

Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting
Dual Locations – 11 Reservation Road, Marina, and 41-1320 Kalaniana'ole Hwy, Waimānalo, HI
June 25, 2019

Minutes

1. Call to Order:

Vice President Shriner called the meeting to order at 6:32 p.m. on June 25, 2019 at the District Office, 11 Reservation Road, Marina, California. President Moore attended via video teleconference from the Waimānalo Public Library in Waimānalo, HI.

2. Roll Call:

Board Members Present:

Thomas P. Moore – President – via teleconference
Jan Shriner – Vice President
Herbert Cortez – arrived at 6:33 p.m.
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
Derek Cray, Operations and Maintenance Manager
Michael Wegley, District Engineer
Rose Gill, HR/Risk Administrator
Patrick Breen, Water Resources Manager
Teo Espero, IT Administrator
Paula Riso, Executive Assistant/Clerk to the Board

Audience Members:

Andrew Sterbenz, Schaaf & Wheeler
Philip Clark, Seaside Resident, WCC Member
Shawn Storm, Marina Resident, WCC Member
Kevin Tuttle, Akel Engineering

Abigail Seaman, Bartle Wells
Douglas Dove, Bartle Wells
Zane Mortensen, CSUMB
Tony Akel, Akel Engineering

Audience Members (continued):

Susan Kiefert, MCWD Employee
Candace Cuisinier, MCWD Employee

Barbara Montanti, MCWD Employee
Stephenie Verduzco, MCWD Employee

3. Public Comment on Closed Session Items:

There were no public comments.

The Board entered into closed session at 6:34 p.m. to discuss the following items:

4. Closed Session:

A. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation

- 1) 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 Application (“A.”) 12-04-019
- 2) In the Matter of the Application of California-American Water Company (U 210 W) for an Order (1) Approving a Settlement Agreement with the County of Monterey and the Monterey County Water Resources Agency to Settle and Resolve Claims and Issues Between the Parties and to Promote the Development, Construction and Operation of a Water Supply Project for Monterey County on an Expedited Basis, and (2) Authorizing the Transfer of Authorized Costs Related to the Settlement Agreement to Its Special Request 1 Surcharge Balancing Account, California Public Utilities Commission Application (“A.”) 13-05-017, and related California Supreme Court petition for writ of review.
- 3) City of Marina and Marina Coast Water District, Petitioners v. Public Utilities Commission of the State of California, Respondent (California-American Water Company, et al., Real Parties in Interest), Petitions for Writ of Review, California Supreme Court Case No. S253585
- 4) 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.)
- 5) Marina Coast Water District v, California Coastal Commission (California-American Water Company, Real Party in Interest), Santa Cruz County Superior Court Case No. 15CV00267, Sixth Appellate District Court of Appeals Case No. H045468

Agenda Item 4-A (continued):

- 6) 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)
 - 7) Marina Coast Water District, and Does 1-100 v, County of Monterey, County of Monterey Health Department Environmental Health Bureau, and Does 101-110, Monterey County Superior Court Case No. 18CV000816 (Petition for Writ of Mandate and Complaint for Injunctive Relief)
- B. Pursuant to Government Code 54957.6
Conference with Labor Negotiators
Agency Negotiators (Keith Van Der Maaten, Jan Shriner)
Employee Organization: Marina Coast Water District Employees Association
- C. Pursuant to Government Code 54957.6
Conference with Labor Negotiators
Agency Negotiators (Keith Van Der Maaten, Jan Shriner)
Employee Organization: Teamsters Local 890

The Board ended closed session at 7:09 p.m.

Vice President Shriner reconvened the meeting to open session at 7:14 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. Roger Masuda, District Counsel, stated that the Board voted on the three MOU's with President Moore, Vice President Shriner, Director Cortez, and Director Zefferman voting in the affirmative and Director Le abstaining. He noted a formal vote would take place in open session.

- A. Consider Adoption of Resolution No. 2019-38 to Approve the Memorandum of Understanding Between the Marina Coast Water District Employees Association and the Marina Coast Water District:

President Moore made a motion to approve the Memorandum of Understanding between the Marina Coast Water District Employees Association and the Marina Coast Water District. Director Zefferman seconded the motion. The motion was passed by the following vote:

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

Agenda Item 5 (continued):

- B. Consider Adoption of Resolution No. 2019-39 to Approve the Memorandum of Understanding Between the Teamsters Local 890 and the Marina Coast Water District:

Director Zefferman made a motion to approve the Memorandum of Understanding between the Teamsters Local 890 and the Marina Coast Water District. Director Cortez seconded the motion. The motion was passed by the following vote:

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

Ms. Paula Riso, Executive Assistant/Clerk to the Board, voiced her appreciation and thanked the Board for adopting the MOU's and for a smooth negotiation period.

- C. Consider Adoption of Resolution No. 2019-40 to Approve the Terms and Conditions of the Employment Agreement Between the Unrepresented Employees and the Marina Coast Water District:

Director Cortez made a motion to approve the terms and conditions of the Employment Agreement between the Unrepresented Employees and the Marina Coast Water District. President Moore seconded the motion. The motion was passed by the following vote:

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

6. Pledge of Allegiance:

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

7. Oral Communications:

There were no public comments.

8. Workshop:

- A. Receive Presentation on the Draft Sewer, Water and Recycled Water Master Plan Studies for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final Documents:

Mr. Michael Wegley, District Engineer, introduced this item and introduced Mr. Tony Akel, Akel Engineering, Inc. Mr. Akel gave a brief background of the Master Plans and how they support the General Plans of land use jurisdictions, then he introduced Mr. Kevin Tuttle, Akel Engineering, Inc.

Agenda Item 8-A (continued):

Mr. Akel and Mr. Tuttle gave a brief presentation showing how land use, demands, and trends go into the models. Mr. Akel discussed how they worked with the stakeholders to make sure their General Plans were taken into consideration to ensure the water demands would be met. The Board asked clarifying questions. Vice President Shriner asked the Directors to provide any questions they have on the Master Plans to the General Manager by July 8th.

B. Receive Presentation on the Draft Capacity Fees for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final Documents:

Mr. Douglas Dove, Bartle Wells, gave a presentation on the capacity fees for the Marina and Ord Community service areas. He discussed the near-term water and wastewater allocations for the CIP and how the fee methodology was calculated. Mr. Dove also reviewed the Use Factors and the revisions being proposed. The Board asked clarifying questions. Vice President Shriner asked the Directors to provide any questions they have on the Capacity Fees to the General Manager by July 8th.

Vice President Shriner recessed the meeting from 8:53 p.m. to 9:00 p.m.

9. Consent Calendar:

Director Le asked to pull items A, B, and C from the Consent Calendar. Director Zefferman also asked to pull item C from the Consent Calendar.

President Moore made a motion to approve the Consent Calendar consisting of: D) Consider Adoption of Resolution No. 2019-42 to Approve a Memorandum of Understanding between Marina Coast Water District and the Monterey Peninsula Unified School District Regarding the In-School Water Conservation Education Program; and, E) Consider Adoption of Resolution No. 2019-43 to Authorize a Notice of Completion for the Watkins Gate RISD Rehab Project to be Filed with the Monterey County Recorder. Director Zefferman seconded the motion. The motion was passed by the following vote:

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

Vice President Shriner, in an effort to efficiently manage the time constraint, stated that they would discuss the pulled items after the Action Items A, B, and C had been discussed.

10. Action Items:

A. Consider Adoption of Resolution No. 2019-44 to Approve the Marina Coast Water District Budget for FY 2019-2020:

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

Agenda Item 10-A (continued):

Director Zefferman made a motion to adopt Resolution No. 2019-44 to Approve the Marina Coast Water District Budget for FY 2019-2020. Director Cortez seconded the motion. The motion was passed by the following vote:

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

B. Consider Adoption of Resolution No. 2019-45 to Approve the District's Five-Year Capital Improvement Projects Budget:

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

President Moore made a motion to adopt Resolution No. 2019-45 to Approve District's Five-Year Capital Improvement Projects Budget. Director Cortez seconded the motion. The 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. 2019-46 Placing a Director in Nomination as a Member of the Association of California Water Agencies Region 5 Board:

Vice President Shriner asked if any Board members were interested in running for the Association of California Water Agencies Region 5 Board. There were no interested parties and no action was taken.

Vice President Shriner returned to the Consent Calendar items that were pulled earlier in the meeting.

9. Consent Calendar:

A. Receive and File the Check Register for the Month of May 2019:

Director Le inquired on a wire transfer to Union Bank. Ms. Cadiente answered that the wire was for the Bond payments that are made twice a year per the contract.

President Moore made a motion to receive and file the check register for the month of May 2019. Director Zefferman seconded the motion. The motion was passed by the following vote:

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

B. Consider Approval of the Draft Minutes of the Joint Board/GSA Meeting of May 20, 2019:

Director Le stated pulled this item because he wanted to vote separately on it.

Director Zefferman made a motion to approve the draft minutes of the Joint Board/GSA meeting of May 20, 2019. President Moore seconded the motion. The motion was passed by the following vote:

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

C. Consider Adoption of Resolution No. 2019-41 to Approve a Contract with Fieldman Rolapp & Associates to Provide Financial Advisory Services to the District:

Director Le asked if there was a time constraint for this item. Ms. Cadiente answered that there will be a need for them to help with obtaining financing for the upcoming large purchases that were just approved in the budget.

President Moore made a motion to adopt Resolution No. 2019-41 to approve a contract with Fieldman Rolapp & Associates to provide financial advisory services to the District. Director Cortez seconded the motion. The motion was passed by the following vote:

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

Vice President Shriner returned to the Action Items.

D. Consider Adoption of Resolution No. 2019-47 to Approve an Addition to the Board Procedures Manual:

Director Zefferman stated that he suggested this addition with regards to non-substantive corrections to agenda items, to help Board meetings run more efficiently. Vice President Shriner asked what time the General Manager would like Board members to submit their corrections. Mr. Keith Van Der Maaten, General Manager, stated that 9:00 a.m. on the day of the Board meeting would be sufficient.

President Moore made a motion to adopt Resolution No. 2019-47 to approve an addition to Section 18 of the Board Procedures Manual and add that corrections should be received by the General Manager by 9:00 a.m. on the day of the Board meeting. Director Zefferman seconded the motion. The motion was passed by the following vote:

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

Vice President Shriner noted that due to her vested interest in the next agenda item, perhaps another Director should preside over the meeting. Director Cortez volunteered to be President Pro-Tem for the next agenda item.

Director Zefferman made a motion to appoint Director Cortez as President Pro-Tem for the next agenda item. Vice President Shriner seconded the motion. The motion was passed by the following vote:

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

E. Discuss, Consider, and Determine Action on Vice President Jan Shriner's Request for Censure as to Director Peter Le:

President Pro-Tem Cortez noted that last month, this item was tabled until this meeting. He asked if there were any questions and asked Director Le how he would like to respond. Director Le stated he would like to respond to each letter provided by Vice President Shriner. President Pro-Tem Cortez gave Director Le the floor to speak.

Director Le commented that he would like to respond to the February 19, 2019 item at the bottom of packet page 231. President Pro-Tem Cortez asked Vice President Shriner what "BPM Section 15" referred to. Vice President Shriner answered that it referred to the Section of the Board Procedures Manual that she felt Director Le violated. She stated that she felt the comments Director Le made were criticizing staff and trying to place blame on staff. Vice President Shriner said she would like the comments to be made in a more positive manner or discussed with the General Manager privately.

Director Le stated that on February 19, 2019, he was not criticizing staff, he was merely asking questions. He also noted that on page 232, with reference to item 9-E, he didn't mean to be negative, he was only asking questions and was fulfilling his duties as a Board member. Director Le commented that even when he was on the Board previously, it was his style to ask a lot of questions.

President Pro-Tem Cortez asked Vice President Shriner if there was anything beyond misperception, and that clearly shows it's inconsistent with the Board Procedures Manual and is not interpreted as a misperception or misunderstanding, in Director Le's statements.

Vice President Shriner commented that she understands that these things are very subjective, but sometimes there is a style of comments that continue to be disruptive, such as the comments about Closed Session scheduling.

Director Zefferman stated that Director Le asks tough questions and agrees that's his job, but sometimes the questions are worded in a way that is more negative than positive. He added that he understands that Vice President Shriner has been working hard to have the Board follow proper

Agenda Item 10-E (continued):

protocol and being recognized by the President before asking questions, but he worries about being too strict about that. Director Zefferman recognizes that a pattern of behavior is important, but at this point, he's not prepared to censure Director based on the evidence provided. He said they should all be aware of the Board Procedures Manual's issues and should be aware of not stepping out of line too much.

Vice President Shriner stated that there were comments about other agencies doing something smart and felt that it was beyond a request for more information.

President Pro-Tem Cortez commented that this letter does show a pattern, and he agrees that Director Le makes insightful comments, but the delivery might be different from others at the dais. He added that the delivery does not open the doors to badgering staff. President Pro-Tem Cortez said that he understands tough questions, but the follow-up questions must have a certain measured follow-up and not get tougher and tougher. He respects that Director Le asks tough questions and is doing his homework, but when the follow up starts getting into a gray line, or slippery slope, and it takes on a tone, then that tone needs to be pulled back a bit. President Pro-Tem Cortez said he can't tell Director Le what to say or how to say it, but in his lay perspective, it's what he sees and it's what is documented here. He said he did not feel Director Le needed to be censured, but there is a pattern of how Director Le delivers something and it is accurate.

Vice President Shriner noted the time Director Le commented that the other agencies were smart how they scheduled their closed session, and he repeated it several times.

Due to another function starting in the library room President Moore was using, he exited the meeting at 9:59 p.m.

President Pro-Tem Cortez noted that it was 10:00 p.m. and asked if there was a motion to continue past 10:00.

Director Zefferman made a motion to continue past 10:00 p.m. until the current agenda item was complete. Vice President Shriner seconded the motion. The motion was passed by the following vote:

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

Director Zefferman commented that he felt the comments regarding closed session was a negative comment about the District and was one of the most serious things in this accusation, but he didn't feel that the one comment, even with the rest of the issues included, pushed over the threshold of censure. He commented that all the Directors, including Director Le, should avoid comments like that. Director Zefferman added that he felt Vice President Shriner made an effort, although she was unsuccessful, to address the tone issues before bringing it to the public and before the Board.

Agenda Item 10-E (continued):

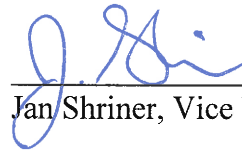
President Pro-Tem Cortez made a motion to not move forward with an additional investigation or censure Director Le. Director Zefferman seconded the motion. The motion was passed by the following vote:

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

14. Adjournment:

The meeting was adjourned at 10:03 p.m.

APPROVED:



Jan Shriner, Vice President

ATTEST:



Paula Riso, Deputy Secretary