

## Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Regular Board Meeting  
February 8, 2011  
6:45 p.m.

### Minutes

#### 1. Call to Order:

President Lee called the meeting to order at 6:45 p.m. on February 8, 2011.

#### 2. Roll Call:

##### Board Members Present:

Bill Lee – President  
Dan Burns – Vice President  
Howard Gustafson  
Jan Shriner

##### Board Members Absent:

One vacant seat.

##### Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Carl Niizawa, Deputy General Manager/District Engineer  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
Thomas Barkhurst, Water Quality Chemist  
Rich Youngblood, Conservation Coordinator  
Brian True, Capital Projects Manager  
James Derbin, Operations and Maintenance Superintendent  
Suresh Prasad, Director of Finance  
Paula Riso, Executive Assistant/Board Clerk

##### Audience Members:

Bob Holden, MRWPCA  
Dave McCall, Marina Resident  
Richard Newhouse, Marina Resident  
Andy Sterbenz, Schaaf & Wheeler  
Andrea Paris, Noland, Hammerly, Etienne & Hoss  
Amy White, LandWatch

Brian McCarthy, Marina Resident  
Tom Moore, Marina Resident

The Board entered into closed session at 6:45 p.m.

3. Closed Session:

- A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)  
Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County  
Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and  
Complaint for Declaratory Relief)
- B. Pursuant to Government Code 54957  
Public Employee Performance Evaluation  
Title: General Manager
- C. Pursuant to Government Code 54957.6  
Conference with Labor Negotiators  
Agency designated representatives: William Lee and Dan Burns  
Unrepresented Employee: General Manager
- D. Pursuant to Government Code Section 54957.6  
Conference with Labor Negotiator  
Agency Designated Representative: General Manager  
Unrepresented Employees: Deputy General Manager/District Engineer and  
Management Services Administrator

The Board ended closed session at 7:30 p.m.

President Lee reconvened the meeting to open session at 7:31 p.m.

4. Possible Action on Closed Session Items:

Mr. Lloyd Lowrey, Legal Counsel, reported the following:

- 3-A – the Board of Directors conferred with Legal Counsel, and no action was taken.
- 3-B – the Board of Directors evaluated the General Manager, and no action was taken.
- 3-C – there was no conference or action taken.
- 3-D – the Board of Directors conferred with the labor negotiator, and no action was taken.

5. Pledge of Allegiance:

President Lee led everyone present in the pledge of allegiance.

6. Oral Communications:

Mr. Brian McCarthy, Marina resident, commented that he is a new resident to Marina and his home is equipped with a sprinkler system that requires a 1" meter. His water bill is over \$100 per month even if he uses no water due to the higher rate for a 1" meter. Mr. McCarthy stated that other water agencies have adopted Ordinances reducing the cost for family homes with a requirement for a 1" meter because of sprinkler systems and asked the Board to consider such options at the next Board meeting.

7. Consent Calendar:

Director Shriner asked to pull item E from the Consent Calendar.

Director Gustafson made a motion to approve the Consent Calendar consisting of items:

- A. Adopt Resolution No. 2011-12 to Approve Amendment No. 22 to the Schaaf & Wheeler Professional Services Agreement for General Engineering Services for As-Needed General Planning, Design, and Hydraulic Model Maintenance Tasks
- B. Adopt Resolution No. 2011-13 to Approve a Contract Amendment for the Temporary Assistant Engineer to Include District-Paid Benefits as Defined in the Employee Handbook
- C. Adopt Resolution No. 2011-14 to Approve the Issuance of a Request for Proposals to Facilitate the Development of a Five-Year Strategic Plan
- D. Approve the Expenditures for the Month of January 2011

Vice President Burns seconded the motion. The motion was passed with one vacant seat.

Director Gustafson	-	Yes	Vice President Burns	-	Yes
Director Shriner	-	Yes	President Lee	-	Yes

E. Approve the Draft Minutes of the Regular Board Meeting of January 11, 2011:

Director Shriner commented that a member of the public was listed twice and that when the appointment was made to the Water Conservation Commission, she commented that the applicant only lived in Marina 2.1 years. After speaking with the applicant, she understood that the photocopy did not show that it was actually 21 years. Director Shriner added that the minutes did not include the applicant's public interests lawsuit against an alfalfa grower prior to moving to Marina. President Lee stated that the minutes are a summary of what is said at the meeting and are not verbatim. Director Shriner then asked if the Board would consider approving the minutes with the correction to the attendance list.

Agenda Item 7-E (continued):

Director Gustafson made a motion to approve the Draft Minutes of the Regular Board Meeting of January 11, 2011 with the suggested change. Director Shriner seconded the motion. The motion was passed with one vacant seat.

Director Gustafson	-	Yes	Vice President Burns	-	Yes
Director Shriner	-	Yes	President Lee	-	Yes

8. Action Items:

A. Consider Video System Installation and Recording/Broadcasting of District Board Meetings and Direct Staff to Issue a Request for Proposals:

Mr. Suresh Prasad, Director of Finance, introduced this item stating that if the Board of Directors would like to move forward with this item, a Request for Proposals will be issued to solicit bids for the installation of the equipment.

Mr. Richard Newhouse, Marina Resident, applauded the idea of making the meetings accessible to the public and offered to produce the meeting videos and distribute them to Access Monterey Peninsula (AMP) at the price he offers to non-profit organizations.

Vice President Burns questioned the need for five cameras and two people as the original proposal mentioned. He asked how many people will watch the meetings and in his casual conversations, only about 1 in 20 people said they watch the City Council meetings. Vice President Burns inquired on the return on investment and where do the current videos go.

Mr. Newhouse commented that these videos are shown on the green channel and they are paying for it.

Vice President Burns asked what other agencies are broadcasting their meetings. Mr. Heitzman stated that most of the Cities broadcast their meetings and the Monterey Peninsula Water Management District broadcasts some of theirs. The Monterey County Water Resources Agency, Monterey Regional Water Pollution Control Agency, and Castroville Community Services District don't broadcast their meetings.

Vice President Burns asked if 1 in 20 people is a good number. Mr. Newhouse commented that he watches all the meetings on AMP and would like the opportunity to watch the District's meetings.

Agenda Item 8-A (continued):

Director Shriner commented that the meetings can be shown on the AMP or Government Channel as well as accessed on the AMP website. She commented that this was discussed at the December 17<sup>th</sup> meeting of the Budget and Personnel Committee (B&P) and asked when staff was asked to gather information from Paul Congo. Vice President Burns answered that several months ago a previous Director, Tom Moore, had requested staff to gather information and staff has been working on it and is now bringing the information forward. Director Shriner commented that she had asked on December 20<sup>th</sup> if anyone had looked into this and was told that staff had not. Ms. Kelly Cadiente, Director of Administration Services, clarified that staff was asked at the December B&P meeting to look into this item and staff presented the information at the January 21<sup>st</sup> B&P meeting prior to bringing it to the Board.

Director Gustafson commented that the District's meetings are the second Tuesday of the month to avoid the Marina City Council meetings which are held on the first and third Tuesday's of the month. Unfortunately, the City Council is unable to complete their meetings in one night and it sometimes overruns onto the District's Tuesday meeting night.

President Lee commented that he has asked his constituents if they want to have the District's meetings televised and be willing to have the cost added to their water bill. He said that at this time, no one wants to increase their water bill to see the meetings.

Director Shriner made a motion to accept the proposal, install the cameras and move forward with filming the regular Board meetings. The motion died for a lack of a second.

- B. Consider Adoption of Resolution No. 2011-15 to Approve a Fee Agreement Between the Marina Coast Water District and the Redevelopment Agency of the City of Marina for the Preparation of a Water Supply Assessment for the Downtown Vitalization Specific Plan:

Mr. Carl Niizawa, Deputy General Manager/District Engineer, introduced this item. Mr. Lowrey commented that the Recital E on page 49 of the packet needs to be deleted in its entirety.

Director Shriner asked the date of the original request from the City of Marina for the Water Supply Assessment (WSA). Mr. Niizawa answered that it was prior to June 2, 2010. Director Shriner asked if there is a time limit to respond to a request. Mr. Lowrey stated that there is a time limit of ninety days and the District has been talking with the City of Marina continuously since the request was made. Director Shriner asked if the City of Marina could hire a third party to do the WSA since it has been beyond 90 days since the request. Mr. Lowrey commented that he didn't have the code before him at that time but believes they could bring action against the District to force them to produce the WSA, but the City cannot do the WSA themselves.

Agenda Item 8-B (continued):

Director Shriner commented that the Agreement alludes that the District can elect not to collect a fee. Mr. Lowrey answered that the District has adopted an Ordinance to ensure that they are reimbursed for their costs and will impose a fee to any developer asking for a WSA.

President Lee commented that an encroachment permit is needed from the City of Marina before a WSA can be given.

Director Gustafson made a motion to adopt Resolution No. 2011-15 approving a Fee Agreement between the Marina Coast Water District and the Redevelopment Agency of the City of Marina for the preparation of a Water Supply Assessment for the Downtown Vitalization Specific Plan. Vice President Burns seconded the motion. The motion was passed with one vacant seat.

Director Gustafson	-	Yes	Vice President Burns	-	Yes
Director Shriner	-	Yes	President Lee	-	Yes

C. Consider Adoption of Resolution No. 2011-16 to Approve the Change in Terms and Conditions of the Employment Agreement Between the Unrepresented Employees and the Marina Coast Water District:

Mr. Heitzman introduced this item.

Vice President Burns made a motion to adopt Resolution No. 2011-16 approving the change in terms and conditions of the Employment Agreement between the Unrepresented Employees and the Marina Coast Water District. Director Shriner seconded the motion. The motion was passed with one vacant seat.

Director Gustafson	-	Yes	Vice President Burns	-	Yes
Director Shriner	-	Yes	President Lee	-	Yes

D. Consider Adoption of Resolution No. 2011-17 to Approve the FY 2010/2011 Unrepresented Employees Salary Schedules:

Mr. Heitzman introduced this item stating that it reflects on the action taken in item 8-C.

Vice President Burns made a motion to adopt Resolution No. 2011-16 approving the change in terms and conditions of the Employment Agreement between the Unrepresented Employees and the Marina Coast Water District. Director Shriner seconded the motion. The motion was passed with one vacant seat.

Director Gustafson	-	Yes	Vice President Burns	-	Yes
Director Shriner	-	Yes	President Lee	-	Yes

Mr. Heitzman stated that agenda item 8-E has been pulled.

9. Staff Report:

- A. Receive 4<sup>th</sup> Quarter 2010 Ord Community Quarterly Water Consumption and Sewer Flow Report:

Mr. Richard Youngblood, Conservation Coordinator, introduced this item.

Director Shriner inquired on the University Villages WSA amounts shown on pages 83 and 84 of the Board packet. Mr. Prasad answered that the University Villages WSA combines both 732 for the University Villages and 124 for the University Villages Specific Plan.

10. Board Workshop:

- A. Presentation and Workshop on Board Member E-Mail Communications:

Mr. Lowrey and Ms. Andrea Paris, Noland, Hamerly, Etienne & Hoss, gave a brief presentation and workshop on email communications. They reviewed the fact that email communications are subject to the Brown Act and Public Records Act. Emails can result in a Hub or Daisy Chain if they are shared with other Board members. Mr. Lowrey concluded that Board members should put the public's interest first, be prudent, limit email to necessary public business, assume email is or will become public record, and don't use general personal email accounts for public business.

Director Shriner inquired about the expectations of the Board and staff when inquiring on certain procedural questions or events. Is it okay to forward emails to the Monterey Herald or media? Mr. Lowrey answered that it becomes a question of loyalty to the agency, staff or Board. It is also a question of fairness, self-control, respect and trust. Mr. Lowrey stated that as the ultimate leaders of the District, the Board sets the standards and needs to determine how they expect to be treated and to let others know how they expect to be treated.

Tom Moore, Marina resident, asked if someone from the public sent an email to all Board members asking them to vote for an agenda item at the next meeting, violates the Brown Act. Mr. Lowrey said it did not violate the Brown Act unless Directors start responding to the person which could lead to discussion and a violation.

11. Informational Items:

- A. General Manager's Report:

No report.

B. District Engineer's Report:

No report.

C. Counsel's Report:

Mr. Lowrey reported that John Chiang, the State Controller, is working with a group of Legislators to impose a package of Bills to impose additional requirements on Special Agencies and Cities. It would allow the Controller to have more audit control over Special Agencies.

D. Committee and Board Liaison Reports:

1. Water Conservation Commission:

President Lee commented that they discussed the Water Shortage Contingency Plan and they looked at some new controllers for irrigation systems.

2. Joint City-District Committee:

President Lee commented that the meeting went well and they were able to come to a conclusion. The General Manager did an excellent job at the meeting.

3. Budget and Personnel Committee:

Director Gustafson commented that the filming of Board meetings was discussed and then brought before the Board this evening. They also discussed putting the meetings on hold like the Operations and Maintenance and Projects and Planning Committees.

4. Operations and Maintenance Committee:

President Lee commented that this Committee is on hold and asked to remove this item from the agenda.

5. Projects and Planning Committee:

President Lee commented that this Committee is on hold and asked to remove this item from the agenda.

6. Special Districts Association Liaison:

Director Gustafson commented that Debra Hale from the Transportation Agency of Monterey County was the speaker and discussed the train that will be running through Marina.



7. MRWPCA Board Member:

Vice President Burns commented that they discussed the capacity of the Salinas Lift Station, looking into the legality of distributing recycled water. Mr. Niizawa commented that there was a question of the MRWPCA marketing the sale of recycled water to the Peninsula.

8. LAFCO Liaison:

Mr. Niizawa commented that there was no discussion relevant to the District.

9. JPIA Liaison:

No comments.

10. FORA:

Vice President Burns commented that Marina and Seaside asked FORA to look at special taxes and fees charged to developers. There will be a special workshop this Friday, prior to their regular meeting, to discuss the fee issue.

11. Executive Committee:

No meeting was held.

12. Community Outreach:

Director Gustafson commented that there was nothing to report.

Vice President Burns asked to have CalDesal added to the Informational Items.

E. Director's Comments:

Director Shriner thanked staff and Legal Counsel for providing the presentation and answering her questions.

Director Gustafson read an article from the ACWA News in which ACWA submitted informal comments opposing a public goods charge for water to finance projects to meet the state's targets for both water conservation and greenhouse gas reduction.

Vice President Burns commented that he would like the Board to create an Ad Hoc Committee to look into the 1" meter issue. He also questioned the meter issues at Mobile Home Parks and suggested another Ad Hoc Committee to look at that issue. Mr. Heitzman commented that staff is continuing to work with the Mobile Home Parks. Vice President Burns asked for an update on the MRWPCA regarding the capacity issue and the two consultants on the next agenda.

President Lee commented that he would like to see a report on wharf hydrants. Mr. Niizawa stated that a report would be given at the next meeting.

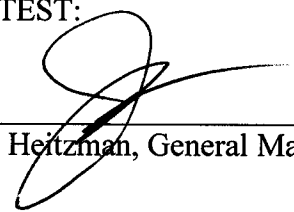
12. Adjournment:

The meeting was adjourned at 8:39 p.m.

APPROVED:

  
\_\_\_\_\_  
William Y. Lee, President

ATTEST:

  
\_\_\_\_\_  
Jim Heitzman, General Manager