



Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting
January 22, 2018

Draft Minutes

1. Call to Order:

President Moore called the meeting to order at 6:30 p.m. on January 22, 2018 at the Marina Council Chambers, 211 Hillcrest Avenue, Marina, California.

2. Roll Call:

Board Members Present:

Thomas P. Moore – President
Jan Shriner – Vice President
Bill Lee
Howard Gustafson
Herbert Cortez

Board Members Absent:

None

Staff Members Present:

Keith Van Der Maaten, General Manager
David Hobbs, Legal Counsel
Kelly Cadiente, Director of Administrative Services
Brian True, Capital Projects Manager
Jean Premutati, Human Resources/Customer Relations Manager
Derek Cray, Operations and Maintenance Superintendent
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler	Andy Hunter, Woodson Engineers
Jennifer Ivey, Carollo Engineers	Alfred Diaz-Infante, CHISPA
Denise Duffy, Denise Duffy & Associates	Audrey Cray, Pebble Beach Resident
Ashley Quackenbush, Denise Duffy & Associates	Dana Cleary, CHISPA
Lloyd Lowrey, CHISPA Legal Counsel	
Paul Tran, CHISPA	

3. Public Comment on Closed Session Items:

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) 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) Marina Coast Water District v. California Public Utilities Commission, California Supreme Court Case No. S230728, Writ of Review
- 4) 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); First Appellate District Court of Appeals Case No. A145604, A146166, A146405
- 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 Breach of Warranties, etc.)
- 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)
- 7) Marina Coast Water District v. California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267

- B. Pursuant to Government Code 54956.8
Conference with Real Property Negotiator
Property: Sewer Infrastructure
Negotiating Parties: Howard Gustafson, Thomas Moore
Under Negotiation: Price and Terms

- C. Pursuant to Government Code 54956.9 (d)(2)
Conference with Legal Counsel – Anticipated Litigation
Significant exposure to Litigation – One Potential Case

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

President Moore reconvened the meeting to open session at 7:01 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. David Hobbs, Legal Counsel, stated that the Board voted unanimously to authorize filing an appeal on Item No. 4-A4.

6. Pledge of Allegiance:

Director Gustafson led everyone present in the pledge of allegiance.

7. Oral Communications:

None.

8. Presentations:

- A. Consider Adoption of Resolution No. 2018-01 in Recognition and Appreciation of Director Howard Gustafson’s Outstanding Service as Board President from December 2014 through December 2017:

Director Lee made a motion to adopt Resolution No. 2018-01 recognizing and appreciating Director Howard Gustafson’s outstanding service as Board President from December 2014 through December 2017. Vice President Shriner seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

B. Introduction of the District’s Newly Hired Operations and Maintenance Superintendent, Derek Cray:

Mr. Keith Van Der Maaten, General Manager, introduced the newest member of the MCWD management team, Mr. Derek Cray, Operations and Maintenance Superintendent. He shared that Mr. Cray has 17 years of public service and he currently holds both a Water Treatment T5 and Water Distribution D5, along with certifications in Wastewater Collections and Backflow.

9. Public Hearing:

A. Public Hearing for the Public Draft Initial Study/Negative Declaration for the Ord Community Sphere of Influence Amendment and Annexation:

President Moore opened the Public Hearing at 7:07 p.m.

Mr. Andrew Sterbenz, Schaaf and Wheeler, gave a brief presentation regarding the annexation of the Ord Community. He shared background documents and explained what areas were proposed in the annexation and what ones were identified as a “Future Study Area”.

President Moore asked for clarification on the areas that are not included in the annexation, and if the District could provide service for them if a project was approved and passed CEQA. Mr. Sterbenz answered that the District could provide service with them through an agreement and consider annexing that area into the District following the CEQA process.

Director Cortez clarified that the areas the District was looking to annex were ones that the District already provides service to. Mr. Sterbenz added that also the blighted areas were included in the annexation because they are part of a specific plan.

President Moore closed the Public Hearing at 7:23 p.m.

10. Consent Calendar:

Director Gustafson made a motion to approve the Consent Calendar consisting of: A) Receive and File the Check Register for the Month of December 2017; B) Receive the Quarterly Financials for July 1, 2017 to September 30, 2017; C) Approve the Draft Minutes of the Joint Board/GSA Meeting of December 18, 2017; D) Adopt Resolution No. 2018-02 to Authorize the General Manager to Execute a Memorandum of Understanding between Monterey One Water and Marina Coast Water District for Conducting a Public Education Program for the Southern Monterey Bay Dischargers Group; and, E) Receive a Report on the Capital Surcharges Assessed on New Ord Community Connections with a Connection Date between July 1, 2005 and July 5, 2014. Vice President Shriner seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

11. Action Items:

- A. Receive a Presentation of the 2018 Cost Allocation Plan; and Consider Adoption of Resolution No. 2018-03 to Approve the District's 2018 Cost Allocation Plan:

Ms. Kelly Cadiente, Director of Administrative Services, introduced Ms. Jennifer Ivey, Carollo Engineers. Ms. Ivey gave a brief introduction and presentation reviewing the District's 2018 Cost Allocation Plan.

Vice President Shriner asked clarifying questions regarding cost allocation. Ms. Ivey answered that the results of the review is that the existing overhead cost allocation approach is fair and reasonable, and they don't recommend changing it. She said that it does achieve the allocation Best Management Principles, it's reasonable, it's consistent, it's repeatable, and it's documented. Ms. Ivey did suggest that the District periodically check the allocation by having key staff members track their time by cost center.

Director Lee made a motion to adopt Resolution No. 2018-03 to approve the District's 2018 Cost Allocation Plan. Director Gustafson seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

- B. Receive a Presentation of the 2018 Five-Year Rate Study; and Consider Adoption of Resolution No. 2018-04 to Approve the District's Five-Year Water and Wastewater Rate Study:

Ms. Cadiente noted that Ms. Ivey was going to give a brief presentation on the Rate Study. Ms. Ivey gave a presentation of the Rate Study which included information proposed by the Board at previous workshops. She added that this Rate Study will include a Demand Management Rate for use in case of another long drought.

Vice President Shriner asked what would trigger the Demand Management Rate and whether it would be tied to the Water Shortage Contingency Plan (WSCP). Ms. Ivey said that the Board would determine what the trigger would be for the Demand Management Rate and that it was a Board decision if they want to add it to the WSCP.

President Moore asked how long the District should wait and what the trigger should be before discussing adding the Demand Management Rate. He suggested perhaps looking at a year's worth of usage and revenue before making any decisions. Mr. Keith Van Der Maaten, General Manager, suggested that staff could look at the information provided in the quarterly financial numbers and if there are trending deficiencies, bring something to the Board for discussion.

Agenda Item 11-B (continued):

President Moore asked if the proposed tiered rates would meet judicial review. Ms. Ivey answered that the tiers are directly tied to the peaking of water demands and it was defensible in court. The Board asked several more clarifying questions.

Director Gustafson made a motion to adopt Resolution No. 2018-04 to approve the District's Five-Year Water and Wastewater Rate Study. President Moore seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

C. Consider Approval of Proposition 218 Public Notice and Set Date, Time and Location for Public Hearings for Proposed Changes in Rates, Fees, and Charges for Marina and Ord Community Service Areas:

Ms. Cadiente introduced this item. The Board made several clarifying changes to the notice. Those changes were to notate that the rate increase was a maximum and could be less if costs ended up lower than anticipated; changing the description under the Demand Management Rates to "Water Consumption Reduction Level"; adding water and wastewater to the third paragraph on the first page; and, some language changes under "Reason for the Increases".

Director Cortez made a motion to approve the Proposition 218 Public Notice and Set Date, Time and Location for Public Hearings for Proposed Changes in Rates, Fees, and Charges for Marina and Ord Community Service Areas, with the changes provided. Director Gustafson seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

D. Consider First Reading of Ordinance No. 60 to Adopt New District Rates, Fees & Charges for Marina Water and Wastewater for the Central Marina Service Area:

Mr. Cadiente introduced this item clarifying that the Ordinance was to adopt rates for Central Marina only, because the Ord Community was served under contract and the rates are adopted by resolution.

Director Gustafson made a motion to consider First Reading of Ordinance No. 60 to adopt new District Rates, Fees & Charges for Marina Water and Wastewater for the Central Marina Service Area. Director Lee seconded the motion.

Agenda Item 11-D (continued):

The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	No			

Director Gustafson made a motion to not read the Ordinance in its entirety. Vice President Shriner seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

President Moore read the title to Ordinance No. 60: An Ordinance Amending Sections 6.08.030, 6.08.060, 6.08.080, 6.08.100, and 6.12.050, and Establishing Section 6.08.110 of the District Code Changing Rates, Fees and Charges for Water and Sewer Services for the Central Marina Service Area.

- E. Consider Adoption of Resolution No. 2018-05 to Adopt the Public Draft Initial Study/Negative Declaration for the Ord Community Sphere of Influence Amendment and Annexation and Direct Staff to File an Application with the Local Agency Formation Commission:

Mr. Sterbenz introduced this item. He stated that the Local Agency Formation Commission (LAFCO) approved a letter at their meeting earlier that day and revised it to ask that the District include an Indemnification Agreement with the Annexation Application and to keep working with Seaside County Sanitation District.

Director Gustafson made a motion to table this item until the next meeting. Director Cortez seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

- F. Consider Adoption of Resolution No. 2018-06 to Amend the Professional Services Agreement with Schaaf & Wheeler for On-Call Services, Master Plan Peer Review and Ord Village Lift Station Design:

Mr. Brian True, Capital Projects Manager, introduced this item. Director Shriner had clarifying questions.

Agenda Item 11-F (continued):

Director Gustafson made a motion to adopt Resolution No. 2018-06 to amend the Professional Services Agreement with Schaaf & Wheeler for On-Call Services, Master Plan Peer Review and Ord Village Lift Station Design. President Moore seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

G. Consider Adoption of Resolution No. 2018-07 Regarding a Variance to the Application of MCWD Water Code Section 3.36.030.W.2.a for the Junsay Oaks Development Project in the Central Marina Service Area:

Mr. True introduced this item explaining that the Developer is requesting a variance from the District's Water Code Section 3.36.030.W.2.a - *Metering*. The Board asked clarifying questions.

Mr. Paul Tran, CHISPA, stated that he had three speakers who will answer the Boards questions and explain how they meet the requirements for a variance. He introduced Mr. Alfred Diaz-Infante, CHISPA President, Mr. Andy Hunter, Woodsen Engineers, and Mr. Lloyd Lowrey, Legal Counsel.

Mr. Diaz-Infante stated that while they appreciated District staff working with them, they were concerned about meeting their construction schedule, and concerned that District staff wouldn't plan check their water related infrastructure until the Board approves their variance request and agreement. Mr. Diaz-Infante stated that having a meter charge would be a hardship on the low-income residents and the apartments would be very water efficient with very little water use. He handed out a pamphlet showing the programs offered by CHISPA. Mr. Diaz-Infante stated that they would monitor who is living in the apartments; they would sub-meter with the meters being available to the District; and, they would arrange for District conservation staff to meet with residents several times a year to discuss water conservation.

Mr. Hunter stated that although the new state law exempts affordable housing projects from individual metering, they are proposing sub-meters to monitor water use on a unit by unit basis. He said a backflow prevention device would be placed at the street before the District's master meter and the sub-meters would meet District standards.

Mr. Lowrey commented that the State Legislature has recognized the changing demographic and financial considerations have made it appropriate to consider special consideration for several categories of water users, one of which is low-income housing. He said that the State policy gives flexibility to apply the policy in a way that makes sense for the local community, and the District has been doing this for years. Mr. Lowrey asked the District to consider that the demographic and financial changes to the community and to allow the opportunity to meet the intent of the District's policy and still give consideration to the low-income seniors.

Agenda Item 11-G (continued):

Director Cortez asked about the proposed agreement regarding ownership of the sub-meters. Mr. True answered that he believes there is an opportunity to come up with an acceptable agreement, but until an agreement is put together for him to look at, he is uncomfortable moving forward.

Director Shriner made a motion to adopt Resolution No. 2018-07 approving a Variance to the Application of MCWD Water Code Section 3.36.030.W.2.a for the Junsay Oaks Development Project in the Central Marina Service Area with the following considerations: 1) clarify the list that CHISPA included in their finding (page 114 of the Board packet); 2) a separate plan check for wastewater and sewer completed immediately or by January 26, 2018; 3) a legal agreement for the lifetime or at least 55 years for access and maintenance, including discrepancies; 4) language to limit any other developments that this would be very specific to be a qualified organization as stated on page 122 of the Board packet (Water Code Article 5. Multiunit Structures 537.a and 537.1); and 5) have this language drawn up and brought back to the February 20, 2018 meeting or no later than March 5, 2018. Director Cortez seconded the motion. The motion failed.

Director Gustafson	-	No	Vice President Shriner	-	Yes
Director Lee	-	No	President Moore	-	No
Director Cortez	-	Yes			

Director Gustafson made a motion to table this item until the next meeting and have staff provide the plan checks for the wastewater and sewer. Vice President Shriner seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

H. Consider Providing Direction Regarding the Call for Nominations of Candidates to Fill Two Special District Seats on LAFCO:

The Board asked if Director Cortez would be interested in nominating himself to run for one of the two Special District seats on LAFCO. Director Cortez said he would.

President Moore made a motion to support Director Cortez nominating himself to run for the Special District Alternate seat on LAFCO. Director Lee seconded the motion. The motion was passed.

Director Gustafson	-	Yes	Vice President Shriner	-	Yes
Director Lee	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

12. 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:

Vice President Shriner gave a brief update.

2. Joint City District Committee:

President Moore stated the next meeting was scheduled for Wednesday, February 28th.

3. Executive Committee:

No report.

4. Community Outreach Committee:

Director Gustafson gave a brief update.

5. Budget and Personnel Committee:

Director Gustafson gave a brief update.

6. M1W Board Member:

President Moore gave a brief update.

7. LAFCO Liaison:

The report was given earlier.

8. FORA:

President Moore gave a brief update.

9. WWOC:

Mr. Van Der Maaten gave a brief update.

10. JPIA Liaison:

No report.

11. Special Districts Association Liaison:

Vice President Shriner gave a brief update.

12. SVGSA Liaison:

No report.

13. Board Member Requests for Future Agenda Items:

President Moore noted that any requests could be emailed to staff.

14. Director's Comments:

Director Cortez, Director Lee, Director Gustafson, Vice President Shriner, and President Moore made comments.

15. Adjournment:

The meeting was adjourned at 9:20 p.m. in memory of Mr. Dan Burns, former MCWD Director.

APPROVED:

Thomas P. Moore, President

ATTEST:

Paula Riso, Deputy Secretary