

Marina Coast Water District

District Office
11 Reservation Road
Marina, California

Regular Board Meeting
April 10, 2012
6:30 p.m.

Draft Minutes

1. Call to Order:

President Burns called the meeting to order at 6:30 p.m. on April 10, 2012.

2. Roll Call:

Board Members Present:

Dan Burns – President
Howard Gustafson – Vice President
Jan Shriner
Kenneth K. Nishi
Bill Lee

Board Members Absent:

None

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Jeanine DeBacker, Legal Counsel
Carl Niizawa, Deputy General Manager/District Engineer
Jean Premutati, Management Services Administrator
Kelly Cadiente, Director of Administrative Services
Brian True, Capital Projects Manager
James Derbin, Operations and Maintenance Superintendent
Sean Knight, Assistant Engineer
Patrick Breen, Project Manager
Thomas Barkhurst, Laboratory Supervisor
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Andy Sterbenz, Schaaf & Wheeler Civil Engineers
Harold and Ruth Krotzer, Marina Residents
Tom Jennings, Marina Resident
Carroll Meuse, Marina Resident
Scott Odermatt, CSUMB Student

Amelia Olson, CSUMB Student
Breanna Thurbola, CSUMB Student
Erin Bradley, CSUMB Student

The Board entered into closed session at 6:30 p.m., after announcement per Government Code Section 54957.7(a) by Mr. Lloyd Lowrey, Legal Counsel.

3. Closed Session:

- A. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)
 - 1) 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)
 - 2) In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates, California Public Utilities Commission No. A.04-09-019
- B. Pursuant to Government Code Section 54956.9
Conference with Legal Counsel – Anticipated Litigation
Significant Exposure to Litigation Pursuant to Subdivision (b)
One Case
- C. Pursuant to Government Code Section 54959.9
Conference with Legal Counsel – Anticipated Litigation
Potential Initiation of Litigation (c)
One Case
- D. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Marina Coast Water District Employees Association
- E. Pursuant to Government Code 54957.6
Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Teamsters Local 890
- F. Pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: General Manager

President Burns reconvened the meeting to open session at 7:08 p.m.

4. Possible Action on Closed Session Items:

Ms. Jeanine DeBacker, Legal Counsel, reported the following:

3-F – the Board of Directors conducted a performance evaluation of the General Manager and completed the task. The Board took action in closed session to retain the General Manager through the duration of his term with a vote of 4-Ayes, 0-Noes, and 1-Abstention.

The Board will return to Closed Session at the end of the meeting to discuss Items 3-A through 3-E.

5. Pledge of Allegiance

President Burns led everyone present in the pledge of allegiance.

6. Oral Communications:

No comments were received.

7. Presentation:

- A. Consider Adoption of Resolution No. 2012-17 in Recognition of Brian True, Capital Projects Manager, for 5 Years of Service to the Marina Coast Water District:

Vice President Gustafson made a motion to adopt Resolution No. 2012-17 recognizing Brian True, Capital Projects Manager, and presenting him with a plaque and gift certificate for 5 Years of Service to the Marina Coast Water District. Director Lee seconded the motion. The motion was passed.

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

Mr. Jim Heitzman, General Manager, read the narration and presented Mr. True with a plaque and gift certificate in recognition of his 5 years of service to the District

8. Consent Calendar:

Director Nishi requested to pull agenda item 8-G from the Consent Calendar.

Agenda Item 8 (continued):

Vice President Gustafson made a motion to approve the Consent Calendar consisting of:

- A) Approve the Draft MCWD 2011 Consumer Confidence Report for the Marina Coast Water District Water System
- B) Adopt Resolution No. 2012-18 to Approve a Professional Services Agreement with Schaaf and Wheeler for Consulting Services Related to a Water Supply Assessment
- C) Adopt Resolution No. 2012-19 to Amend the Marina Coast Water District Conflict of Interest Code
- D) Adopt Resolution No. 2012-20 Consenting to Join the Health Benefits Program of the ACWA Joint Powers Insurance Authority, Ratifying the Action of the ACWA Health Benefits Authority Board of Directors to Terminate the Health Benefits Authority Joint Powers Agreement, and Authorizing and Directing the Marina Coast Water District to Execute all Necessary Documents
- E) Receive the Quarterly Financial Statements for October 1, 2011 to December 31, 2011
- F) Approve the Expenditures for the Month of March 2012

Vice President Gustafson stated the motion included the amended Resolution No. 2012-19 as provided to the Board. Director Lee seconded the motion. The motion was passed.

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

G) Approve the Draft Minutes of the Regular Board Meeting of March 13, 2012:

Director Nishi commented that the vote for item D on page 3 of the minutes was incorrect. He stated that Vice President Gustafson's and President Burns' votes were switched. Ms. Riso verified that he was correct.

Vice President Gustafson made a motion to approve the draft minutes of the regular Board meeting of March 13, 2012 with the corrected vote. Director Shriner asked that everyone have their microphones placed in a normal position for the sake of the recording. Director Nishi seconded the motion. The motion was passed.

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

President Burns asked that everyone place their microphones in the proper position. Mr. Heitzman commented that the microphones are only for the tape recording and are not connected to a Public Address system.

9. Action Items:

A. Consider Appointments to the Water Conservation Commission:

Mr. James Derbin, Operations and Maintenance Superintendent, introduced this item and the two candidates, Mr. Carroll Meuse and Mr. Tom Jennings.

Mr. Harold Krotzer, Marina resident, commented that he enjoyed serving on the Water Conservation Commission and noted that it had been previously discussed that water or conservation experience was not a requirement for this Commission. He added that he felt that past Board experience and consistency was a strong benefit for any applicant to this Commission. Mr. Krotzer recommended the appointment of both Mr. Meuse and Mr. Jennings to the Commission.

Ms. Ruth Krotzer, Marina resident, read from the advertisement that was placed in the Marina Gazette in 2010 and noted that both applicants were well qualified for the positions.

Director Shriner asked the applicants what their interest was in water conservation and how they would provide feedback.

Mr. Jennings, Marina resident, stated that he has served on several Boards and provided a lot of feedback to those Boards. He stated that his only water experience is that he pays his water bill, and waters his grass. Mr. Jennings added that many people are appointed and elected to positions without experience where they learn on the job.

Mr. Meuse, Marina resident, commented that he served in the Army for 28 ½ years in various positions of authority. He stated that he would like to get more involved with the Community and that there is a lot he could contribute to the Commission.

Vice President Gustafson made a motion to appoint Mr. Carroll Meuse and Mr. Tom Jennings to the Water Conservation Commission. Director Lee seconded the motion. Director Nishi thanked the applicants for volunteering their time for community service. He said that he had concern over Director Shriner “dressing down” the General Manager previously and now “dressing down” individuals for water experience. Director Nishi stated that this isn’t for a water position, it is for conservation and any applicant who fixes a leak in their home could claim conservation experience. He added that he applauds people who volunteer and encourages them to help the community with what they learn thus improving the situation at the Marina Coast Water District. Director Nishi stated that he was disappointed that the discussion of the CSUMB and Army positions was not on the agenda. Mr. Heitzman commented that staff was still discussing and looking into it and will bring it back to the Board in the near future.

Agenda Item 9-A (continued):

The motion was passed.

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

President Burns commented that he didn't feel experience was necessary to volunteer for any position.

- B. Consider Adoption of Resolution No. 2012-21 to Authorize the General Manager and/or Deputy General Manager/District Engineer to Approve a Construction Contract with Monterey Peninsula Engineering for the Supervisory Control and Data Acquisition Improvements Phase 1 Project:

Mr. Carl Niizawa, Deputy General Manager/District Engineer introduced this item. Director Lee asked if they were putting in a new system. Mr. Niizawa answered that following some testing, if the radios were found to be problematic, they would be replaced. He added that if the testing didn't prove to be only the radios, both the programmable logic controller and the radios will be replaced. Mr. Heitzman stated that the original install of the Supervisory Control and Data Acquisition (SCADA) was done inexpensively and these changes will bring the SCADA up to a professional standard of quality. Director Lee asked if it would be a proprietary system. Mr. Heitzman answered that it would not.

Vice President Gustafson made a motion to adopt Resolution No. 2012-21 authorizing the General Manager and/or Deputy General Manager/District Engineer to approve a Construction Contract with Monterey Peninsula Engineering for the Supervisory Control and Data Acquisition Improvements Phase 1 Project. Director Lee seconded the motion. The motion was passed.

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

- C. Consider Adoption of Resolution No. 2012-22 to Approve an Amendment to the Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for Engineering Services Related to the Eastern Distribution Project Watkins Gate Well & Pipeline Installation:

Mr. Niizawa introduced this item.

Agenda Item 9-C (continued):

Vice President Gustafson made a motion to adopt Resolution No. 2012-22 approving an amendment to the Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for engineering services related to the Eastern Distribution Project Watkins Gate Well & pipeline installation. Director Lee seconded the motion. The motion was passed.

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

- D. Consider Adoption of Resolution No. 2012-23 to Approve an Amendment to the Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for General Engineering Services Related to the Eastern Distribution Project Well No. 34 Installation:

Mr. Niizawa introduced this item. Director Shriner questioned the number of amendments made to the Schaaf & Wheeler agreement. Mr. Niizawa answered that Schaaf & Wheeler has been performing engineering services for the District for many years and has just been amending the original contract. He said that staff is intending to start a new contract.

Vice President Gustafson made a motion to adopt Resolution No. 2012-23 approving an amendment to the Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers for general engineering services related to the Eastern Distribution Project Well No. 34 Installation. Director Lee seconded the motion. The motion was passed.

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

Director Nishi stated that the transmittal mentions that a defect was discovered during a tie-in with the existing 24" transmission main that was built by the original developer and asked who was going to pay for this issue. Mr. Niizawa answered that the issue was still being investigated. President Burns asked staff to update the Board at the next meeting with the results of the investigation.

- E. Consider Adoption of Resolution No. 2012-24 to Approve a Professional Services Agreement with Gauger + Associates for Public Outreach Services:

Mr. Heitzman introduced this item and explained that it would help with the transparency of the District. Director Nishi asked if the District expended the \$25,000 that was in the original outreach contract. Mr. Heitzman answered that there were still funds remaining in that contract, and although the other consultant contracted out that work to Gauger & Associates, this contract is for different work.

Agenda Item 9-E (continued):

Director Shriner commented that she would like to see staff do more of this work and utilize the volunteers with the Water Conservation Commission rather than a Public Relations firm. Director Nishi stated that while everyone has their expertise, asking the Water Conservation Commission members to do public outreach is beyond their scope; and, he didn't feel that staff had the expertise for public outreach.

Vice President Gustafson made a motion to adopt Resolution No. 2012-24 approving a Professional Services Agreement with Gauger + Associates for Public Outreach Services. Director Lee seconded the motion. The motion was passed.

Director Lee	-	Yes	Vice President Gustafson	-	Yes
Director Shriner	-	No	President Burns	-	Yes
Director Nishi	-	Yes			

F. Consider Adoption of Resolution 2012-25 to Approve the Phase II of the Eastern Distribution System Project for Additional Groundwater Wells:

Mr. Niizawa introduced this item and explained that a revised Resolution was on the dais. Vice President Gustafson commented that the District is moving forward and actually producing water, refurbishing wells, modernizing wells and making it cheaper for customers to get that water. He noted that the Peninsula has never produced one well in over thirty years.

Director Shriner asked if the District is going to add a line for this project or use the Eastern Distribution system. Mr. Niizawa stated that since the project is grant funded, a new separate line will be created.

Director Nishi questioned what the second phase was for. Mr. Heitzman answered that it goes out to Davis Road and is partially for Central Marina but mostly for the former Fort Ord. Director Nishi asked if the Eastern Distribution transmission line was sufficient to carry the water from the Eastern Well field. Mr. Heitzman answered that it was sufficient.

Director Nishi made a motion to adopt Resolution No. 2012-25 approving the Phase II of the Eastern Distribution System Project for Additional Groundwater Wells. Vice President Gustafson seconded the motion. The motion was passed.

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

G. Consider a Nomination for the California Special Districts Association Board of Directors District 3 Seat A Position:

Mr. Heitzman introduced this item stating that any Board member or managerial employee interested in this position could be considered for nomination.

No action was taken.

10. Staff Reports:

A. Update on Estimated District Costs Involved with Marina Teen Center:

Mr. Carl Niizawa gave a brief update on the estimated costs involved with the Teen Center. Director Shriner commented that the District recently did a repair for the Marina Community Partners. Mr. Heitzman stated that Marina Community Partners does not own the building and the repairs were made to protect the liability of the District. He said that in this case it is the responsibility of another entity to do the work that they demand from others.

Director Nishi inquired on the cost of repairs to the Teen Center and what those included. Mr. Sean Knight, Assistant Engineer, answered that \$8,226 was accrued through November 5, 2010 and that included capacity fees, inspection fees and staff review time. He said that the additional work that has taken place since that time that totals \$3,276.

B. Review of District Workplace Violence Policy and Recommendations from Marina Chief of Police:

Ms. Jean Premutati, Management Services Administrator, introduced this item and reviewed the training and employee assistance programs provided to District employees.

Director Shriner observed that the Workplace Violence and Security and Monitoring Policy's second paragraph discusses recognition and awareness of early warning signs and also describes some types of workplace violence as belligerent speech and excessive arguing. She asked who it would be reported to if it was occurring within the Board. Ms. Premutati answered that it could be reported to the Board President, Legal Counsel or the General Manager. Director Shriner asked who it would be reported to if it was occurring at the Water Conservation Commission. Mr. Heitzman stated that it would be reported to the General Manager. He said that any reports would be followed up with some kind of an investigation. Director Shriner commented that she asked for this because of an incident outside of her residence.

Director Lee commented that this was the wrong forum for that discussion. He said it should be followed up with the City of Marina.

Agenda Item 10-B (continued):

President Burns commented that the District has a responsibility for its volunteers and if there is a complaint that something happened at a Water Conservation Commission meeting, the District needs to follow-up on it. Director Shriner asked if President Burns wanted to ask the General Manager to investigate. President Burns stated that first they have to figure out what the complaint is and then they can follow-up on it and see what the appropriate action is.

11. Informational Items:

A. General Manager's Report:

Mr. Heitzman stated that there are candidates running for the LAFCO Special Districts seat and details will be in the next agenda packet.

B. Counsel's Report:

No report.

C. Committee and Board Liaison Reports:

1. Water Conservation Commission:

Director Shriner commented that they discussed the procedures and scope and will finalize them in April.

2. Joint City-District Committee:

Director Shriner stated that there was no meeting in March.

3. Budget and Personnel Committee:

President Burns commented that the minutes were in the packet.

4. Executive Committee:

Vice President Gustafson commented that the minutes were in the packet.

5. Community Outreach:

President Burns asked if a special meeting was still being set up. Ms. Riso said it was on hold for now.

6. MRWPCA Board Member:

Director Nishi stated that there was a special meeting on April 13th to cover the MOU on the Groundwater Replenishment and the regular meeting was April 30th.

7. FORA

Vice President Gustafson stated that the meeting was April 13th.

8. LAFCO Liaison:

Director Nishi commented that the next meeting was on April 23rd.

9. JPIA Liaison:

No comments.

10. Special Districts Association Liaison

Vice President Gustafson commented that the next meeting was April 17th.

11. CalDesal:

Mr. Heitzman commented that CalDesal was still working on the outfall/brine disposal.

12. Regional Desalination Reports:

Mr. Heitzman commented that the project has been idle for a while.

12. Director's Comments:

Director Shriner commented that she was surprised that the issue of Water Conservation Commission volunteers having water experience was such a big issue. She said that a year ago she was informed that she didn't have enough water experience and now water experience is not considered important by the Board.

Vice President Gustafson commented that each Board member has their own opinion and makes their own decision.

Director Lee commented that all the Board members are elected by the public and it is not up to the other Board members to say if someone has experience or not. He added that the volunteer positions were filled in a very straightforward manner and volunteering is a good experience.

Agenda Item 12 (continued):

Director Nishi expressed his thanks to all the volunteers.

The Board of Directors returned to Closed Session at 8:10 p.m.

B. Pursuant to Government Code 54956.9

Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)

1) 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)

2) In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates, California Public Utilities Commission No. A.04-09-019

B. Pursuant to Government Code Section 54956.9

Conference with Legal Counsel – Anticipated Litigation
Significant Exposure to Litigation Pursuant to Subdivision (b)
One Case

C. Pursuant to Government Code Section 54959.9

Conference with Legal Counsel – Anticipated Litigation
Potential Initiation of Litigation (c)
One Case

F. Pursuant to Government Code 54957.6

Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Marina Coast Water District Employees Association

G. Pursuant to Government Code 54957.6

Conference with Labor Negotiator
Agency Negotiator (General Manager)
Employee Organization: Teamsters Local 890

President Burns reconvened the meeting to open session at 8:46 p.m.

4. Possible Action on Closed Session Items:

Mr. Lowrey reported the following:

- 3-A – the Board of Directors conferred with Legal Counsel, no action was taken.
- 3-B – the Board of Directors conferred with Legal Counsel, no action was taken.
- 3-C – the Board of Directors conferred with Legal Counsel, no action was taken.
- 3-D – the Board conferred with the Labor Negotiator, no action was taken.
- 3-E – the Board conferred with the Labor Negotiator, no action was taken.

13. Adjournment:

The meeting was adjourned at 8:47 p.m.

APPROVED:

Dan Burns, President

ATTEST:

Jim Heitzman, General Manager