



# Marina Coast Water District

Regular Board Meeting/Groundwater Sustainability Agency Board Meeting  
Dual Locations – 211 Hillcrest Avenue, Marina, and  
Hauts de Sophia, 6 Chemins de Fremonts, Trouvilles sur Mer, France  
September 16, 2019

## Minutes

### 1. Call to Order:

Vice President Shriner called the meeting to order at 6:30 p.m. on September 16, 2019 at the Marina Council Chambers, 211 Hillcrest Avenue, Marina, California.

### 2. Roll Call:

#### Board Members Present:

Thomas P. Moore – President – via teleconference  
Jan Shriner – Vice President  
Herbert Cortez  
Peter Le  
Matt Zefferman

#### Board Members Absent:

None

#### Staff Members Present:

Keith Van Der Maaten, General Manager  
David Hobbs, District Counsel  
Kelly Cadiente, Director of Administrative Services  
Derek Cray, Operations and Maintenance Manager  
Michael Wegley, District Engineer  
Rose Gill, HR/Risk Administrator  
Don Wilcox, Senior Engineer  
Andrew Racz, Associate Engineer  
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  
Mike Owen, Marina Resident  
Dana Van Horn, Harris & Associates  
Barbara Montanti, MCWD Employee

Matt Johnson, Denise Duffy & Associates  
Laura Carpenter, Fieldman Rolapp & Associates  
Tony Kelsey, MCWD Employee  
Andrew Hunter, Whitson Engineering  
Dino Pick, Del Rey Oaks City Manager

3. Public Comment on Closed Session Items:

There were no public 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) 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)
- 8) Marina Coast Water District, and Does 1-100 v, County of Monterey, Monterey County Board of Supervisors, and Does 101-110 (California-American Water Company, Real Property in Interest), Monterey County Superior Court Case No. 19CV003305 (Petition for Writ of Mandate and Complaint for Injunctive Relief)

- B. Pursuant to Government Code 54956.9(d)(4)  
Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation – Two Potential Cases

The Board ended closed session at 6:58 p.m.

Vice President Shriner reconvened the meeting to open session at 7:03 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. David Hobbs, District Counsel, stated that there were no reportable actions taken during Closed Session.

Vice President Shriner noted that there were several presentations scheduled and that pursuant to past practice, pulled Consent Calendar items would be discussed at the end of open session. She also stated that Action Item 10-E would be moved up on the agenda to immediately follow the Consent Calendar to accommodate the consultant's schedule.

6. Pledge of Allegiance:

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

7. Oral Communications:

Mr. Mike Owen, Marina Resident, announced that Epiphany Church was hosting an organ recital on October 5<sup>th</sup> at 2:00 p.m. He also commented that there was a 5K/10K "Honor Our Fallen Run" on October 19<sup>th</sup>. Mr. Owen thanked the District and District, employee Anthony Munoz's hard work, on the landscape maintenance that was done at the Well 11 site.

8. Presentations:

- A. Consider Adoption of Resolution No. 2019-59 in Recognition of Barbara Montanti, Customer Service Supervisor, for 20 Years of Service to the Marina Coast Water District:

President Moore made a motion to adopt Resolution No. 2019-59 in recognition of Barbara Montanti for 20 years of service to 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	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

Vice President Shriner read the narration and presented Ms. Montanti with a resolution and gift certificate.

- B. Consider Adoption of Resolution No. 2019-60 in Recognition of Tony Kelsey, System Operator II, for 40 Years of Service to the Marina Coast Water District:

Director Cortez made a motion to adopt Resolution No. 2019-60 in recognition of Tony Kelsey for 40 years of service to 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	-	Yes	President Moore	-	Yes
Director Cortez	-	Yes			

Vice President Shriner read the narration and presented Mr. Kelsey with a resolution and gift certificate.

9. Consent Calendar:

Director Zefferman requested to pull item F from the Consent Calendar and noted he would abstain on item B. Director Le requested to pull items B, C, D, E and F from the Consent Calendar.

Director Zefferman made a motion to approve the Consent Calendar consisting of: A) Receive the Check Register for the Month of August 2019; and, G) Consider Voting for the Association of California Water Agencies Region 5 Board Slate Recommended by the Nominating Committee. Director Cortez 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 on item A, Abstain on item G			

Vice President Shriner noted that because the consultant was here for items 9-E (consent) and 10-E (action), the Board would hear 9-E at this time, but all other Consent items would be discussed at the end of the open session.

E. Consider Adoption of Resolution No. 2019-63 to Approve an Updated District Debt Management Policy:

Director Le commented his question was regarding financial obligations and if the Bay View situation, discussed in item 10 E was an example of a financial obligation.

Ms. Laura Carpenter, Fieldman, Rolapp & Associates, answered that the Bay View situation was not a financial obligation. She said a financial obligation, as defined by the Security Exchange Commission, was a debt obligation or any agreement that has a payment or security provision that requires the District to make a payment, such as a bank loan or the District's State Revolving Fund loan.

The Board asked clarifying questions regarding who would disclose the default of a financial obligation. President Moore asked to have the acronym EMMA spelled out in the Policy.

Director Zefferman made a motion to adopt Resolution No. 2019-63 to approve an updated District Debt Management Policy and have all EMMA acronyms spelled out in the Policy. President Moore 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			

10. Action Items:

E. Consider Adoption of Resolution No. 2019-71 to Approve a Contract with Morgan Stanley to Serve as Underwriter for the District's Upcoming Issuance of Revenue Bonds:

Ms. Kelly Cadiente, Director of Administrative Services, introduced this item and noted that Ms. Carpenter would give a brief presentation. Ms. Carpenter gave a brief presentation and answered clarifying questions posed by the Board.

Director Cortez made a motion to adopt Resolution No. 2019-71 to approve a contract with Morgan Stanley to serve as underwriter for the District's upcoming Issuance of Revenue Bonds. President Moore 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			

- A. Consider Adoption of Resolution No. 2019-65 to Approve Amendment No. 4 to the Professional Services Agreement with Akel Engineering Group, Inc. for the Master Plans and Capacity Fees Study for Sewer, Water and Recycled Water:

Mr. Michael Wegley, District Engineer, introduced this item. The Board asked clarifying questions.

President Moore made a motion to adopt Resolution No. 2019-65 to approve Amendment No. 4 to the Professional Services Agreement with Akel Engineering Group, Inc. for the Master Plans and Capacity Fees Study for Sewer, Water and Recycled Water. Director Zefferman 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 Nos. 2019-66, 2019-67, and 2019-68 to: Award a Construction Management Professional Services Agreement to Harris and Associates; Amend an Engineering Professional Services Agreement with Carollo Engineers; and Amend an Environmental Professional Services Agreement with Denise Duffy & Associates; all three toward the Construction phase of the Regional Urban Water Augmentation Project Distribution Pipelines Phase:

Mr. Wegley introduced Mr. Don Wilcox, the District's newest Senior Engineer. Mr. Wilcox introduced this item explaining the three components of this project. Director Le questioned if Harris and Associates would monitor and inspect to the District's guidelines. Ms. Dana Van Horn commented that they always utilize the contract plans as a guideline to make sure the contractor is performing the work correctly. Discussion followed.

Director Zefferman made a motion to adopt Resolution Nos. 2019-66, 2019-67, and 2019-68 to: Award a Construction Management Professional Services Agreement to Harris and Associates, with added language in Section 2.12 that there will be an inspection to MCWD Standard Plans and Specifications; Amend an Engineering Professional Services Agreement with Carollo Engineers; and Amend an Environmental Professional Services Agreement with Denise Duffy & Associates. President Moore seconded the motion. Discussion followed regarding the addition of language to the Harris proposal. Director Zefferman withdrew his motion.

Director Cortez questioned legal counsel if there was language in the Professional Services Agreement that covered any liability done by Harris. Mr. Hobbs answered that there was language in the PSA for liability and insurance coverage in case of negligence.

Agenda Item 10-B (continued):

Director Le made a motion to adopt Resolution Nos. 2019-66, 2019-67, and 2019-68 to: Award a Construction Management Professional Services Agreement to Harris and Associates, with added language that Harris will inspect to make sure it conforms with MCWD Standard Plans and Specifications; Amend an Engineering Professional Services Agreement with Carollo Engineers; and Amend an Environmental Professional Services Agreement with Denise Duffy & Associates.

Director Zefferman made a substitute motion to adopt Resolution Nos. 2019-66, 2019-67, and 2019-68 to: Award a Construction Management Professional Services Agreement to Harris and Associates; Amend an Engineering Professional Services Agreement with Carollo Engineers; and Amend an Environmental Professional Services Agreement with Denise Duffy & Associates, with the provision that legal counsel reviews the Professional Services Agreement and determines that it does adequately cover the inspection, and if so, approve the Resolutions. President Moore seconded the motion. Director Le asked that legal counsel review the language in the Professional Services Agreement to make the determination. Mr. Wilcox commented that after speaking with the District Engineer, the consultant will be asked to modify Section 2.1-*Inspection Plan* of the Proposal to include the requested language. The motion was passed by the following vote:

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

C. Consider Adoption of Resolution No. 2019-69 to Award an Engineering Professional Services Agreement to Whitson Engineers toward Design of the South Boundary Road Water Line Project:

Mr. Wilcox introduced this item, noting that if the Board wanted more information regarding timing of the project, Whitson could do a quick pros and cons Construction Timing Evaluation Study. He then introduced Mr. Dino Pick, Del Rey Oaks City Manager.

Mr. Pick discussed the City of Del Rey Oaks' 200 Pad RV Resort project that has been fully entitled and approved. He also discussed proposed future projects and the need for the South Boundary Road water pipeline. The Board asked clarifying questions regarding timing and pipe alignment.

President Moore made a motion to adopt Resolution No. 2019-69 to award an Engineering Professional Services Agreement to Whitson Engineers toward design of the South Boundary Road Water Line Project and include the added task of a Construction Timing Evaluation Study at a cost of \$4,400 and bring it back to the Board for further discussion. Director Zefferman seconded the motion.

Director Le made a substitute motion to approve \$4,400 to do the Construction Timing Evaluation Study and bring it back to the Board for further discussion. President Moore questioned staff if it was feasible to just do the Study. Mr. Wilcox answered that the study was being proposed as an addition to Section 1.1 of the Scope of Services, and the cost of \$70,000 for an engineering design was significant savings. He noted that if the engineering design were to be done later, it would be at a much higher cost. Discussion followed. Director Le withdrew his substitute motion.

Agenda Item 10-C (continued):

Director Le made a new substitute motion to adopt Resolution No. 2019-69 to award an Engineering Professional Services Agreement to Whitson Engineers toward design of the South Boundary Road Water Line Project only, and *not* authorize the Construction Timing Evaluation Study. The motion failed for lack of a second.

Director Cortez made a substitute motion to adopt Resolution No. 2019-69 to award an Engineering Professional Services Agreement to Whitson Engineers toward design of the South Boundary Road Water Line Project and include the added task of a Construction Timing Evaluation Study at a cost of \$4,400 and *not* bring it back to the Board. President Moore seconded the motion. Director Le stated he wasn't comfortable letting staff decide whether the pipe alignment would go in the road or in the shoulder. Mr. Keith Van Der Maaten, General Manager, stated that staff can bring a staff report updating the Board on the results of the Construction Timing Evaluation Study. The motion was passed by the following vote:

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

D. Consider Adoption of Resolution No. 2019-70 to Approve a Water, Sewer and Recycled Water Infrastructure Agreement and Reimbursement Agreement between the Marina Coast Water District and the Marina Developers, Inc. for the Sea Haven Phase 3A Development Project:

Mr. Andrew Racz, Associate Engineer, introduced this item. Director Le asked if there were construction plans for the Booker Lift Station yet. Mr. Racz answered that the developer was in the process of soliciting for bids now and the District staff would be involved when the plans are ready for review. Discussion regarding capacity fees and lift station improvements followed.

Mr. Shawn Storm, Marina resident/Water Conservation Commission member, questioned the water allocation for this development and asked if, due to conservation measures, there was a way to use an efficiency metric to establish an allocation for usage. Mr. Racz commented that the City of Marina was the one who allocated the water to this development, but the District uses a standard Equivalent Dwelling Unit for each home.

Director Cortez made a motion to adopt Resolution No. 2019-70 to approve a Water, Sewer and Recycled Water Infrastructure Agreement and Reimbursement Agreement between the Marina Coast Water District and the Marina Developers, Inc. for the Sea Haven Phase 3A Development Project. President Moore 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			



F. Consider Adoption of Resolution No. 2019-72 to Approve One Additional Engineering Technician Position Within the Engineering Department

Ms. Rose Gill, HR/Risk Administrator, introduced this item.

Director Cortez made a motion to adopt Resolution No. 2019-72 to approve a one additional Engineering Technician position within the engineering department. 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 the time of 10:00 p.m. and asked if any Director wanted to make a motion as to the extending the meeting and which agenda items to discuss; and advised the Board that they still needed to return to closed session. Director Cortez asked which of the Consent items could be continued to the next meeting. Mr. Van Der Maaten stated the only item that could be postponed was item 9-F – Adoption of Resolution No. 2019-64 to Approve the Addition of a Social Media Policy to the Board Procedures Manual.

Director Zefferman made a motion to go past 10:00 p.m. and moving item 9-F to the November meeting, but first bringing it to the Outreach Committee to look at the Social Media language at their meeting in November. His motion also included finishing items 9-B, 9-C, and 9-D then returning to closed session. The Staff Report and Information Items will not be discussed. Director Cortez 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			

9. Consent Calender:

B. Approve the Draft Minutes of the Regular Joint Board/GSA Meeting of August 19, 2019:

President Moore made a motion to approve the draft minutes of the regular Joint Board/GSA Meeting of August 19, 2019. Director Cortez seconded the motion. The motion was passed by the following vote:

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

C. Consider Adoption of Resolution No. 2019-61 to Authorize a Notice of Completion for the Regional Urban Water Augmentation Project Recycled Water Pipeline and Blackhorse Recycled Water Reservoir to be filed with the Monterey County Recorder:

Agenda Item 9-C (continued):

Director Le asked if there would be any more reports on this item. Mr. Wegley answered that this item was complete and there would be no more reports. Director Le asked if the Monterey One Water was current on their payments to the District for this project. Mr. Wegley said they have paid what they have been invoiced for. Discussion followed.

President Moore made a motion to adopt Resolution No. 2019-61 to authorize a Notice of Completion for the Regional Urban Water Augmentation Project Recycled Water Pipeline and Blackhorse Recycled Water Reservoir to be filed with the Monterey County Recorder. Director Cortez 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			

D. Consider Adoption of Resolution No. 2019-62 for the Purchase of Eight New Standby Generators and Six New Automatic Transfer Switches from Quinn Cat:

Mr. Derek Cray, Operations and Maintenance Manager, introduced this item. The Board asked questions regarding generator size, noise, and storage safety.

Director Le asked questions and made a motion to adopt Resolution No. 2019-62 for the purchase of eight new standby generators and six new automatic transfer switches from Quinn Cat. 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	-	Yes
Director Cortez	-	Yes			

Vice President Shriner recessed the meeting from 10:18 p.m. to 10:25 p.m.

The Board reentered into closed session at 10:25 p.m. to discuss the following item:

4. Closed Session:

- B. Pursuant to Government Code 54956.9(d)(4)  
Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation – Two Potential Cases

Vice President Shriner reconvened the meeting to open session at 11:36 p.m.

5. Reportable Actions Taken during Closed Session:

Mr. Hobbs stated that there was one case, issuance of action Pursuant to Government Code 54957.1 (a)(2).

Agenda Item 9-C (continued):

16. Adjournment:

The meeting was adjourned at 11:38 p.m.

APPROVED:



Thomas P. Moore, President

ATTEST:



Paula Riso, Deputy Secretary