

MINUTES
ADJOURNED REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
JANUARY 9, 2001

44285 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, January 9, 2001.

The Meeting was called to order by Chairman Pace at 10:26 a.m.

44286 The Meeting was opened with an invocation by Director Wyatt L. Troxel.

44287 Following a color guard from the American Legion, Jackie Robinson Post 252, and a salute to the Flag, the Pledge of Allegiance was given, led by Director Judy Abdo.

44288 Secretary Coughran called the roll. Those answering present were: Directors Abdo, Bannister, Barbosa, Battey, Blake, Brick, Castro, Coughran, Edwards, Fellow, Foley, Grandsen, Hansen, Herman, Lewis, Little, Luddy, Mejia, Morris, Morse, Murph, Murray, Mylne, Owen, Pace, Parker, Peterson, Record, Rez, Stanton, Swan, Troxel, Watton, Wein, and Wright.

Those not answering were: Directors Harris and Krauel.

The Chair declared a quorum present.

44289 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.

44290 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction.

David Czamanske of the Sierra Club commented on Agenda Item 9-10, the Cadiz project, and voiced his concerns regarding the approval of this project before the full EIR was completed.

44291 At 10:39 a.m., the Chair called a public hearing to receive comments on the proposed standby charge for Annexation No. 68 to Calleguas Municipal Water District.

No members of the public responded; and after tabulation of the ballots was completed, and with no protests filed, the Chair closed the public hearing at 10:40 a.m.

44292 In accordance with Senate Bill 1885, the Metropolitan Board was downsized to 37 members from 51 effective January 1, 2001. Chairman Pace thanked Directors Barker, Borenstein, Forbes, Freeman, Koopman, Kosmont, Krieger, McMurray, Moret, Royce, Tinker, Turner, Treviño, and Witt for their significant contributions to the success of the Board. With the aid of former Board Chairman E. Thornton Ibbetson, founder of the Directors' Emeritus group, Chairman Pace presented Commendatory Resolutions to outgoing Directors Forbes, Record, and Treviño.

44293 Regarding the appointment of Directors, General Counsel Walston reported the resolutions/minutes received from Calleguas Municipal Water District, Central Basin Municipal Water District, Coastal Municipal Water District, Eastern Municipal Water District, Inland Empire Utilities Agency, City of Los Angeles, Municipal Water District of Orange County, San Diego County Water Authority, Upper San Gabriel Valley Municipal Water District, West Basin Municipal Water District, and Western Municipal Water District of Riverside County are legally sufficient. The Chair ordered the documents received and filed.

44294 The General Counsel's letter signed January 2, 2001, was presented, transmitting the credentials evidencing the appointment by Eastern Municipal Water District of Marion V. Ashley as its representative on Metropolitan's Board for an indefinite term, replacing Clayton A. Record, Jr.

General Counsel Walston reported the credentials had been examined and found legally sufficient.

The Chair reported the Oath of Office had been administered to Mr. Ashley and ordered the Oath filed.

Following an introduction by Vice Chairman Record, Director Ashley took his seat as a Director representing Eastern Municipal Water District.

44295 Senator Richard Polanco administered the Oath of Office to the newly recognized 37-member Board of the Metropolitan Water District.

Assemblyman Tom Calderon administered the Oath of Office to Chairman Phillip J. Pace, who began his second two-year term as Chairman of Metropolitan's Board.

44296 Chairman Pace presented to both Senator Polanco and Assemblyman Calderon a replica of the mural depicting the history of water in California.

44297 At 11:17 a.m., the Chair called a recess. The Meeting was again called to order at 11:24 a.m.

44298 There being no objection, the Chair ordered the reading of the Minutes of the Meeting held December 12, 2000, dispensed with, a copy having been mailed to each Director.

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

Director Blake requested to be recorded as abstaining.

44299 Chairman Pace reported that a large group of Directors and himself attended the Colorado River Water Users Association annual meeting in Las Vegas on December 13-15. At this meeting

Secretary of the Interior Babbitt reiterated his themes of last year of the desirability of resolving water controversies through stakeholder consensus, and the importance of conservation and consensual water transfers and similar transactions. Secretary Babbitt complimented California on its impressive progress toward the 4.4 goal and the advancement of that when San Diego and Metropolitan reached an agreement that will permit the transferred water to be delivered to San Diego via an exchange agreement. He also reiterated his preference for the Basin States to come to an agreement on the surplus guidelines.

Chairman Pace acknowledged four Directors who contributed to the success of the Board during the past year, and who have been Vice Chairs during his first tenure as Chairman of the Board--Directors Timothy F. Brick, Henry S. Barbosa, Helen Z. Hansen, and Clayton A. Record, Jr.

44300 Chairman Pace reported that he is in the process of reorganizing the committee structure and will be making new committee appointments. This matter will be considered at a Special Board Meeting scheduled for January 16, 2001. A letter will be sent to the Board outlining the details.

44301 Director Blake moved, seconded by Director Edwards and carried, approving the recommendation of the Executive Committee that (1) the Board rate the performance of the General Manager in his first year as "outstanding", (2) the committee determined the General Manager performed at an outstanding level and has earned the full support of the Board, and (3) the General Manager be awarded a pay-for-performance payment of \$35,000, as set forth in the letter signed by the Chairman of the Board dated December 28, 2000.

44302 Regarding the Colorado River, Bay-Delta and CALFED matters, the summary of District activities, and his second quarter report on his Business Plan, General Manager Gastelum referred to his monthly activity report for December, signed January 3, 2001, which was distributed earlier.

44303 General Counsel Walston referred to his activity report dated December 29, 2000, which was distributed earlier. Mr. Walston reported that in the Planning and Conservation

League, et al. v. California Department of Water Resources, et al. (the Monterey Amendment case), the case is now before the trial court and the court will decide whether to stay the entire Monterey agreement while the Department of Water Resources goes forward with its preparation of the EIR. Metropolitan has now appeared in the case and filed an answer for full participation and intend to become actively involved in the prosecution of the case from this point forward.

In Metropolitan v. All Interested Persons (the wheeling case), Mr. Walston stated a letter was sent to the Board indicating that Metropolitan has dismissed the remaining parts of the case relating to the fair and reasonable use issues, and basically the case is now resolved. However, he expects these issues may come up again when a new rate structure is developed.

In the CALFED litigation, Mr. Walston reported that a motion to dismiss was filed by the State of California in the federal case, which was granted, so that case was dismissed against the State. However, the California Farm Bureau has now filed a new amended complaint; and the State has indicated it will also file a motion to dismiss that complaint. Metropolitan's Board has authorized intervention in this litigation, but has not done so yet pending a decision to see if the case is still going forward, and whether the State is to be dismissed or not.

General Counsel Walston reported that in the Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers case, the U.S. Supreme Court has issued its decision by a 5-4 margin that the Corps of Engineers does not have jurisdiction to regulate wetlands or other ephemeral bodies of water that are not navigable. The Clean Water Act specifically provides that the Corps' jurisdiction is limited to navigable waters. The Corps had asserted the argument that it had authority under the "migratory bird rule" to regulate non-navigable waters. The "migratory bird rule" stated in effect that wherever a migratory bird can get to, those waters are within the Corps' jurisdiction under the Clean Water Act. The Court rejected that argument. Metropolitan had filed an amicus brief with the Court asserting the same argument that the Court

upheld. Mr. Walston stated a more detailed analysis would be in his next monthly report.

44304 The reports of the Standing Committees are as follows:

On behalf of the Executive Committee, Chairman Pace reported that he presented his committee restructure plan that will be discussed at the Special Board Meeting on January 16. The committee approved the implementation of the annual Award of Excellence for fiscal year 1999-2000 and heard reports from the General Manager on his Second Quarter Business Plan and Director Foley on the activities pertaining to the Colorado River Board. Chairman Pace stated in the new committee restructure, he has established a Subcommittee on Rate Structure Implementation, and that subcommittee will be holding a workshop on January 23 (subsequently changed to January 30) to discuss how we plan to move forward and to review the Integrated Resources Plan.

Budget and Finance Committee Chairman Bannister reported the committee approved Agenda Items 9-2 and 9-4, and moved that they be added to the Consent Calendar. The motion was seconded by Director Blake and carried. Committee Chairman Bannister reported the committee deferred Agenda Item 9-3, the bond resolution, to a special meeting of the Budget and Finance Committee on January 16, 2001.

Engineering and Operations Committee Chairman Luddy reported the committee approved Agenda Item 8-1, and tabled Agenda Item 9-1, the Diemer Plant Improvements Program, to the February meeting in order to adequately review the FEIR before taking action.

Legal and Claims Committee Chairman Morse reported the committee approved Agenda Items 9-5 and 9-11 and moved that they be added to the Consent Calendar. Committee Chairman Morse requested that Agenda Item 9-12 be added to the Consent Calendar. The motion was seconded by Director Blake and carried. (Agenda Item 9-11 was subsequently taken off the Consent Calendar).

Communications and Legislation Committee Chairman Peterson reported the committee approved Agenda Item 8-2. A summary report was presented on the report to the California

Legislature on Metropolitan's efforts on water conservation, water recycling, and groundwater storage and replenishment measures pursuant to the Metropolitan Act, Section 130.5. The committee heard a report on Metropolitan's Proposed Federal Action Plan for 2001 which includes salinity programs, water quality initiatives, Diamond Valley Lake recreation, the Moab, Utah mine tailings funding, CALFED governance and funding, Santa Ana River Watershed authorization, Los Angeles and San Gabriel River authorization, Colorado River surplus operating criteria, and relationship building with the new leaders in Congress and the Bush Administration. An update on activities in Sacramento included anticipated issues expected to be addressed by the Governor in his State of the State speech, the electric deregulation meetings taking place, including the Governor's calling of an extraordinary session to deal with the energy crisis.

Water Planning and Resources Committee Chairman Owen reported that at the joint meeting of the Water Planning and Resources and Budget and Finance Committees, reports were given on Agenda Items 9-9 and 9-10. The committees took no action on these items and requested that they be deferred to a meeting/workshop on January 16. The Water Planning and Resources Committee approved Agenda Items 9-8 and 9-11. All other agenda items were deferred due to time constraints.

Director Morris moved, seconded by Director Blake and carried, and the Board approved the Consent Calendar Items, **M.I. 44305** through **M.I. 44311**, as follows:

44305 Authorized increasing the General Manager's previously approved authority under Appropriation No. 15121 by \$116,058 to procure the rights of way through Johnson Ranch and University of California Riverside properties for a portion of San Diego Pipeline No. 6, as set forth in the letter signed by the General Manager on December 19, 2000.

44306 Authorized the General Manager to increase Contract 29371 with Clark and Weinstock by \$25,000 to a total amount of \$275,000 to pay outstanding balance of work contracted for by Metropolitan, as set forth in the letter signed by the General Manager on December 22, 2000.

44307 In accordance with the negotiated labor agreements with Metropolitan's four bargaining units and Metropolitan Water District Administrative Code Section 6522, the Board adopted **Resolution 8725** increasing Metropolitan's contributions to the medical plans maintained by Public Employees' Retirement System for employees and annuitants, said changes to be effective February 1, 2001 through December 31, 2001, as set forth in the letter signed by the General Manager on December 27, 2000, said Resolution entitled:

**RESOLUTION FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

44308 Regarding the recommended water rates for fiscal year 2001-02 and the resolutions giving notice of intention to impose charges, the Board:

1. Set a time for a hearing of the Budget and Finance Committee at which interested parties may present their views regarding the General Manager's recommendation. The water rates and charges for the first six months of fiscal year 2001-02 will remain unchanged. It is recommended that the rates and charges effective January 1, 2002, be set by the Board as defined in the General Manager's letter signed on December 19, 2000.

Effective January 1, 2002

<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	\$277 per AF	\$288 per AF

Seasonal Storage, Shift --Treated	\$334 per AF	\$345 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. Found that the setting of rates and charges recommended in the General Manager's letter is exempt from California Environmental Quality Act (CEQA) by Public Resources Code Section 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.

3. Approved the following Resolutions:

(a) Resolution of Intention (**Resolution 8726**) to impose the Readiness-to-Serve (RTS) charge in the form shown as Attachment 2 to the General Manager's letter, declaring the Board's intention (i) at its March 13, 2001 meeting to consider and act upon the General Manager's recommendation to impose a Readiness-to-Serve charge at the current level, and (ii) at its May 15, 2001 meeting to consider and act upon the General Manager's recommendation to impose standby charges within the territories of member agencies that have requested that charge as a means of collecting all or a portion of their RTS charge, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA GIVING NOTICE OF INTENTION TO IMPOSE READINESS-TO-SERVE CHARGE

(b) Resolution of Intention (**Resolution 8727**) to impose a New Demand Charge (NDC) at the current level and suspend collection of the NDC for fiscal year 2001-02, in the form shown as Attachment 3 to the General Manager's letter, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA GIVING NOTICE OF INTENTION TO IMPOSE AND SUSPEND COLLECTION OF NEW DEMAND CHARGE FOR 2001-2002

Directors Lewis, Parker, and Watton requested to be recorded as voting no on Item 3 of the above motion.

44309 Authorized the General Manager to approve and make all payments determined to be due and payable under the terms of the State Water Service and Devil Canyon/Castaic contracts for the 2001 calendar year, as set forth in the letter signed by the General Manager on December 19, 2000.

44310 Authorized the General Counsel to file a lawsuit and take all steps necessary to obtain relief against I A Machinery Company and J. M. Montgomery, Inc., as set forth in the confidential letter signed jointly by the General Counsel on December 18 and the General Manager on December 19, 2000.

44311 Authorized the General Manager to implement as recommended in his letter dated January 3, 2001, the Award of Excellence Program for fiscal year 1999-2000. The program budget authorized by the Board of Directors in December 2000 was \$100,000 per fiscal year. This year's program total \$98,000.

44312 Water Planning and Resources Committee Chairman Owen moved, seconded by Director Morris and carried, and the Board (a) certified it has reviewed and considered the information contained in the Negative Declaration and adopted the Lead Agency's findings relating to the Negative Declaration; and (b) authorized the General Manager to enter into a one-year Environmental Water Account Demand Shifting Agreement with the Department of Water Resources (DWR) consistent with the terms as stated in the General Manager's letter signed on December 19, 2000, and in Attachments 1 and 2 in the foregoing letter,

subject to the form being approved by the General Counsel. The Board also instructed that the notice be filed at the close of DWR's comment period if no comments are received; or, if comments are received that action on this item be moved to the February meeting.

44313 Water Planning and Resources Committee Chairman Owen reported the committee took no action on Agenda Item 9-9, the increase in appropriation for the Cadiz Groundwater Storage and Dry-Year Supply Program, and deferred it to the Special Board Meeting on January 16, 2001.

44314 Water Planning and Resources Committee Chairman Owen reported the committee discussed Agenda Item 9-10, the Cadiz Groundwater Storage and Dry-Year Supply Project, in a joint meeting with the Budget and Finance Committee, with no action taken. Director Owen therefore moved, seconded by Director Blake and carried, that this item be held over for a workshop on January 16, 2001.

44315 Regarding the pursuit of a settlement agreement with Sacramento Valley upstream interests for equitable resolution of the State Water Resources Control Board's Phase 8 Water Rights hearings, Water Planning and Resources Committee Chairman Owen reported the committee approved staff involvement in settlement discussions but did not include proposed policy guidelines in the General Manager's confidential letter signed on December 27, 2000. The committee requested that staff return to discuss Metropolitan's objectives for negotiation at the committee's next meeting. Director Owen therefore moved, seconded by Director Morris and carried, that staff move forward with the negotiations and to work with the committee to prepare specific objectives to achieve in negotiations.

44316 The following communications were submitted to the Board for information:

- a. Status report for the Diamond Valley Lake Project for the month ending November 2000, signed by the General Manager on December 19, 2000.

- b. Status report for the Inland Feeder Project for the month ending November 2000, signed by the General Manager on December 19, 2000.
- c. Letter of the General Manager signed on January 3, 2001, submitting a report to the California Legislature on Metropolitan's efforts on water conservation, water recycling, and groundwater storage and replenishment measures pursuant to Metropolitan Act, Section 130.5.

Director Mylne withdrew from the Meeting at 12:00 p.m.

44317 Chairman Pace reported the Museum Feasibility Committee heard a presentation from representatives of the Western Center Community Foundation on their proposed paleontological museum to be constructed at Diamond Valley Lake. A proposed model was shown. The committee also heard reports from the subcommittee chairs with Director Wein presenting a conceptual sketch of Metropolitan's planned museum, and Director Mylne presenting a proposed mission statement for the museum.

44318 There being no objection, Chairman Pace adjourned the Meeting at 12:06 p.m.

THOM COUGHRAN

SECRETARY

PHILLIP J. PACE

CHAIRMAN