

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

7-12

October 18, 1995

To: Board of Directors (Executive Committee--Action)
(Legal & Claims Committee--Action)

From: General Counsel

Subject: Closed Meeting Procedures and Amendment of Administrative Code Section
2105 Regarding Closed Session Participants and Record Keepers

RECOMMENDATION:

It is recommended that the Board delegate to the General Counsel, General Manager, and when appropriate the Auditor, the authority to designate staff members and others who shall remain in the closed session to assist the Board in its deliberations and to further delegate to the General Counsel authority to designate staff members to record the minutes of the closed meeting. To implement these delegations, it is recommended that Administrative Code section 2105 be amended to read as set forth in Attachment A.

Submitted By:

N. Gregory Taylor
General Counsel

EXECUTIVE SUMMARY AND DETAILED REPORT:

Closed sessions under the Brown Act are permitted for discussion with legal counsel regarding pending litigation, discussion with representatives regarding labor negotiations and real estate negotiations, and discussion concerning the appointment, performance or dismissal of a public employee. Closed sessions provide for effective decision making since they afford an opportunity to receive sensitive official information and engage in candid dialogue in situations where discussion in open session might be detrimental to Metropolitan's interests.

Because of the confidential nature of the closed session, the General Counsel, General Manager and when appropriate the Auditor should be delegated the authority to determine the appropriate staff members and others who shall remain in the closed session meetings to assist the Board with its deliberations.

Under the Brown Act, the legislative body of a local agency, may in its discretion through ordinance or resolution, designate a staff member of the local agency to attend closed session meetings to keep and enter in a closed session minute book a record of votes and decisions made at the meeting. The General Counsel should be delegated the authority to designate appropriate staff to record the minutes of the meeting. An amendment to Administrative Code Section 2105 is proposed to implement these delegations of authority. Attachment A sets forth the proposed amendment.

ATTACHMENT A

METROPOLITAN WATER DISTRICT ADMINISTRATIVE CODE

§ 2105 Closed Meeting Procedure

(a) The Chair shall be responsible for ensuring that procedural requirements, other than requirements for notice, are fulfilled when a closed meeting is held. The Executive Secretary shall be responsible for fulfilling any notice requirements relating to closed meetings. The General Counsel shall be responsible for the preparation of any documents required by Government Code Section 54956.9 with regard to litigation. The General Counsel, General Manager and when appropriate the Auditor shall designate staff members and others who shall remain in the closed session to assist the Board in its deliberations. The General Counsel shall also designate staff members to record the minutes of the closed meeting.

(b) No person attending a closed session may disclose any matter discussed in the session where to do so would be contrary to the purpose for which the session was held. Any director who has not attended a closed session and wishes to be advised of the content of the session may inquire of any director who attended the closed session. The person contacted may advise the inquiring director of the content of the session. The advised director shall not disclose the matter for which the session was held.

(c) If a director, a Department Head, or a person other than a District staff member is reported to have violated Section 2105(b), the matter shall be referred to the Executive Committee for investigation and consideration of any appropriate action warranted including, but not limited to legal action, censure, removal from one or more committee assignments, and recommendation to the member's appointing agency that steps be taken to remove that individual from the Board. Before taking any action and as part of the consideration, the Executive Committee shall provide the person under investigation with an opportunity to meet with it or a subcommittee appointed by it, and present reasons and evidence why action should not be taken.

(d) If a member of the staff is reported to have violated Section 2105(b), the matter shall be referred to the appropriate Department Head for investigation; the Department Head shall report to the Executive Committee any action taken including, but not limited to, legal action and initiation of discipline.