

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-I

Meeting Date: July 12, 2011

Submitted By: Paula Riso

Presented By: Paula Riso

Reviewed By: Carl Niizawa

Agenda Title: Approve the Draft Minutes of the Special Board Meeting of July 1, 2011

Detailed Description: The Board of Directors is requested to approve the attached draft minutes of July 1, 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 July 1, 2011.

Staff Recommendation: The Board of Directors approve the draft minutes of the July 1, 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
July 1, 2011
9:00 a.m.

Draft Minutes

1. Call to Order:

President Lee called the meeting to order at 9:00 a.m. on July 1, 2011.

2. Roll Call:

Board Members Present:

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

Staff Members Present:

Jim Heitzman, General Manager
Lloyd Lowrey, Legal Counsel
Carl Niizawa, Deputy General Manager/District Engineer
Kelly Cadiente, Director of Administrative Services
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

Ron Chesshire, Labor Union
Candace Ingram, Ingram Group
Mark Fogelman, Friedman, Dumas, and Springwater

Mr. Lloyd Lowrey, Legal Counsel, stated the purpose for the Closed Session is as follows:

- A. 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 Monterey Herald this morning, 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.

The Board entered into Closed Session at 9:01 a.m.

3. Closed Session:

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

The Board ended Closed Session at 11:07 a.m.

President Lee reconvened the meeting to Open Session at 11:11 a.m.

4. Possible Action on Closed Session Items:

The Board has met and conferred with and received advice from legal counsel concerning anticipated litigation. The Board took no action.

Now, in open session following the closed session, the Board will consider whether to release to the public a preliminary report on conflicts of interest in the processing and approval of Regional Project contracts, and the impact of those conflicts on the validity of the contracts, prepared by the law firm of Richards -Watson – Gershon. The Board will determine whether the public interest in releasing the preliminary report outweighs the need to keep the report confidential and justifies making a limited waiver of the attorney-client privilege only for the preliminary report and the information contained in the report, and not for any other privileged attorney-client communication or the information in any such privileged communication, including but not limited to any communication concerning the preliminary report. If the Board determines to make the preliminary report public, the Board will further determine the manner and time of release and publication.

Director Shriner said that she would like to make a motion. She stated that she finds this report to be an embarrassment to the District and will cause further harm to the reputation and ability to negotiate agreements on behalf of the ratepayers.

Director Shriner made a motion to not release the findings of the investigation that was provided to the Board. The motion died for lack of a second.

Director Gustafson made a counter motion:

1. That the Board find that the public interest in releasing and publishing a preliminary report on conflicts of interest in the processing and approval of Regional Project contracts, and the impact of those conflicts on the validity of the contracts, prepared by the law firm of Richards -Watson – Gershon, outweighs the need to keep the report confidential and justifies making a limited waiver of the attorney-client privilege for the preliminary report only.

Agenda Item 4 (continued):

2. That the Board approve waiving the attorney-client privilege only for the preliminary report and the information contained in the report, and not for any other privileged attorney-client communication or the information in any such privileged communication, including but not limited to any communication concerning the preliminary report.

3. That the Board approve immediately making copies of the preliminary report available to the public and direct the General Manager to publish the report on the District's web site.

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

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

Director Nishi commented that the Marina Coast Water District's goal has always been to help their neighbors, friends to the south, with water for the future so they can continue to maintain their quality of life and economic viability. He added that the release of this report will continue with that goal.

5. Public Comments:

Vice President Burns asked to have an approximate time placed on future agendas to give an estimate of the length of closed session.

6. Action Item:

- A. Consider Adoption of Resolution No. 2011-48 which Authorizes Staff to Issue a Request for Proposal for Professional Services Related to Public Outreach Activities to Assist the Marina Coast Water District with Public Communication:

Mr. Carl Niizawa, Deputy General Manager/District Engineer, introduced this item.

Director Shriner commented that the public has been crying out for more information on what the District is doing. She said a proposal was given to the District in February and never discussed by the Board. Director Shriner suggested using the funds to hire Richard Newhouse at \$60 per hour to televise the Board meetings so they would be accessible on cable television and through the Access Monterey Peninsula website, AMP.org. Director Shriner commented that it would be more effective than a brochure or new website that a public relations contract would provide. She added that the District needs to be televised in a positive way so people can see a rounded face of Marina Coast Water District.

Agenda Item 6-A (continued):

Director Shriner said that she put a copy of a biography on the dais that was going to be submitted to the Marina Gazette, which she feels is a tabloid paper, and said that it is not the public relations the District needs. She said the public needs to see more positive things from the District.

Director Nishi made a motion to adopt Resolution No. 2011-48 which authorizes staff to issue a Request for Proposal for Professional Services related to Public Outreach activities to assist the Marina Coast Water District with public communication. Director Gustafson seconded the motion. The motion was passed.

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

7. Director's Comments:

Director Shriner commented that she put a copy of the letter on the dais dated May 13, 2011 which was eleven days before the District hired Jeanine DeBacker and she has asked for an explanation but has yet to receive it.

Vice President Burns commented that it never went to the Board because it falls under the purview of the General Manager. He added that Director Shriner and the General Manager will continue to have issues and they need to figure out how to complete these issues and move on so that the Board can be positive in their direction. Vice President Burns stated that the Board received the report from Ms. DeBacker and they need to follow-up to see what they will need to do.

Director Shriner handed Vice President Burns some documents. Vice President Burns stated he didn't care to see the documents and that Director Shriner always tries to provide documents to prove her point. He said that his point is that the General Manager said there was harassment and the Board needed to take action on it. Vice President Burns added that it was probably the Human Resources manager who contacted Ms. DeBacker and not the General Manager. He said that he sees no problem with that and that he didn't care to see the documents that Director Shriner is using to try to muddy the water between the General Manager and staff.

Director Shriner stated that she would like people to stop assigning her intentions. She said that if someone said she is trying to muddy the water, they are mistaken. Director Shriner said that she is trying to clarify the process and if they don't want to see the documents that support the facts of the process, it is their situation and they are entitled to ignore the facts. She said that she is not going to assign to anyone their intention.

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Agenda Item 7 (continued):

Director Nishi asked the Board President to maintain the comments and not allow the dialogue.

Director Gustafson pointed out that he has 55 family members that live in Seaside, Monterey, and the Pacific Grove area and his aim is pure in the regional project to provide them cheap and affordable water because they are young people and they are struggling.

8. Adjournment:

The meeting was adjourned at 11:24 a.m.

APPROVED:

William Y. Lee, President

ATTEST:

Jim Heitzman, General Manager