

Marina Coast Water District

Marina Council Chambers  
211 Hillcrest Avenue  
Marina, California

Regular Board Meeting  
April 1, 2013  
6:00 p.m.

Minutes

1. Call to Order:

President Moore called the meeting to order at 6:00 p.m. on April 1, 2013.

2. Roll Call:

Board Members Present:

Tom Moore – President  
Jan Shriner – Vice President  
Howard Gustafson  
Peter Le

Board Members Absent:

Bill Lee – Excused

Staff Members Present:

Brian Lee, Deputy General Manager/District Engineer  
Roger Masuda, Legal Counsel  
James Derbin, Operations and Maintenance Superintendent  
Jean Premutati, Management Services Administrator  
Kelly Cadiente, Director of Administrative Services  
Patrick Breen, Project Manager  
Jeanine DeBacker, Legal Counsel  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Ken Nishi, Marina Resident  
Vienna Merritt-Moore, Marina Resident  
Allison Goss, Mahoney & Associates  
Peter Baird, Mahoney & Associates

3. Public Comment on Closed Session Items:

No comments.

The Board entered into closed session at 6:01 p.m.

4. 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 Sixth Appellate District Court of Appeals Case No. H038550

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

3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)

4) State Water Resources Control Board's Proposed Revocation of Monterey County Water Resources Agency Water Right Permit 11043 authorizing the diversion of up to 168,538 acre-feet per year from the Salinas River

B. Pursuant to Government Code Section 54956.9 (c)

Conference with Legal Counsel – Anticipated Litigation  
Potential Initiation of Litigation

One Case – MCWD Claims against Monterey County and MCWRA

C. Pursuant to Government Code Section 54956.9(b)(1) and 54956.9(b)(3)(C)

Conference with Legal Counsel – Anticipated Litigation  
Potential Litigation

Two Cases

1) Claims of MCWRA and Monterey County against MCWD

2) Claims of California–American Water Company against MCWD

D. Pursuant to Government Code Section 54957

Conference with Legal Counsel  
Public Employee Performance Evaluation  
Title: General Manager

The Board ended closed session at 7:08 p.m.

President Moore reconvened the meeting to open session at 7:09 p.m.

5. Possible Action on Closed Session Items:

Mr. Roger Masuda, Legal Counsel, stated that no reportable actions were taken in closed session and the Board would return to closed session at the end of the meeting.

6. Pledge of Allegiance:

President Moore asked Mr. Masuda to lead everyone present in the pledge of allegiance.

7. Oral Communications:

No comments.

8. Consent Calendar:

Vice President Shriner requested to pull agenda item 8-B from the Consent Calendar.

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

- A) Adopt Resolution No. 2013-22 to Approve the District Fraud Policy
- C) Approve the Draft Minutes of the Regular Board Meeting of March 18, 2013

Vice President Shriner seconded the motion. The motion was passed.

|                    |   |        |                        |   |     |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee       | - | Absent | Vice President Shriner | - | Yes |
| Director Gustafson | - | Yes    | President Moore        | - | Yes |
| Director Le        | - | Yes    |                        |   |     |

- B. Approve the Revised Draft Minutes of the Special Board Workshop of February 23, 2013:

Vice President Shriner wanted to make sure that the revised minutes provided on the dais were the ones that were being approved. President Moore verified that there were a couple of changes to the minutes that were provided in the packet and the revised minutes on the dais contained those changes.

Vice President Shriner made a motion to approve the revised draft minutes of the special Board meeting of February 23, 2013. Director Le seconded the motion.

Mr. Kenneth Nishi, Marina resident, commented that he would like to have the comments Vice President Shriner made about his wife in the minutes and would like to have several other comments he made at the meeting included in the minutes as well.

Director Le said that he didn't remember Vice President Shriner making any comments about Director Nishi's wife.

Agenda Item 8-B (continued):

President Moore commented that now the meetings are recorded, televised, and DVD copies of the meetings are kept at the District, all comments made are a matter of public record. He suggested that going forward, minutes that memorialize only the actions taken at the meeting, leaving out the other discussion, should be prepared.

Mr. Nishi stated that President Moore and Director Le ran their campaigns on transparency and comments should be included in the minutes. He said that President Moore's job is to run the meeting fairly and that no one should be talking about people's wives at the meetings.

Director Le said that he could support President Moore's recommendation. President Moore asked that the next agenda have an item regarding processing action only minutes.

The motion was passed.

|                    |   |        |                        |   |     |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee       | - | Absent | Vice President Shriner | - | Yes |
| Director Gustafson | - | No     | President Moore        | - | Yes |
| Director Le        | - | Yes    |                        |   |     |

9. Action Items:

- A. Consider Adoption of Resolution No. 2013-26 to Fund Construction of Building E at 940 Imjin Office Parkway within the Imjin Office Park Through Approval of a Loan from Rabobank, N. A. for \$2,500,000 and the Use of \$600,000 of District Reserves:

Mr. Brian Lee, Acting General Manager, introduced this item and explained the loan details as provided by Rabobank.

Director Le questioned what the breakdown for the \$600,000 was going to be when it was removed from each cost center. Ms. Kelly Cadiente, Director of Administrative Services, answered that the cost split would be whatever it was at the time the property was purchased and would be fixed throughout the life of the loan.

Director Le asked that the allocations should be in the staff reports. Mr. Lee answered that the cost allocation split would be added to each transmittal in the future.

Vice President Shriner asked if the District considered selling the property to Bureau of Land Management (BLM). Mr. Lee answered that BLM was not interested in purchasing the property, only leasing it. Director Shriner asked the length of the lease. Mr. Lee answered that there was a firm 15 year lease and after that there was an option of another 5 years.

President Moore asked if there was an option of paying off the loan early. Ms. Cadiente noted that the Rabobank had a pre-payment clause in their Expression of Interest letter.

Agenda Item 9-A (continued):

Director Le asked why the District didn't build the administration offices on the site. Director Gustafson answered that the property was for investment purposes and the District was planning on building the office for AMBAG until they changed their mind.

Mr. Nishi voiced his concern that the lease was being considered after the loan. He said that there are questions that haven't been answered, such as the cost to build the building, and an engineer's estimate on the cost of the building. Mr. Nishi asked if the Board is ready to make a decision on the loan without knowing what the actual cost for the project is. He asked what the cost was for the shell of the building and noted if the numbers provided were correct, then the District will be borrowing too much money, especially if there was a \$90,000 excess from rent each year. Mr. Nishi concluded that the long-term lease needs to be finalized before going out to get a loan.

Mr. Lee stated that the cost to construct the building is \$2.5 million and the soft costs are \$600,000.

Director Le commented that the lease was reviewed at the last meeting.

Director Le made a motion to adopt Resolution No. 2013-26 to fund construction of Building E at 940 Imjin Office Parkway within the Imjin Office Park through approval of a loan from Rabobank, N. A. for \$2,500,000 and the use of \$600,000 of District reserves. Vice President Shriner seconded the motion. The motion was passed.

|                    |   |        |                        |   |     |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee       | - | Absent | Vice President Shriner | - | Yes |
| Director Gustafson | - | No     | President Moore        | - | Yes |
| Director Le        | - | Yes    |                        |   |     |

- B. Consider Adoption of Resolution No. 2013-23 to Authorize the Acting General Manager to Execute a Long Term Lease with the General Services Administration for District Owned Property at 940 Second Avenue, Marina, CA for the Bureau of Land Management Regional Offices:

Mr. Lee introduced this item explaining that the lease was not provided at this meeting because it was provided at the last meeting.

Mr. Nishi asked what the cost per square foot was in the lease. He also asked who pays for the taxes, utilities, parking, landscape maintenance, and building maintenance. Mr. Nishi noted that, in the Resolution, there was no specific information on what is covered and asked if it was specific enough to protect the District. He noted that there was no cost of living increase and no inflation factor written in the lease.

President Moore noted that the utilities were covered in the rent.

Agenda Item 9-A (continued):

Mr. Lee stated that the cost per square foot covers the occupancy and ownership of the building, so it includes all of the costs included with Mr. Nishi's concerns.

Mr. Masuda said that there was an operating cost component that is not factored into the spreadsheet. Mr. Lee added that the District was recovering from the tenant, on a yearly basis, the operating costs that will provide for utilities and maintenance. Mr. Masuda said that the additional annual payment amount was \$40,140.

Mr. Patrick Breen, Project Manager, stated that there was an annual rate increase based on the CPI.

Director Le made a motion to adopt Resolution No. 2013-23 to authorize the Acting General Manager to execute a long term lease with the General Services Administration for District owned property at 940 Second Avenue, Marina, CA for the Bureau of Land Management Regional offices. Vice President Shriner seconded the motion. The motion was passed.

|                    |   |        |                        |   |     |
|--------------------|---|--------|------------------------|---|-----|
| Director Lee       | - | Absent | Vice President Shriner | - | Yes |
| Director Gustafson | - | No     | President Moore        | - | Yes |
| Director Le        | - | Yes    |                        |   |     |

10. 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 said the next meeting was April 4<sup>th</sup> at 5:30 p.m.

2. Joint City-District Committee:

President Moore stated that they met and there was resolution to the Teen Center issue. He said they also discussed asking other jurisdictions if they want to attend and talk about their interest in joining. President Moore also commented that there was discussion on the District developing a State of the Water presentation.

3. Executive Committee:

No meeting was held.

4. Community Outreach:

Vice President Shriner commented that they discussed the Committee calendars and dates they will be meeting with other groups. Director Le commented that he would be meeting with the Kiwanis's on April 4<sup>th</sup> and the Rotary the next week.

5. MRWPCA Board Member:

President Moore stated that they updated their reserve policy and they were planning on testing water from industrial ponds.

6. LAFCO Liaison:

Director Le stated that there was no item of interest to the District.

7. FORA:

President Moore stated that FORA was working on the reassessment process and explained the different categories.

8. WWOC:

Mr. Lee stated that staff attended the last meeting and the District would be bringing a draft CIP to the April meeting.

9. JPIA Liaison:

Director Gustafson said that there was nothing to report.

10. Special Districts Association Liaison

Director Gustafson said that the meeting was in two weeks.

11. CalDesal:

No report.

11. Board Member Requests for Future Agenda Items:

A. Board Member Requests:

Director Le said that he would like to start the Sphere of Influence and Annexation process; authorize a Director to meet with Seaside County Sanitation District to work out a potential resolution in the boundary; the Board to review the FORA CIP assessment as they changed a lot of numbers on the CEQA Augmentation project; item on action minutes; staff work on CIP to remove the old facility at Reservation Road; and to contact Director Lee to see if he can fulfill his obligations.

Vice President Shriner suggested reviewing the FORA contract for language to see if anything changes with the extension of FORA; and a proclamation of appreciation to the volunteers for filming the District meetings as a public service.

B. Notice Date for Strategic Planning Workshop – April 13, 2013:

President Moore reminded everyone of the Strategic Planning Workshop and noted that public was invited to attend. Director Le added that following the workshop, there was a tour of the District facilities.

12. Director's Comments:

Director Gustafson commented that Director Le shouldn't comment about Director Lee's attendance.

Vice President Shriner commented that she appreciated the ongoing participation of a former Director and added that Board members work together and no individual can take control so hopefully they can continue to work together to improve District business.

President Moore thanked staff and public for spending the evening with the Board and noted that they would return in two weeks.

The Board returned to closed session at 8:00 p.m.

4. 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 Sixth Appellate District Court of Appeals Case No. H038550
  - 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
  - 3) California-American Water Company vs Marina Coast Water District; Monterey County Water Resources Agency; and Does 1 through 10, Monterey County Superior Court Case No. M120053 (Complaint for Declaratory Relief)
  - 4) State Water Resources Control Board's Proposed Revocation of Monterey County Water Resources Agency Water Right Permit 11043 authorizing the diversion of up to 168,538 acre-feet per year from the Salinas River
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Two Cases
- 3) Claims of MCWRA and Monterey County against MCWD
  - 4) Claims of California–American Water Company against MCWD
- D. Pursuant to Government Code Section 54957  
Conference with Legal Counsel  
Public Employee Performance Evaluation  
Title: General Manager

The Board ended closed session at 8:55 p.m.

5. Possible Action on Closed Session Items:

President Moore stated that no reportable actions were taken in closed session.

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15. Adjournment:

The meeting was adjourned at 8:55 p.m.

APPROVED:



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Thomas P. Moore, President

ATTEST:



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Brian Lee, Acting General Manager