No Funding Source/Recap: None

Other Considerations: The Board can suggest changes/corrections to the minutes.

Material Included for Information/Consideration: Draft minutes of May 15, 2015.

Action Required: _____Resolution ___X___Motion _____Review

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-C

Meeting Date: June 1, 2015

Prepared By: Paula Riso

Approved By: Bill Kocher

Agenda Title: Approve the Draft Minutes of the Regular Board Meeting of May 18, 2015

Staff Recommendation: The Board of Directors approve the draft minutes of the May 18, 2015 regular Board meeting.

Background: *2014 Strategic Plan, Mission Statement – We Provide high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Discussion/Analysis: The draft minutes of May 18, 2015 are provided for the Board to consider approval.

Environmental Review Compliance: None required.

Financial Impact: _____Yes X No Funding Source/Recap: None

Other Considerations: The Board can suggest changes/corrections to the minutes.

Material Included for Information/Consideration: Draft minutes of May 18, 2015.

Action Required: _____Resolution X Motion _____Review

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-A

Meeting Date: June 1, 2015

Prepared By: Paula Riso

Approved By: Bill Kocher

Agenda Title: Possible Action to Authorize the Board President to Submit a Comment Letter on the Pure Water Monterey Groundwater Replenishment Project EIR

Staff Recommendation: This is a Board requested item.

Background: *2014 Strategic Plan, Mission Statement – We Provide high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

The District had outside counsel advise the District on comments to the Pure Water Monterey Groundwater Replenishment Project EIR.

Discussion/Analysis: The deadline for comment is June 5, 2015, and the District is submitting comments as a responsible agency.

Environmental Review Compliance: None required.

Financial Impact: ___ Yes __X__ No Funding Source/Recap: None

Other Considerations: The Board can elect not to submit comments.

Material Included for Information/Consideration: Draft comment letter to be provided separately.

Action Required: ___ Resolution __X__ Motion ___ Review

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-B

Meeting Date: June 1, 2015

Requested By: Bill Kocher

Approved By: Bill Kocher

Agenda Title: Receive Information and Possible Direction to Staff on a Request for Use of an Easement on the Armstrong Ranch Property

Staff Recommendation: Consider the information contained in this transmittal and provide any direction to staff on a request for the use of easements on the upper and lower property lines of the parcel.

Background: As the Board is aware, the District acquired the 224-acre Armstrong Ranch property in a Grant Deed recorded in June 2010. There was a restriction placed on the property against any use/purpose other than: “the production, storage, treatment or distribution of treated water (tertiary treatment or its equivalent) or potable water, and any incidental uses reasonably necessary or appropriate thereto.”

The property was financed with tax-exempt debt, so there are also Internal Revenue Service private use restrictions on the use of tax-exempt financed public property by a private commercial company. Particularly to the issue of whether any such grant of easement would be a lease, staff would need to determine whether this tax-exempt debt is subject to restrictions, and if so, just how restrictive they are.

Discussion/Analysis: MCWD staff has recently been approached by the agriculture interest that is leasing the property on either side of the Armstrong Ranch property to allow it to use existing easements on the upper and lower lot lines. The agricultural interest would then use those easements to place water mains and diesel-powered pumps to move water across the Armstrong Ranch property, thereby connecting their farmed property on either side.

Since the District’s purchase of this property in 2010, there have been several considerations for its use, but on each such occasion, legal counsel has cautioned of a “condition subsequent.” “Condition Subsequent” in a deed means that should MCWD violate the condition after the conveyance of the property to MCWD, then the property reverts back to the grantor at no cost to the grantor. In other words, breach of the condition by MCWD results in a forfeiture of MCWD’s rights to the property and MCWD would lose its investment in the property, so any proposed use of the property must be careful scrutinized to assure the “condition subsequent,” described in the Background section of this transmittal in quotation marks, is not violated.

Initial review of this request for easement by District Legal Counsel and the Bond Counsel for the tax-exempt bonds with which the property was purchased have indicated this appears to be a permitted use for the property since the proposed pipelines and appurtenances are located in already-designated utility easements. The District engineer has reviewed the proposal for possible interference with the District’s future use of the property and has suggested we need to

work closely with the requestor to assure our interests are considered with any such location of utilities.

This item is before you at this time because in order to get definitive answers to the questions of feasibility and legality, staff will need to invest some time and money. Before doing so, the Board should indicate its interest in such a proposal and the investment of required time and money to accommodate it.

Environmental Review Compliance: None required.

Financial Impact: Yes No Funding Source/Recap: Directing staff to proceed the with the necessary work to determine the feasibility of granting this easement request will involve the investment of some undetermined amount of staff time (likely only a few hours) and some investment in legal review, possible surveying, and bond counsel review. No funds are currently budgeted for this specific project. District Counsel has suggested that the Board direct the requestor that in order to proceed with the work he is required to issue a check to the District for \$5000 which the District would draw upon to finance this work.

Other Considerations: Arguably the District purchased the Armstrong Ranch property for future use for water augmentation and that the property was intended to be used for no other purpose. The Board is not obligated to grant any such request.

Additionally, if the Board is interested in leasing or selling this easement, it should direct staff to obtain an appraisal for the value of any such easement.

Material Included for Information/Consideration: Parcel maps identifying the location of the requested easements.

Action Required: Resolution Motion Review

Board Action

Motion By _____ Seconded By _____ No Action Taken _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-C

Meeting Date: June 1, 2015

Prepared By: Paula Riso

Approved By: Bill Kocher

Agenda Title: Consider Returning to a One-Board-Meeting-Per-Month Schedule

Staff Recommendation: This is a Board requested item.

Background: *2014 Strategic Plan, Mission Statement – We Provide high quality water, wastewater collection and conservation services at a reasonable cost, through planning, management and the development of water resources in an environmentally sensitive manner.*

Discussion/Analysis: This item is on the agenda for the Board to discuss.

Environmental Review Compliance: None required.

Financial Impact: ___Yes __X___No Funding Source/Recap: None

Other Considerations: The Board can continue with the current schedule.

Material Included for Information/Consideration: None.

Action Required: ___Resolution __X___Motion ___Review

Board Action

Motion By_____ Seconded By_____ No Action Taken_____

Ayes_____ Abstained_____

Noes_____ Absent_____