

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 9-H

Meeting Date: November 8, 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 November 19, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of November 19, 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 November 19, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the November 19, 2011 special Board meeting.

Action Required:     \_\_\_\_\_Resolution     \_\_\_X\_\_\_Motion     \_\_\_\_\_Review

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Board Action

\_\_\_\_\_Resolution No\_\_\_\_\_     Motion By\_\_\_\_\_     Seconded By\_\_\_\_\_

Ayes\_\_\_\_\_     Abstained\_\_\_\_\_

Noes\_\_\_\_\_     Absent\_\_\_\_\_

Reagendized\_\_\_\_\_     Date\_\_\_\_\_     No Action Taken\_\_\_\_\_

Marina Coast Water District

District Office  
11 Reservation Road  
Marina, California

Special Board Meeting  
November 19, 2011  
9:30 a.m.

Draft Minutes

1. Call to Order:

President Lee called the meeting to order at 9:30 a.m. on November 19, 2011.

2. Roll Call:

Board Members Present:

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

Board Members Absent:

Dan Burns – Vice President

Staff Members Present:

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

Audience Members:

No audience was present.

The Board entered into closed session at 9:30 a.m., after announcement per Government Code Section 54957.7(a).

3. Closed Session:

- D. Pursuant to Government Code Section 54956.9  
Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation Pursuant to Subdivision (b)  
One Case

A letter dated June 21, 2011, from the Monterey County Board of Supervisors transmitted a “Summary of Preliminary Findings Regarding Director Stephen Collins’ Business Relationship With RMC Water and Environment and Marina Coast Water District.” The Summary, prepared by Remcho, Johansen & Purcell, LLP, states that certain conduct raises questions about the validity of contracts to which Marina Coast Water District is a party. Based on the statements in the Remcho Summary, and based on reports in the news media, a point has been reached where, in the opinion of the MCWD Board based on the advice of its legal counsel, there is a significant exposure to litigation against MCWD.

- E. Pursuant to Government Code Section 54956.9(a)  
Conference with Legal Counsel – Existing Litigation

California Public Utilities Commission No. A.04-09-019, In the Matter of the Application of California-American Water Company (U210W) 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.

President Lee reconvened the meeting to open session at 10:33 a.m.

4. Possible Action on Closed Session Items:

Mr. Lowrey reported the following:

3-A – the Board of Directors conferred with Legal Counsel, instructions were given and no action was taken.

3-B – the Board of Directors conferred with Legal Counsel, instructions were given and no action was taken.

5. Director’s Comments:

Director Shriner asked if the document titled, “Filed, Marina Coast Water District’s response to California American Water Company’s petition for clarification and modification of D.10-12-016” was a public document. Mr. Lowrey answered it was. Director Shriner voiced her concern that the Marina Coast Water District has already relied on D.10-12-016 and the approved agreements to its substantial detriment and to the substantial detriment of the public served by Marina Coast Water District.

Agenda Item 5 (continued):

Director Shriner commented that she wondered if the other Directors realize that this has been done in the District's name.

Director Nishi commented that the document Director Shriner was talking about was a public document and went to the Public Utilities Commission. He stated that he couldn't understand what Director Shriner was trying to say.

Director Shriner commented that page 5 of the document states, "MCWD has already relied on D.10-12-016 and the approved agreements to its substantial detriment and to the substantial detriment of the public served by MCWD."

Mr. Lowrey cautioned that Director's comments are not intended to allow for a debate or discussion.

Director Nishi commented that he couldn't understand what Director Shriner was saying and he missed the point she was trying to make.

President Lee said that he missed the point as well.

6. Adjournment:

The meeting was adjourned at 10:38 a.m.

APPROVED:

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William Y. Lee, President

ATTEST:

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Jim Heitzman, General Manager