

MINUTES

ADJOURNED REGULAR MEETING OF THE

BOARD OF DIRECTORS

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MARCH 14, 2000

43904 The Board of Directors of The Metropolitan Water District of Southern California met in Adjourned Regular Meeting in the Board Room located in the building at 700 North Alameda Street in the City of Los Angeles, State of California, on Tuesday, March 14, 2000.

The Meeting was called to order by Chairman Pace at 1:03 p.m.

43905 The Meeting was opened with an invocation by Director Wyatt L. Troxel.

43906 The Pledge of Allegiance to the Flag was given, led by Director Ed Royce, Sr.

43907 Secretary Coughran called the roll. Those answering present were: Directors Abdo, Bannister, Barbosa, Barker, Blake, Brick, Coughran, Edwards, Fellow, Foley, Forbes, Freeman, Grandsen, Harris, Hansen, Herman, Koopman, Krieger, Lewis, Little, McMurray, Moret, Morris, Morse, Murray, Mylne, Pace, Parker, Peterson, Rascon, Record, Rez, Royce, Stanton, Swan, Treviño, Troxel, Turner, Wein, Witt, and Wright.

Those not answering were: Directors Battey, Borenstein, Castro, Kosmont, Krauel, Luddy, Murph, Owen, Tinker, and Watton.

The Chair declared a quorum present.

43908 Chairman Pace inquired if there were any additions to the agenda. There being none, the Chair declared only those matters listed on the agenda would be considered.

43909 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction.

Daniel Hentschke, General Counsel, San Diego County Water Authority stated the Engineer's Report attached to Agenda Item 9-1 relating to water rates and charges for fiscal year 2000-01 is deficient. Mr. Hentschke distributed a report entitled "Review of Engineer's Report Dated February, 2000 Prepared by Metropolitan Water District of Southern California" done by Bartle Wells Associates for San Diego County Water Authority. He requested that the Bartle Wells report be made a part of the record and that Metropolitan withhold any action on the Readiness-to-Serve charge until a properly constructed Engineer's Report is performed and the legal requirements for imposition of the charges of this nature are met.

General Counsel Taylor stated his concern of whether Mr. Hentschke's comment was received timely with regard to the rate process, and reserved the right of not waiving any ability to raise that question should the need arise.

John A. Gomez, Jr., supervisor with the Pechanga Cultural Resources Department, commented on the Environmental Impact Report (EIR) attached to Agenda Item 9-3 relating to the San Diego Pipeline No. 3 Bypass Project. Mr. Gomez stated that Metropolitan has inadequately addressed the impacts that the project will have on registered sites within the project area itself, and that his department has provided mitigation measures that it felt would be adequate, such as a partnership with the Cultural Resources Department to protect and preserve sites within the San Jacinto territory. Through partnership, the impact on the sites that are listed in the project can be adequately protected.

General Counsel Taylor stated that on the Diamond Valley Lake Project, Metropolitan worked closely with the Indian

tribes, including the Pechangas, and it is the intention of Metropolitan to comply with the law. Members of staff who have been working on the bypass project will be happy to meet with Mr. Gomez and discuss his concerns.

Laura Miranda, attorney with the California Indian Legal Services and a member of the Pechanga band, also commented on Agenda Item 9-3. She specifically referred to the mitigation measures outlined in the Final EIR pertaining to cultural resources and the preservation of cultural resources. She expressed the willingness of the Pechangas to work with Metropolitan. They are not against the project, but wish to preserve valuable cultural resources that belong to the tribe. Ms. Miranda requested that the tribe be informed when a final design of the pipeline has been accomplished and asked that three prehistoric sites in the footprint of the project be avoided. She also asked that no scientific testing be performed on any remains found on the site.

Benjamin Masiel, coordinator of the Cultural Resources Committee, requested that the tribe be informed before any construction or archaeology work is performed on the tribe's lands.

Chairman Pace presented a Certificate of Appreciation to Huell Howser, Host of KPBS California's Gold Program.

43910 There being no objection, the Chair ordered the reading of the Minutes of the Meeting held February 8, 2000, dispensed with, a copy having been mailed to each Director.

Director Blake moved, seconded by Director Stanton and carried, approving the foregoing Minutes as mailed.

43911 Chairman Pace presented to Director John T. Morris a pin emblematic of his completion of ten years of service as a representative of the City of San Marino on March 13, 2000.

43912 Director Blake moved, seconded by Director Herman and carried, approving the committee appointment as recommended by

the Chair and approved by the Executive Committee, that Director Treviño be assigned to the Subcommittee on Organization and Personnel.

43913 Chairman Pace reported on events in which he participated on behalf of Metropolitan, as follows: On February 10 he attended the ACWA CALFED briefing, held at Metropolitan's Headquarters. Topics of interest to Metropolitan included "Closing the Deal with CALFED" and "Water Management Strategies". Both Senator Jim Costa and Assemblyman Mike Machado presented information regarding Proposition 13, the \$1.9 billion water bond that was approved by California voters in the March primary. On February 11 at a ceremony held at the Weymouth Plant, U.S. Secretary of Energy Bill Richardson and O. Roland McCook, Chairman of the Ute Indian Tribe, signed a memorandum of understanding regarding moving the uranium mill tailings away from a site near the Colorado River at Moab, Utah. An Ethics workshop conducted by Michael Josephson of the Josephson Institute was held for the Board on February 14 and at least twenty Directors participated in this highly interactive session. An ethics workshop had been previously conducted for management by Mr. Josephson. (A video was shown highlighting clips of Mr. Josephson's presentation to Metropolitan.)

Chairman Pace made reference to his letter dated February 29, 2000, to the Board regarding proposed incorporation of historical construction highlights of the Colorado River Aqueduct and the Diamond Valley Lake Project at Diamond Valley Lake. In July 1999 the Board approved inclusion of the concept of the Western Center for Archaeology and Paleontology at Diamond Valley Lake, and authorized the General Manager to negotiate proposed terms for leasing land for the Center subject to the Board's approval. Chairman Pace requested Board approval to pursue incorporating historical construction highlights of the Colorado River Aqueduct and the Diamond Valley Lake Project at Diamond Valley Lake, in conjunction with the Center. A proposed cooperative approach would provide Metropolitan with a cost-effective means to offer a first-class outreach program by incorporating Metropolitan's visitor center into the Western Center, allowing for opportunities to integrate our message. A cooperative outreach effort to assist in obtaining available State, Federal, and private foundation funding for the Center

could begin immediately. Chairman Pace stated that, with the Board's approval, he would appoint a working committee to focus on this effort. The financial aspects of the project, as well as the business terms and conditions governing Metropolitan's relationship with the Center, would be subject to Board approval.

Director Krieger therefore moved, seconded by Director Record and carried, that the Board support the above proposal as set forth by the Chairman.

Continuing his report, Chairman Pace commented on the forthcoming dedication of Diamond Valley Lake and the associated events scheduled for the weekend of March 17-19. (A film clip of Diamond Valley Lake from a TV news media was shown.)

Director Moret withdrew from the Meeting at 1:50 p.m.

43914 Strategic Plan Steering Committee Vice Chairman Brick reported on the high points of the two-day workshop held yesterday and today, and thanked Mr. Vic Fazio, the moderator. Director Brick commented on the four proposals given at the workshop and stated that using a blend of points from all four proposals, a rate structure can be adopted to provide greater security and revenues and flexibility for new supplies as we move into the future. A steering committee meeting will be held some time in the last week of March to hear clarification of the key points from the four proposals. Director Brick commented that remarkable progress was made to resolve some very tough issues.

Director Grandsen therefore moved, seconded by Director Wein, that the Board direct staff to develop a preliminary rate structure framework that integrates the meritorious elements of all four proposals outlined by Director Brick at the conclusion of this morning's Strategic Plan Workshop, and the staff bring this preliminary framework to the Steering Committee for discussion and recommendation to the Board in April.

Director Turner stated that San Diego agrees that this would be an opportunity to work together to meet the needs of all the agencies.

Director Swan inquired if the maker of the motion would also include the differences between the proposals. Director Grandsen said it would.

The Chair called for a vote on the motion, which carried.

43915 Special Committee on Ethics Chairman Coughran commented on Senate Bill 60 (Hayden), signed by the Governor, which took effect on January 1, 2000, requiring an Office of Ethics be established at Metropolitan, and the subsequent special committee formed for this purpose. Director Coughran thanked all the committee members for their active participation and in bringing forth a recommendation for the Board's consideration. He also requested that the committee's sunset date be extended for another sixty days for the committee's further work in order to aid the consultant. Director Coughran then moved, seconded by Director Stanton and carried, and the Board adopted (1) the guiding principles for the ethics program as set forth on Attachment 2 to the revised letter signed by Director Coughran on March 13, 2000; (2) rules recommended by the Special Committee on Ethics (Attachment 3) and approved resulting amendments to the Administrative Code (Attachment 4); and authorized (3) issuance of request for proposals for an ethics consultant (Attachment 5) and the General Manager to execute an agreement up to \$100,000.

43916 Chairman Pace reported that Agenda Item 6H, the amendment of the Administrative Code regarding Director-sponsored inspection trips, has been withdrawn.

43917 Subcommittee on Rules Chairman Barbosa reported that at their respective February 22 meetings, the Subcommittee on Rules and the Executive Committee recommended that the Board adopt the MWD Board Governance Principles. The subcommittee has been working extensively through the Carver-like policy process for months and the Board adopted portions of the program at its August 1999 Board Meeting. The purpose of adopting the guiding principles is to provide the Board with an ability to officially complete its work in developing the overall policy for the entirely new MWD approach to governance.

Subcommittee on Rules Chairman Barbosa then moved, seconded by Director Krieger and carried, adopting the Board Governance Principles as set forth in the attachment dated February 23, 2000, and sent to all Directors from Director Barbosa on March 6, 2000.

43918 Regarding the Colorado River matters, General Manager Gastelum referred to the attachment from Dennis Underwood to the General Manager's activity report for February dated March 14, 2000, which is at each Director's place, giving an update on the Colorado River quantification settlement.

43919 The Chair reported there is no report on the Bay-Delta related issues from the Water Planning and Resources Committee.

43920 General Manager Gastelum referred to his written activity report dated March 14, 2000, which was distributed earlier.

43921 General Counsel Taylor reported on a number of projects he accomplished during his time at Metropolitan, and announced his forthcoming retirement from Metropolitan, effective at the end of June. Mr. Taylor thanked the Board and staff for all their support.

Director Barker moved, seconded by Director Krieger, that the Board go into closed session to discuss the retirement of General Counsel Taylor. Mr. Taylor stated the matter of going into closed session was not agendaized and could not be held at this meeting, but could be calendared for another time.

Director Blake commended Mr. Taylor for all his contributions to Metropolitan, and the Board gave a standing ovation to General Counsel Taylor for his services to Metropolitan.

Chairman Pace thanked General Counsel Taylor for his contributions to Metropolitan; and stated because of the short time period, he would like to begin the search for a new General Counsel immediately. Chairman Pace therefore appointed a General Counsel Search Committee consisting of Directors Pace (Chairman), Hansen, Record, Coughran, Foley, Morse, Rez, and Barbosa.

Director Stanton moved, seconded by Director Blake and carried, approving the appointment of the above-listed Directors to the General Counsel Search Committee.

43922 The reports of the Standing Committees are as follows:

On behalf of the Executive Committee, Chairman Pace had no further report.

Budget and Finance Committee Chairman Bannister reported that after receiving input from the public and a discussion by the committee, Agenda Item 9-1 was approved, and requested that it be moved to the Consent Calendar.

On behalf of the Engineering and Operations Committee, Director Blake reported that Agenda Items 9-2 and 9-3 were approved by the committee, and requested that they be moved to the Consent Calendar.

Legal and Claims Committee Chairman Morse reported that in closed session the committee approved Agenda Items 9-5 through 9-10, and requested that they be added to the Consent Calendar.

Communications and Legislation Committee Chairman Peterson reported the committee had discussions on the Diamond Valley Lake dedication and the ACWA Washington trip. The Subcommittee on Communications meeting scheduled for today has been canceled.

Water Planning and Resources Committee Vice Chairman Wright reported on the actions taken by the committee. Agenda Item 8-1 was withdrawn and staff was requested to report back next month with more detailed information regarding the existing and proposed policy principles and how they relate to the CALFED process and other watershed efforts. Director Wright requested Agenda Item 9-12 be added to the Consent Calendar.

43923 Director Parker requested that Agenda Item 9-1 be removed from the Consent Calendar for separate action.

Director Blake moved, seconded by Director Stanton and carried, and the Board approved the Consent Calendar Items, **M.I. 43924** through **M.I. 43935**, as follows:

43924 Authorized the expenditure of \$5,000 as a sponsor of the Water Education Foundation Water Leaders Class 2000, as set forth in the letter signed by the General Manager on February 24, 2000.

43925 Approved payment of \$5,000 to the American Public Power Association for its special assessment on activities regarding the Federal Power Marketing Administrations, as set forth in the letter signed by the General Manager on February 18, 2000.

43926 Authorized (1) the execution of a reimbursable agreement with the State of California Department of Transportation to protect the Rialto Feeder pipeline at the proposed State Route 30 crossings; and (2) the General Manager to award a construction contract in an amount not to exceed \$3,000,000 for all related construction activities, as set forth in the letter signed by the General Manager on February 18, 2000.

43927 The Board (1) certified it has reviewed and considered the information presented in the San Diego Pipeline No. 3 Bypass Project's Final Environmental Impact Report (FEIR), certified that the FEIR has been completed in compliance with CEQA, adopted the Findings of Fact and the Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program, approved the project; and (2) approved an increase of \$1,679,000 in Appropriation No. 15318 (No. 2) from the Pay-As-You-Go Fund, and authorized the General Manager to take all actions necessary to implement the project in advance of award of a construction contract, as set forth in the letter signed by the General Manager on February 29, 2000.

43928 Authorized a three-year agreement with Honeywell DMC Services, Inc., not to exceed \$2.5 million, for both phases of the proposed Regional Program to provide enhanced commercial services under the Conservation Credits Program; and accepted a grant of \$150,000 from the U.S. Bureau of Reclamation for the first phase of the Regional Program and additional funding from

outside parties for the second phase, as set forth in the letter signed by the General Manager on February 24, 2000.

43929 Authorized amending Agreement No. 16035 with Flavell, Tennenbaum & Edwards to continue appraisal services litigation support in the eminent domain action for the Inland Feeder Project entitled Metropolitan v. Campus Crusade for Christ, San Bernardino Superior Court Case No. SCV34598, as set forth in the confidential letter signed by the General Counsel on February 18, 2000.

Directors Lewis, Parker, and Turner requested to be recorded as voting no.

43930 Authorized amending Agreement No. 16076 with Woodward-Clyde International--Americas to provide construction, post-construction and expert witness consulting services for Metropolitan's Inland Feeder Project, as set forth in the confidential letter signed by the General Counsel on February 18, 2000.

Directors Lewis, Parker, and Turner requested to be recorded as voting no.

43931 Authorized settlement of eminent domain action entitled Metropolitan v. San Bernardino Valley Water Conservation District [Robertson's Ready Mix], Santa Barbara Superior Court Case No. 227537; report on Metropolitan v. San Bernardino Valley Water Conservation District [Sunwest], Ventura Superior Court Case No. CIV190813, for the Inland Feeder Project; and authorized amending Agreement No. 24068 with special counsel, McCormick, Kidman & Behrens, as set forth in the confidential letter signed by the General Counsel on February 22, 2000.

Directors Lewis, Parker, and Turner requested to be recorded as voting no.

43932 Authorized amendment of contract for legal services of the Law Offices of Charles S. LiMandri in Metropolitan Water District v. Hartford Fire Insurance Company, United States Central District Court Case No. 99-03823-GHK (Mcs), as set forth

in the confidential letter signed by the General Counsel on February 23, 2000.

43933 Authorized initiation of litigation against The Hartford Insurance Company to recover third-party claims expenses pursuant to the Commercial General Liability Policy issued to Metropolitan by The Hartford, as set forth in the confidential letter signed jointly by the General Counsel on February 23, and the General Manager on February 24, 2000.

43934 Regarding the appeal in Metropolitan Water District v. All Persons Interested, the Board authorized amendment to agreement with the Law Firm of Horvitz and Levy to revise the total amount payable, as set forth in the confidential letter signed by the General Counsel on February 22, 2000.

Directors Lewis, Parker, and Turner requested to be recorded as abstaining.

43935 The Board (A) reviewed and considered the information provided in the Juan Well Filter Facility Project's categorical exemption; and (B) authorized the General Manager to execute a Local Resources Program agreement with Central Basin Municipal Water District for this project to provide incentive payments over seven years of \$75 per acre-foot, as set forth in the letter signed by the General Manager on March 9, 2000.

Directors Morse and Treviño requested to be recorded as abstaining.

Director Herman withdrew from the Meeting at 2:25 p.m.

43936 Regarding Agenda Item 9-1 relating to water rates and charges and resolutions to impose charges for fiscal year 2000-01, Director Parker requested that the Bartle Wells report submitted by San Diego County Water Authority be entered as part of the record, and stated that the Authority would be voting no on this item.

General Counsel Taylor questioned whether the filing of the request by the Authority is timely and reserved the right to review the whole rate process in order to make this

determination; however, by accepting the Bartle Wells report, Metropolitan does not deem it to be an appropriate comment at this time.

Director Morris expressed his concern that by having the Bartle Wells report entered into the record would appear that the Directors have all read it as part of their decision making, which they have not (since the report was only distributed at the meeting).

Director Freeman stated the report should not be accepted as part of the record, but accept it as having been offered by a particular party. General Counsel Taylor agreed with the comments of Director Freeman.

Director Blake then moved, seconded by Director Stanton and carried, and the Board:

1. Adopted the water rates and charges as defined below for fiscal year 2000-01, effective January 1, 2001, as required by Metropolitan Administrative Code Section 4304.

<u>Class of Service</u>	<u>Current</u>	<u>Recommended</u>
Full Service--Untreated	\$349 per AF	\$349 per AF
Full Service--Treated	\$431 per AF	\$431 per AF
Agricultural--Untreated	\$236 per AF	\$236 per AF
Agricultural--Treated	\$294 per AF	\$294 per AF
Seasonal Storage, Long-Term Untreated	\$233 per AF	\$233 per AF
Seasonal Storage, Long-Term Treated	\$290 per AF	\$290 per AF
Seasonal Storage, Shift-- Untreated	\$266 per AF	\$277 per AF
Seasonal Storage, Shift-- Treated	\$323 per AF	\$334 per AF
Reclaimed	\$113 per AF	\$113 per AF
Connection Maintenance Charge	\$50 per cubic feet per second of capacity per month, not to exceed a maximum charge per connection of \$5,000 per month	

2. Adopted the following Resolutions:

(a) **Resolution 8671** to fix and adopt the Readiness-to-Serve Charge for fiscal year 2000-01, in the form shown as Attachment 3 to the letter signed by the General Manager on February 24, 2000, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING READINESS-TO-SERVE CHARGE

(b) Resolution of Intention (**Resolution 8672**) to impose a New Demand Charge at the current level and suspend collection of the charge for fiscal year 2000-01, in the form shown as Attachment 4 to the above-mentioned letter, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA ADOPTING AND SUSPENDING COLLECTION OF NEW DEMAND CHARGE FOR 2000-2001

3. Found that the setting of rates and charges recommended in the General Manager's letter is exempt from the California Environmental Quality Act (CEQA) by Public Resources Code 21080(b)(8), since it is for the purposes of: (a) meeting operating expenses; (b) purchasing or leasing supplies, equipment or materials; (c) meeting financial reserve needs and requirements; and (d) obtaining funds for capital projects necessary to maintain service within existing service areas; and, additionally, it is exempt from CEQA under State CEQA Guidelines 15378(b)(5), since it constitutes the creation of government funding mechanisms, which does not involve commitment to any specific project which may result in a potentially significant physical impact on the environment, or which will be used to fund projects which have CEQA documentation, or which will have CEQA documentation in place prior to construction of any facility or facilities.

Directors Lewis, Parker, and Turner requested to be recorded as voting no.

Directors Lewis and Turner withdrew from the Meeting at 2:28 p.m.

43937 General Counsel Taylor reported that Agenda Item 9-11 covered some additional expenses as a result of the rapid filling of Diamond Valley Lake and also the need to accelerate destruction of some of the improvements remaining on the project because of the faster rise of the water than intended.

Director Blake moved, seconded by Director Barker and carried, authorizing the General Manager to amend Agreement No. 1026 with Westaff (USA), Inc. to prepare for and conduct the Diamond Valley Lake dedication ceremony and related events, and to meet the accelerated schedule for cleanup of the reservoir valley floor in advance of reservoir fill. This would increase the current contract amount by \$250,000 to a revised contract amount of \$2,750,000, and is a part of the Diamond Valley Lake Project approved budget, as set forth in the letter signed by the General Manager on February 29, 2000.

43938 The following communications were submitted to the Board for information;

- a. Status report for the Diamond Valley Lake Project for the month ending January 2000, signed by the General Manager on February 18, 2000.
- b. Status report for the Inland Feeder Project for the month ending January 2000, signed by the General Manager on February 18, 2000.
- c. Letter of the General Manager signed on February 24, 2000, reporting on local water resources development in Metropolitan's service area, and revised by letter of March 9, 2000.
- d. Letter of the General Manager signed on February 24, 2000, reporting on the principles of agreement for clarifying amendments to the State Water Contract developed by the State Water Contractors and Department of Water Resources.

- e. Letter of the General Manager signed on March 9, 2000, reporting on financial incentives under Metropolitan's Local Resources Program.
- f. Letter of the General Manager signed on March 9, 2000, reporting on membership in the WaterPower--The Clean Energy Coalition.

43939 There being no objection, Chairman Pace adjourned the Meeting at 2:30 p.m.

THOM COUGHRAN

SECRETARY

PHILLIP J. PACE

CHAIRMAN