

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
MARCH 12, 2002

44792 The Board of Directors of The Metropolitan Water District of Southern California met in 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 12, 2002.

The Meeting was called to order by Chairman Pace at 10:15 a.m. The Chair announced the invocation would be dedicated to Denise Marie Peterson, the mother of Director Peterson, who recently passed away.

44793 The Meeting was opened with an invocation by Pastor Quentin Oden of the Tribesmen Missionary Baptist Church in Los Angeles.

44794 The Pledge of Allegiance to the Flag was given, led by Director Ted Grandsen.

44795 Secretary Coughran called the roll. Those answering present were: Directors Abdo, Ashley, Ball, Bannister, Blake, Brick, Brown, Castro, Coughran, De Jesus, Edwards, Fellow, Foley, Grandsen, Harris, Hansen, Kwan, Lewis, Loveland, Luddy, Mejia, Morris, Morse, Murray, Mylne, Owen, Pace, Parker, Peterson, Rez, Stanton, Swan, Wein, and Wright.

Those not answering were: Directors Herman (entered 10:30 a.m.), Murph, and Troxel.

The Chair declared a quorum present.

44796 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction. No member of the public responded.

Director Blake announced that former Metropolitan employee Annette Hubbell, now the general manager of Rincon del Diablo Municipal Water District, was named general manager of the year by the California Special Districts.

44797 There being no objection, the Chair ordered the reading of the Minutes of the Meeting of February 12, 2002, 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.

44798 Director Kwan presented to Chairman Pace a Certificate of Appreciation from Assemblymember Judy Chu and a Certificate of Recognition from Assemblymember Carol Liu and Senator Jack Scott to recognize Metropolitan's ongoing efforts and support of the cultural traditions of the Chinese American community in Los Angeles.

44799 The General Counsel's letter signed February 28, 2002, was presented, transmitting the credentials evidencing the appointment by Three Valleys Municipal Water District of David D. De Jesus as its representative on Metropolitan's Board for an indefinite term, replacing Henry S. Barbosa.

General Counsel Kightlinger reported the credentials had been examined and found legally sufficient, and that the Oath of Office was administered to Director De Jesus on March 8, 2002. The Chair ordered the credentials, together with the General Counsel's letter, received and filed.

Following an introduction by Director Fellow, Director De Jesus took his seat as a Director representing Three Valleys Municipal Water District.

44800 Board Secretary Coughran moved, seconded by Director Blake and carried, approving the committee appointments as recommended by the Chair, of Director De Jesus to the Engineering and Operations Committee, the Legal, Claims and

Personnel Committee, and the Communications, Outreach and Legislation Committee.

44801 Chairman Pace reported that last evening, March 11, 2002, Metropolitan hosted a reception celebrating the appointments of the new General Counsel Jeffrey Kightlinger and Ethics Officer Charisse Anderson, which was well attended by Directors and guests. The Chair announced that on March 15 Metropolitan would host a dinner to celebrate the Southern California Water Education Center and its Partners at the Hiram W. Wadsworth Pump House at Diamond Valley Lake. On March 16 Metropolitan and its member agencies would dedicate the Clayton A. Record, Jr. Viewpoint at Diamond Valley Lake.

Director Herman took her seat at 10:30 a.m.

44802 Legal, Claims and Personnel Committee Chairman Owen moved, seconded by Director Swan and carried, that the Board waive the restriction on Director contracts in Administrative Code § 7907 so that former Director Henry S. Barbosa may be appointed to the Assistant General Counsel position in the Legal Department.

Director Lewis expressed concern regarding the discriminatory action against Directors with the restriction set forth in Administrative Code § 7907, and asked that the Subcommittee on Rules and Ethics reconsider this matter.

44803 Regarding the Colorado River, Bay-Delta and CALFED matters, and the summary of District activities, Chief Executive Officer Gastelum referred to his activity report signed March 6, 2002, which was distributed earlier.

Chief Executive Officer Gastelum reported on the Colorado River issues currently taking place. The next 90 days will be critical for Metropolitan and the other agencies in the implementation of the California 4.4 Plan. The basic issue is that the Quantification Settlement Agreement is to be executed by the end of this year and issues related to effects of water conservation and transfer programs on the Salton Sea have not yet been resolved. Leaders in both the federal and the state level are participating in the discussions in order to try to reach agreement on how best to address the Sea issues. Senator Feinstein has meetings scheduled with the agencies at the end of

this month and is asking all parties involved to come forward with a solution. Senator Feinstein is urging Imperial Irrigation District (IID) to consider fallowing as an option to the current plan of water conservation. There has been considerable discussion in the Imperial Valley about agricultural land fallowing as a water source for the IID/San Diego conserved water transfer agreement. There currently is a stipulation that fallowing will not be the water conservation methodology used to achieve this transfer. All parties are working together to resolve this matter. Bringing together the federal and the state leadership in these discussions will be very helpful. Mr. Gastelum stated he would stipulate that the key terms that was signed for the Quantification Settlement Agreement is the agreement that Metropolitan is prepared to go forward with today. If the agreement is to be changed and there are any financial consequences to Metropolitan, it would need to be brought back to the Board.

Director Morse called the Board's attention to the Business Outreach section of the Chief Executive Officer's report and requested the Board receive a more detailed presentation on the program. To date the Business Outreach Program is a success, exceeding its 18 percent organizational goal. The program has gained recognition outside of Metropolitan, and the Directors should be made aware of all that has been taking place.

Regarding the Cadiz Groundwater Storage and Dry-Year Supply Program as mentioned in the Chief Executive Officer's report, Director Edwards requested the Board receive the conclusions of the staff's review of the draft Biological Opinion in writing prior to the Board workshop.

44804 Regarding the Legal Department activities, General Counsel Kightlinger referred to his activity report dated February 28, 2002. On behalf of himself and his family, General Counsel Kightlinger thanked the Chair, the Board, and the Chief Executive Officer for the reception held last night in honor of his appointment.

In *San Diego County Water Authority, et al. v. Metropolitan Water District, et al.* (Preferential Rights Case), the Authority challenged Metropolitan's interpretation of its provision of the MWD Act which recognizes preferential rights

and how to calculate those rights. Metropolitan filed a demurrer stating that the Authority failed to state a cause of action. Oral argument was held, and the court sustained the demurrer without leave to amend. The City of Los Angeles was also named under a separate cause of action. Their demurrer was likewise sustained without leave to amend. This action by the court effectively concludes the case at the trial court level. However, the Authority does have a right to appeal, which they plan to pursue.

Hartwell Corp. v. Superior Court is a very significant case that was decided in February by the California Supreme Court. It has potential impacts to public water agencies. The court held that public water agencies would have no exemption from damage claims or legal actions regarding the service of drinking water even if they were in compliance with the laws at the time. The Public Utilities Commission-regulated water suppliers will have some limited exemptions in those cases. This disparity is an issue that is very troubling to public water servers. ACWA is now looking at some potential legislation in the future. Metropolitan will continue to monitor the actions emanating from this decision.

General Counsel Kightlinger reported that with the waiver of conflict issues approved by the Board, he is proceeding to appoint two Assistant General Counsels, which was a recommendation from the Pierno legal analysis report done in 2000. The two appointments are former Director Henry S. Barbosa and a current staff attorney, Sydney B. Bennion.

44805 The reports of the Standing Committees are as follows:

Chairman Pace reported the Executive Committee did not meet in February. The Chair announced the appointments of Directors Anthony R. Fellow and George I. Loveland as Chair and Vice Chair, respectively, of the Communications, Outreach and Legislation Committee.

Asset, Real Estate and Infrastructure Policy Committee Chair Peterson reported the committee heard presentations on (a) the Diamond Valley Lake Park Specific Plan, which focused on prior Board action and the components of the Plan as well as a proposed schedule of key milestones; (b) the Asset Replacement Funding analysis completed by Brown and Caldwell showing four

options for funding replacement and refurbishment of identified infrastructure assets; (c) the Riverside County Integrated Plan that encompassed the county's General Plan, comprehensive transportation system, and Multi-Species Habitat Conservation Plan, and the evaluation of the potential impacts of the plan on Metropolitan's existing properties and needs for future facilities; (d) the status of a database to be used in evaluation of Metropolitan-owned properties under the Real Property Management and Development Program; and (e) the benefits of the reorganization and consolidation of the Information Technology Section. Review of the computer resources operating policy was deferred to April. Committee Chair Peterson recommended that all Directors attend meetings of the Asset, Real Estate and Infrastructure Policy Committee.

Budget, Finance and Investment Committee Chairman Castro reported the committee approved Agenda Items 9-1 and 9-2 and requested they be added to the Consent Calendar. (Item 9-1 was subsequently removed from the Consent Calendar.)

Communications, Outreach and Legislation Committee Chairman Fellow reported the member agency and retailers' directory has been updated and is available. Metropolitan has begun publishing *Metrospectives*, a newsletter with the latest topics of the day and will be sent to up to 40,000 people who have had contact with Metropolitan. Committee Chairman Fellow reported that Metropolitan, along with the International Boundary Water Commission, hosted a reception for Commissioner Carlos Ramirez on February 27. Congressman Dreier and Director Troxel and Assemblyman Chavez and Director Fellow delivered two Community Partnering Program checks to the National Science Foundation and the Hurst Ranch, respectively. The committee approved Agenda Items 9-6, 9-7, and modified 9-10, and Committee Chairman Fellow requested they be added to the Consent Calendar. (Items 9-7 and 9-10 were subsequently removed from the Consent Calendar.) The committee was briefed on the efforts to deal with the public and press inquiries about perchlorate. The legislative representatives in Washington, D.C. and Sacramento gave reports on current activities.

Engineering and Operations Committee Chairman Ashley reported the committee approved Agenda Items 8-2, 9-4, modified 9-5, and 9-8, and requested that Agenda Items 9-4, 9-5, and 9-8 be added to the Consent Calendar. Committee Chairman Ashley

stated the committee voted to table Agenda Item 9-3, the award of a contract for the construction of the Highland Pipeline of the Inland Feeder Program, until the bids are received.

Committee Chairman Ashley announced the Engineering and Operations Committee inspection trip is currently planned for either the week of May 13 or 20.

A discussion ensued on whether it was prudent to approve Agenda Item 9-8, authorizing the Chief Executive Officer to enter into agreement(s) with the lowest responsible bidder(s) for security guard services for a three-year period, without the full details. Engineering and Operations Committee Chairman Ashley then moved, seconded by Director Castro and carried, that Agenda Item 9-8 be tabled for action by the Executive Committee.

Legal, Claims and Personnel Committee Chairman Owen reported the committee received reports on the potential settlement of the Monterey agreement negotiations and the *Soboba Band of Mission Indians* case. The committee also heard a report on the Supreme Court decision in the *Hartwell Corporation v. Superior Court* case.

Water Planning, Quality and Resources Committee Chairman Morse reported the committee approved Agenda Items 9-6 and 9-7 and requested that they be added to the Consent Calendar (Item 9-7 subsequently taken off the Consent Calendar.) Oral reports were given on perchlorate, Water Surplus and Drought Management Plan, and the Integrated Resources Plan. Follow-up items were requested from staff for reports on the recent court decision regarding the Central Valley Improvement Act implementation, perchlorate issues as characterized by EPA and the Department of Health Services, and storage analysis related to implementation of the Water Surplus and Drought Management Plan.

Director Blake moved, seconded by Director Fellow and carried, and the Board approved the Consent Calendar Items, **M.I. 44806** through **M.I. 44811**, as follows:

44806 Adopted the California Environmental Quality Act (CEQA) determination and (a) appropriated \$2.85 million in budgeted and non-budgeted funds in Appropriation No. 15391 from

the Construction Funds; and (b) authorized the Chief Executive Officer to have all work performed in advance of award of competitively bid contracts as required for the five projects identified under the Power Reliability and Energy Conservation Program, as described in the letter and the attachments signed by the Chief Executive Officer on February 21, 2002.

44807 Adopted the CEQA determination and adopted (a) **Resolution 8803** granting Calleguas Municipal Water District's request for approval of Annexation No. 75 concurrently to Metropolitan and Calleguas, conditioned upon approval by the Ventura Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation; and (b) **Resolution 8804** to impose water standby charge at a rate of \$9.58 per acre or per parcel of less than one acre within the proposed annexation, as set forth in the letter signed by the Chief Executive Officer on February 4, 2002, said Resolutions entitled:

Resolution 8803 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO CALLEGUAS MUNICIPAL WATER DISTRICT'S ANNEXATION NO. 75 AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

Resolution 8804 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING WATER STANDBY CHARGE CONTINGENT UPON CALLEGUAS MUNICIPAL WATER DISTRICT'S ANNEXATION NO. 75**

Director Grandsen requested to be recorded as abstaining.

44808 Adopted the CEQA determination and approved (a) the re-delegation of authority to the Treasurer to make investments on behalf of Metropolitan; and (b) the Statement of Investment Policy with changes as indicated, as set forth in the letter signed by the Chief Executive Officer on February 21, 2002.

44809 Adopted the CEQA determination and (a) authorized \$3.511 million in Appropriation No. 15390 for an Alternative Disinfectant Evaluation to meet U.S. Environmental Protection Agency regulations; (b) enhanced the ability to treat higher blends of State Water Project supplies at the blend plants, as set forth in the letter signed by the Chief Executive Officer on February 21, 2002.

44810 Adopted the CEQA determination and authorized (a) \$9.23 million in budgeted Capital Investment Plan funds in Appropriation Nos. 15388, 15389, and 15392 for preliminary design and environmental documentation for ozone or an alternative disinfectant at the Skinner, Diemer, and Weymouth filtration plants, and delegated to the Chief Executive Officer the authority to award competitively selected consultant agreements in an amount not to exceed \$500,000 per contract; and (b) the Chief Executive Officer to have all work performed as described in the letter and its attachments signed by the Chief Executive Officer on February 21, 2002, and as revised to add the Weymouth plant.

44811 Adopted the CEQA determination and the proposed policy principles for a CALFED Bay-Delta Program long-term governance structure, as set forth in the letter signed by the Chief Executive Officer on February 27, 2002.

44812 Director Swan moved, seconded by Director Blake and carried, and the Board adopted the CEQA determination and

(a) Adopted the following resolutions:

1. **Resolution 8805** to impose rates and charges to be effective January 1, 2003, and to direct further actions in connection herewith in the form shown as Attachment 3 to the letter signed by the Chief Executive Officer on February 26, 2002.
2. **Resolution 8806** to impose the Readiness-to-Serve Charge in the form shown as Attachment 4 to the aforementioned letter.

3. **Resolution 8807** to impose a Capacity Reservation Charge and Peaking Surcharge in the form shown as Attachment 5 to the aforementioned letter, said Resolutions entitled:

Resolution 8805 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING RATES AND CHARGES FOR FISCAL YEAR 2002/03 AND TO DIRECT FURTHER ACTIONS IN CONNECTION THEREWITH**

Resolution 8806 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING A READINESS-TO-SERVE CHARGE FOR FISCAL YEAR 2002/03**

Resolution 8807 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING A CAPACITY RESERVATION CHARGE AND A PEAKING SURCHARGE FOR FISCAL YEAR 2002/03**

with the understanding that Metropolitan would continue to work on agreements for cost-effective surface storage operations with member agencies to provide regional benefits to the Metropolitan service area.

- (b) Authorized \$693,000 for the modification of the Water Information System to support the information and invoicing requirements of the newly adopted rate structure.
- (c) Approved changes to the Administrative Code necessary to implement the new rates and charges as shown in underline/strikeout format in Attachment 6 and as a complete draft in attachment 7 to the aforementioned letter.
- (d) Directed the Chief Executive Officer to finalize the implementation of the new rate structure by taking the following actions:

1. Develop the form of a purchase order consistent with the new rate structure adopted by the Board.
2. Modify Metropolitan's billing system to accommodate the new rate structure.

44813 Director Swan commented on the discussion at the Water Planning, Quality and Resources Committee meeting of the proposed policy principles on global climate change as related to water resources planning, and the assurance of the Chief Executive Officer to bring any related items back to the committee and Board prior to entering into any specific actions on this matter.

A discussion ensued whereby Directors Edwards and Blake expressed concern that Metropolitan is attempting to broaden its scope of potential involvement or action beyond those related to water supply and water management.

Following further comments by Directors, Director Swan moved, seconded by Director Ball and carried, that the Board adopt the CEQA determination and approve staff's recommendation to adopt the proposed policy principles regarding global climate change and water resources, as set forth in the letter signed by the Chief Executive Officer on February 27, 2002, with the condition that in carrying out that policy, the Chief Executive Officer will bring back any specific actions for Board discussion and consideration.

Directors Bannister, Blake, Castro, Edwards, Harris, and Luddy requested to be recorded as abstaining.

Director Brick withdrew from the Meeting at 11:39 a.m.

Director Rez withdrew from the Meeting at 11:48 a.m.

Director Morse withdrew from the Meeting at 11:58 a.m.

44814 After considerable discussion relating to AB 2734 (Pavley) relating to urban water conservation, Director Swan moved, seconded by Director Bannister and carried, that the Board adopt the CEQA determination and support AB 2734 (Pavley) if amended consistent with the Board's adopted Legislative Policy Principles on the CALFED Bay-Delta Process, as set forth

in the letter signed by the Chief Executive Officer on March 5, 2002. The Board also reaffirmed its commitment to conservation and complimented Assemblywoman Pavley for her efforts in furthering conservation objectives while seeking amendments that complement the region's successful programs.

Directors Kwan and Murray requested to be recorded as voting no.

44815 Communications, Outreach and Legislation Committee Vice Chairman announced that no action was taken by the committee on Agenda Item 9-9, Assembly Bill 1778 (Nakano): Drinking Water and Water Treatment Plant Security (background screening.)

Director Murray moved that a "no" position be taken by the Board on Agenda Item 9-9. The motion died for lack of a second.

44816 The following communication was submitted to the Board for information:

- a. Status report for the Inland Feeder Project for the month ending January 2002, signed by the Chief Executive Officer on February 21, 2002.

44817 There being no objection, the Chair adjourned the Meeting at 12:02 p.m.

THOM COUGHRAN
SECRETARY

PHILLIP J. PACE
CHAIRMAN