

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-G

Meeting Date: May 10, 2011

Submitted By: Paula Riso
Reviewed By: Carl Niizawa

Presented By: Paula Riso

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of April 8, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of April 8, 2011.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District’s expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: ___Yes ___X___No

Funding Source/Recap: None.

Material Included for Information/Consideration: Draft minutes of April 8, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the April 8, 2011 special Board meeting.

Action Required: ___Resolution ___X___Motion ___Review

Board Action

___Resolution No___ Motion By___ Seconded By___

Ayes___ Abstained___

Noes___ Absent___

Reagendized___ Date___ No Action Taken___

Marina Coast Water District

District Offices
11 Reservation Road
Marina, California

Special Board Meeting
April 8, 2011
1:00 p.m.

Draft Minutes

1. Call to Order:

President Lee called the meeting to order at 1:00 p.m. on April 8, 2011.

2. Roll Call:

Board Members Present:

Bill Lee – President
Howard Gustafson
Kenneth K. Nishi

Board Members Absent:

Dan Burns – Vice President
Jan Shriner

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Mark Fogelman, Legal Counsel - via telephone
Carl Niizawa, Deputy General Manager/District Engineer
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

None.

The Board entered into closed session at 1:00 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)

President Lee reconvened the meeting to open session at 2:01 p.m.

4. Possible Action on Closed Session Item:

Mr. Lloyd Lowrey, Legal Counsel, reported that there was a conference with legal counsel concerning the matter with Ag Land Trust v. Marina Coast Water District. There have been no decisions made in closed session and the Board has come into open session to discuss the possibility of taking action with respect to that lawsuit.

Director Gustafson made a motion to follow the advice of legal counsel. Director Nishi seconded the motion. Mr. Lowrey asked for clarification on the motion. Director Nishi asked Mr. Mark Fogelman, Legal Counsel, to provide the recommended verbiage. Mr. Fogelman provided the following verbiage for the motion:

Mr. Fogelman is requesting authorization to proceed to file a petition for review in the California Supreme Court with respect to the Marina Coast Water District v. Superior Court Writ Matter that was just decided in the 6th Appellate District, and to ask the court to grant review and to transfer the matter back to the Court of Appeal for the issuance of an alternative writ and a decision on the merits.

Mr. Lowrey asked if the verbiage provided by Mr. Fogelman was the motion made by Director Gustafson and seconded by Director Nishi. Directors Gustafson and Nishi answered affirmatively.

The motion was passed.

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

5. Director's Comments:

President Lee commented that things have been happening and are continuing to happen. For instance, when the meetings are televised, it looks as though the recorded meetings are being edited. Director Nishi interrupted with a point of order and suggested that President Lee make the comments when all the Board members are present. President Lee concurred.

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6. Adjournment:

The meeting was adjourned at 2:06 p.m.

APPROVED:

William Y. Lee, President

ATTEST:

Jim Heitzman, General Manager