

Draft Marina Coast Water District

Marina Council Chambers
211 Hillcrest Avenue
Marina, California

Regular Board Meeting
November 2, 2015
6:30 p.m.

Draft Minutes

1. Call to Order:

President Gustafson called the meeting to order at 6:30 p.m. on November 2, 2015.

2. Roll Call:

Board Members Present:

Howard Gustafson – President
Tom Moore
Bill Lee
Jan Shriner

Board Members Absent:

Peter Le – Vice President

Staff Members Present:

Keith Van Der Maaten, General Manager
Roger Masuda, Legal Counsel
Mike Wegley, District Engineer
James Derbin, Operations and Maintenance Superintendent
Brian True, Capital Projects Manager
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andy Sterbenz, Schaaf & Wheeler
Don Hofer, Shea Homes
Wendy Elliott, Shea Homes

3. Public Comment on Closed Session Items:

None.

The Board entered into closed session at 6:31 p.m. to discuss the following items:

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation

- 1) Ag Land Trust v. Marina Coast Water District, Monterey County Superior Court Case No. M105019; Sixth Appellate District Court of Appeals Case Nos. H038550 and H039559
- 2) In the Matter of the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, California Public Utilities Commission No. A.12-04-019 & A.13-05-017 Settlement Agreement
- 3) 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 vs. California-American Water Company, Monterey County Water Resources Agency, and Does 1 through 50, San Francisco Superior Court Case No. CGC-15-547125 (Complaint for Breach of Warranties, etc.)
- 5) Marina Coast Water District v, California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. CV180839 (Petition for Writ of Mandate). Sixth District Court of Appeal Case No. H042742
- 6) Marina Coast Water District v, California State Lands Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. CV180895 (Petition for Writ of Mandate)

B. 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

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

President Gustafson reconvened the meeting to open session at 7:02 p.m.

5. Reportable Actions Taken during Closed Session:

President Gustafson stated that direction was given and no reportable action was taken.

6. Pledge of Allegiance:

President Gustafson led everyone present in the pledge of allegiance.

7. Oral Communications:

None.

8. Consent Calendar:

Director Moore pulled item A from the Consent Calendar.

A. Approve the Draft Minutes of the Regular Board Meeting of October 19, 2015

Director Moore made a motion to approve the draft minutes of the regular Board meeting of October 19, 2015. Director Lee seconded the motion. The motion was passed.

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|------------------|---|-----|---------------------|---|-----------|
| Director Shriner | - | Yes | Vice President Le | - | Absent |
| Director Moore | - | Yes | President Gustafson | - | Abstained |
| Director Lee | - | Yes | | | |

9. Action Item:

A. Discussion and Possible Action to Consider Adoption of Resolution No. 2015-51 to Approve a Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Shea Homes, LP, for the Dunes – 1C Phase 2 Development in Marina, CA:

Ms. Mike Wegley, District Engineer, introduced this item. He stated that staff was recommending this agreement be approved upon completion of the Dunes Phase 1A, 1B, and Phase 1 of 1C. The Board made comments and asked clarifying questions.

Mr. Don Hofer, Shea Homes, asked that the Board not make any changes to the agreement because the State drought emergency orders would take precedence.

Director Moore suggested several changes to the agreement. Mr. Hofer responded that the agreement language was agreed to previously. He added that the District inspects the installation of the infrastructure to insure it is built correctly. Mr. Hofer stated that he was not in agreement with the conditions staff made. He said that this agreement is consistent with the facilities agreement the District has with FORA; and, the District has the ability to pull the Bonds and finish the work themselves if they are not happy with the work performed by the developer.

Agenda Item 9-A (continued):

Mr. Hofer noted, with regards to the items staff listed needed to be completed, that:

- Item 1 – Dunes Phase 1A, the easements were delivered to staff earlier that day;
- Item 2 – Dunes Phase 1B, they were finishing the punchlist;
- Item 3 – Dunes 1C, Phase 1, they were working through the issues with the District.

Mr. Hofer asked that the Board not condition their ability to move forward based on finishing up a few minor items.

Following discussion, Director Moore made a motion to adopt Resolution No. 2015-51 to approve a Water, Sewer, and Recycled Water Infrastructure Agreement between Marina Coast Water District and Shea Homes, LP, for the Dunes – 1C Phase 2 Development in Marina, CA, with the following changes to the Infrastructure Agreement: Section 18.1 separate the second sentence into two sentences; and, Exhibit D, remove “use commercially reasonable efforts to” in both areas where it appears in Section 3. Director Shriner asked if the motion included staff’s recommendations. Director Moore answered that his motion was for the Resolution as written which did include staff’s conditions. Director Shriner seconded the motion. Mr. Hofer thanked the Board for working together with Shea Homes and noted that the term “commercially reasonable” is a term they always use in their agreements. The motion was passed.

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|------------------|---|-----|---------------------|---|--------|
| Director Shriner | - | Yes | Vice President Le | - | Absent |
| Director Moore | - | Yes | President Gustafson | - | Yes |
| Director Lee | - | Yes | | | |

B. Discussion and Possible Action to Consider Adoption of Resolution No. 2015-52 to Amend the FY 2015-2016 Capital Improvements Program Budget and Use of the 2006 Certificates of Participation Proceeds for the Central Marina Service Area:

Mr. Wegley introduced this item and briefly explained that the proceeds will be used to replace dry-barrel fire hydrants in Central Marina and purchase an emergency generator for Well 11.

Director Moore made a motion to adopt Resolution No. 2015-52 to amend the FY 2015-2016 Capital Improvements Program Budget and use of the 2006 Certificates of Participation Proceeds for the Central Marina service area. Director Lee seconded the motion. The motion was passed.

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|------------------|---|-----|---------------------|---|--------|
| Director Shriner | - | Yes | Vice President Le | - | Absent |
| Director Moore | - | Yes | President Gustafson | - | Yes |
| Director Lee | - | Yes | | | |

C. Discussion and Possible Action to Consider Adoption of Resolution No. 2015-53 to Approve Revisions to the Board Procedures Manual:

President Gustafson pulled this item and it will be brought back when the full Board is present.

10. Correspondence Received by the District, Directors and General Manager:

None.

11. Informational Items:

A. General Manager's Report:

No report.

B. Counsel's Report:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

No report.

2. Joint City District Committee:

The meeting was canceled.

3. Executive Committee:

The next meeting is November 12th.

4. Community Outreach Committee:

The next meeting is November 12th.

5. Budget and Personnel Committee:

The next meeting is November 12th.

6. MRWPCA Board Member:

No report.

7. LAFCO Liaison:

No report.

8. FORA:

Mr. Van Der Maaten gave a brief update.

9. WWOC:

No report.

10. JPIA Liaison:

Director Shriner gave a brief update.

11. Special Districts Association Liaison:

The next meeting is scheduled for January 2016.

12. Board Member Requests for Future Agenda Items:

President Gustafson stated that the Board Procedures Manual will return on December 7th.

13. Director's Comments and Reports on Meetings:

Director Moore, Director Shriner and President Gustafson made comments.

Regular Board Meeting

14. Adjournment:

The meeting was adjourned at 8:05 p.m.

APPROVED:

Howard Gustafson, Director

ATTEST:

Paula Riso, Deputy Secretary