

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
JULY 9, 2002

44918 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, July 9, 2002.

The Meeting was called to order by Chairman Pace at 10:02 a.m.

44919 The Meeting was opened with an invocation by Reverend Dr. Clinton A. Benton, pastor of the Upper Room Fellowship Missionary Baptist Church.

44920 The Pledge of Allegiance to the Flag was given, led by Director Bonny L. Herman.

44921 Secretary Coughran called the roll. Those answering present were: Directors Abdo, Ashley, Bakall, Ball, Bannister, Brick, Brown, Coughran, De Jesus, Edwards, Fellow, Foley, Grandsen, Hansen, Herman, Kwan, Lewis, Loveland, Mejia, Morris, Morse, Murph, Murray, Mylne, Owen, Pace, Parker, Peterson, Rez, Stanton, Troxel, Wein, and Wright.

Those not answering were: Directors Blake, Castro (entered 10:15 a.m.), Harris, and Luddy (entered 10:10 a.m.).

The Chair declared a quorum present.

44922 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction. No member of the public responded.

44923 There being no objection, the Chair ordered the reading of the Minutes of the Meeting of June 11, 2002, dispensed with, a copy having been mailed to each Director.

Director Ball moved, seconded by Director Wright and carried, approving the foregoing Minutes as mailed.

44924 The General Counsel's letter signed July 8, 2002, was presented, transmitting the credentials evidencing the appointment by Municipal Water District of Orange County of Ergun Bakall as one of its representatives on Metropolitan's Board for an indefinite term, replacing Peer A. Swan.

General Counsel Kightlinger reported the credentials had been examined and found legally sufficient, and that the Oath of Office was administered to Director Bakall on July 1, 2002. The Chair ordered the credentials, together with the General Counsel's letter, received and filed.

Following an introduction by Vice Chairman Foley, Director Bakall took his seat as a Director representing Municipal Water District of Orange County.

Vice Chairman Luddy took his seat at 10:10 a.m.

44925 Chairman Pace presented to former Director Henry S. Barbosa a Commendatory Resolution for his service on Metropolitan's Board, representing Three Valleys Municipal Water District from February 10, 1997 to February 20, 2002.

44926 Chairman Pace presented to Ronald C. Palmer a Certificate of Appreciation for his long tenure of service in the water industry and as General Manager of Foothill Municipal Water District, a member agency of Metropolitan. The Board wished Mr. Palmer the best in his retirement.

44927 Director Murph moved, seconded by Director Stanton and carried, approving a 60-day leave of absence for Director Betty H. Harris, commencing June 27, 2002.

44928 Director Murph moved, seconded by Director Wright and carried, approving the committee appointments as recommended by the Chair, of Director Bakall to the Legal, Claims and Personnel Committee and the Water Planning, Quality and Resources Committee.

Chairman Pace reported that as part of the department head evaluation process, he has requested Directors Hansen, Grandsen, and Rez to join him and Directors Castro and Foley as part of the Compensation and Performance Appraisal Committee.

Director Castro took his seat at 10:15 a.m.

44929 Audit Subcommittee Chairman Rez moved, seconded by Director Stanton and carried, confirming the appointment of Gerald C. Riss as General Auditor and the approval of terms of employment, as set forth in the letter signed by the Chairman of the Board on July 2, 2002.

Following a question and answer session on the role of both the internal and external auditors, Audit Subcommittee Chairman Rez then introduced Gerald C. Riss, General Auditor, to the Board.

44930 Chairman Pace reported that on June 14 he testified at a congressional hearing before the Subcommittee on Water and Power in La Quinta, California, on the status of the Quantification Settlement Agreement (QSA) and the Interim Surplus Guidelines. Also testifying were Assistant Secretary of the Interior Bennett Raley, Department of Water Resources Director Tom Hannigan, representatives from Coachella Valley Water District, Imperial Irrigation District, San Diego County Water Authority, and many others. On June 17, the Chair, along with other Board members, attended the 100th anniversary of the Bureau of Reclamation at Hoover Dam in Las Vegas, Nevada. On June 18, the Directors participated in the Southern Nevada Water Authority-sponsored inspection trip of the Las Vegas Wash, which trip provided an up-close view of the perchlorate remediation program.

44931 Regarding the Colorado River, Bay-Delta and CALFED matters, and the summary of District activities, Chief Executive Officer Gastelum referred to his activity report dated July 3, 2002, which was distributed earlier.

Mr. Gastelum reported that because of the extreme dry spell, there was a great deal of uncertainty with water supplies from the Colorado River. If next year continues to be dry, even with the Interim Surplus Guidelines in place, there will be potential cutbacks. Regarding the Quantification Settlement Agreement (QSA), a negotiating session was convened by Secretary Nichols and Director of Water Resources Hannigan, with representatives from Imperial Irrigation District (IID), Coachella Valley Water District (CVWD), Metropolitan, and San Diego County Water Authority (SDCWA). The sole purpose of the initial meeting was to bring the parties together to see whether or not further negotiations could be fruitful to result in an execution of the QSA by the end of this year. The tenor of the discussions was largely IID continuing to say they could not go forward with either the on-farm conservation program as currently contemplated or an interim fallowing program unless additional compensation is provided in unspecified amounts, and additional regulatory or statutory assurances are obtained to minimize additional costs from environmental mitigation requirements. Nothing was resolved at that meeting, but another was scheduled for July 22. One notable event was that staff from CVWD, Metropolitan, and SDCWA have prepared joint proposals to try and address the issues that IID is raising, which IID is now considering. The proposals do not meet all of IID's current demands. It is hoped, however, that an acceptable program can be arrived at so that the QSA can be signed.

Chief Executive Officer Gastelum also reported that there was no further development on the Cadiz project. Senator Dianne Feinstein was able to add to the Interior appropriations bill that is currently going through Congress specific language to provide that after October 1 of this year, the Bureau of Land Management of the Department of Interior would not be authorized to spend any money on the issuance of the Record of Decision (ROD) or related documents necessary for a right-of-way that Metropolitan and Cadiz would need to go forward with this project. Mr. Gastelum stated that he did not think similar language would be added to the House bill. The bill is moving in the House, but because it is also in the Senate, it will become a conferenceable item; and Senator Feinstein plans to take this to a conclusion. Mr. Gastelum commented on the conclusion based on three different courses of action: (1) the Department of Interior would go ahead and issue its ROD and do what it could to negotiate with Senator Feinstein to resolve any

issues that the Senator has before this is enacted; (2) the Department of Interior would not issue a ROD and would simply wait to see whether this legislation is passed and then work with Senator Feinstein on how to implement it; and (3) some other action that might be taken by Metropolitan's Board based upon not only that factor but other factors.

Chief Executive Officer Gastelum stated he does not expect to bring anything to the Board on the Cadiz matter until the ROD is received from the Bureau of Land Management. For several months, the Bureau has been saying that the ROD would be issued momentarily, perhaps some time in July. At this time Metropolitan does not know whether the decision would have any of the provisions that Senator Feinstein has asked for.

Vice Chairman Foley announced that the Colorado River Board of California would be hosting a workshop on July 24 in Metropolitan's Board Room to focus on the drought in the Colorado River Basin and what this means for next year's water supply for Southern California.

44932 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report dated June 28, 2002, which was distributed earlier. Mr. Kightlinger reported that the Diamond Valley Recreation Group (DVRG) has sued Metropolitan, the group that had explored doing the recreation program out at Diamond Valley Lake. DVRG has alleged five basic causes of action that revolve around the basic contract theory that Metropolitan has breached a contract with them and that there was a constructive contract because the Board did not enter into a contract with them. The fifth cause of action was alleged violations of the Brown Act. DVRG is asking for \$2.5 million damages in actual out of pocket costs and expenses and \$52 million in potential lost opportunity profits. The suit has been filed in the Riverside court. Metropolitan plans to respond very vigorously. The suit was filed on June 28, 2002, and Metropolitan has thirty days to respond. This matter will be discussed further at the next Legal, Claims and Personnel Committee meeting.

General Counsel Kightlinger reported on another matter of interest to Metropolitan. Two cases were filed against the State Water Resources Control Board by the El Dorado Irrigation District and the El Dorado County Water Agency for inclusion of

what is known as Term 91 in their water rights application to the State board. Term 91 is very important to the State Water Contractors (SWC). It protects the SWC, as well as the Central Valley Project (CVP) water right holders, and their entitlements by excluding project created stored water from potential diversion under the granted water rights. This protects Metropolitan's entitlement. Both El Dorados' interpretation is that under area of origin statutes, their rights preceded creation of the SWP and CVP. They should not have Term 91 included in their permits. The State board has been including Term 91 since the mid-1960s in all new permits they issue. Metropolitan has intervened in that litigation through the SWC and plan to try and ensure that Term 91 is included in this permit and future permits. The Board will be kept apprised of the developments in that lawsuit.

44933 Chairman Pace reported that at the request of the Chair of the Subcommittee on Rules and Ethics, the Ethics Officer's report will be taken up at the next subcommittee meeting.

44934 The reports of the Standing Committees are as follows:

Chairman Pace reported the Executive Committee, at its meeting on June 24, approved Agenda Item 8-11. The committee held over for further review the item on new association memberships and certain ongoing memberships for fiscal year 2002/03. The Subcommittee on Rules and Ethics Chair reported that the Ethics Officer addressed the issues of the revolving door policy and the proposed criteria for considerations of a waiver to be presented to the Board. Vice Chairman Foley reported on the activities of the Colorado River Board (CRB). A workshop will be held by the CRB on July 24 in Metropolitan's Board Room to inform the public and the media of the serious drought conditions in the Colorado River Basin and the importance of the timely implementation of California's Colorado River Water Use Plan, the QSA and the potential impacts to California without an executed QSA.

Chief Executive Officer Gastelum gave his report of Metropolitan's activities. Board Executive Officer Ivey gave an update on the Department Heads' evaluation process.

The Chair reported that in closed session the Executive Committee considered the filling of the General Auditor's position.

Asset, Real Estate and Infrastructure Policy Committee Chairman Peterson reported the committee heard presentations on (a) the ongoing progress being made on the development of the database for real property assets and the proposed evaluation criteria for surplus property; (b) the Riverside County Integrated Plan with staff identifying the three categories of property types--core properties, reserve properties, and other properties, and the schedule for the Multi-Species Habitat Conservation Plan for calendar year 2002; (c) the personal computer replacement project; and (d) the Ormond Beach property, with staff providing background on the acquisition of the property and current activities relating to land use concepts including ocean desalination. The committee also approved a motion authorizing a policy for providing broadband service to Board members and senior staff to allow faster access to the Internet.

Budget, Finance and Investment Committee Chairman Castro reported the committee approved Agenda Items 8-5, 8-6, and 8-7. The committee requested that copies of the budget for the Six Agency Fund and the Colorado River Association, and the key issue summary and budget and actual expenditures of the State Water Contractors be mailed to Directors.

Communications, Outreach and Legislation Committee Chairman Fellow reported the committee approved Agenda Item 9-2, opposing SB 712, Senator Costa's bill that would prohibit urban water wholesalers from considering locally developed water supplies when making dry-year allocation plans, unless the bill is amended to specifically refer to water supply assessment required in SB 610 and SB 221 and not contradict Metropolitan's Water Supply and Drought Management Plan. Committee Chairman Fellow requested Item 9-2 be added to the Consent Calendar. The annual Water Quality Report is out and is being translated into several languages. The next Liquid Art reception is scheduled for August 6 on the Cal State University, Fullerton, campus. Metropolitan's 2000/01 Annual Financial Report took top honors in the League of American Communications Professionals contest. The legislative representatives in Washington, D.C. and Sacramento gave reports on current activities. Metropolitan

will be evaluating its conservation program with various methods. The committee reviewed a preview of an ad campaign to encourage people to water their plants less. A representative from Congressman Jerry Lewis' Washington office was taken on an inspection trip of Diamond Valley Lake.

Engineering and Operations Committee Chairman Ashley reported the committee approved Agenda Items 8-1, 8-2, 8-3, and 8-4. Agenda Item 8-10 regarding the specific plan for the Diamond Valley Lake Park was deferred. Agenda Item 10-2 regarding the San Diego Pipeline 6 project was deferred until next month.

Legal, Claims and Personnel Committee Chairman Owen reported the committee approved Agenda Item 8-8. In closed session the committee also heard reports on (a) the *Planning and Conservation League v. Department of Water Resources* mediation, (b) the arbitration of dispute between the California Department of Water Resources and Southern California Edison, and (c) the MAPA contract negotiations.

Water Planning, Quality and Resources Committee Chairman Morse reported the committee approved Agenda Item 8-9. Agenda Item 10-2 was deferred to next month. The committee received a comprehensive presentation on the perchlorate situation in the Las Vegas Wash and the remediation action being taken. The committee approved a motion instructing staff to work closely with Arizona, Nevada, California, and EPA officials to accelerate the program for clean up of perchlorate contamination in Colorado River water, with staff to report back to the Board on a quarterly basis.

44935 On behalf of Director Kwan, Board Executive Officer Ivey introduced Dolores M. Holguin, member of the board, Valley County Water District.

Director Morris moved, seconded by Director Fellow and carried, and the Board approved the Consent Calendar Items, **M.I. 44936** through **M.I. 44946** as follows:

44936 Adopted the California Environmental Quality Act (CEQA) determination and authorized (a) Appropriation No. 15394 in the amount of \$800,000 in budgeted Capital Investment Plan (CIP) funds from the Construction Funds for design,

environmental determinations and installation of equipment for environmental control improvements in remote computer facilities; and (b) the Chief Executive Officer to have all work performed up to the award of competitively bid contracts, as set forth in the letter signed by the Chief Executive Officer on June 14, 2002.

44937 Adopted the CEQA determination and (a) appropriated \$947,000 in budgeted funds in Appropriation No. 15369 (No. 3) from the Construction Funds for CIP projects as part of the Weymouth Filtration Plant Improvements Program; (b) authorized the Chief Executive Officer to have all work performed up to the award of competitively bid contracts for these projects: replace Surface Wash Header Pipelines in 24 Filter Beds, recoat Finished Water Reservoir, and rehabilitate Flocculation Basin Nos. 3 and 4; and (c) authorized budgeted funds to have all work performed to replace Building Nos. 22 and 30 roofs, as set forth in the letter signed by the Chief Executive Officer on June 14, 2002.

44938 Adopted the CEQA determination and (a) appropriated \$3.126 million in budgeted CIP funds in Appropriation No. 15365 (No. 4) from the Construction Funds; (b) authorized Skinner Module 7 preliminary design activities; and (c) authorized the Chief Executive Officer to have all work performed and to award competitively bid contracts in an amount not to exceed \$1.5 million for the Effluent Replenishment Tank Repair and Bypass Pipeline Project, as set forth in the letter signed by the Chief Executive Officer on June 21, 2002.

44939 Adopted the CEQA determination and appropriated \$3.5 million in budgeted funds in Appropriation No. 15395 from the Construction Funds for upgrades to the La Verne Machine Shop equipment and bridge cranes, construction of a foundation for the Fabrication Shop, and construction of a blast room for the Coatings Shop, as set forth in the letter signed by the Chief Executive Officer on June 14, 2002.

44940 Adopted the CEQA determination and resolutions providing in substance that Metropolitan elects to be allocated that additional portion of revenue from taxes levied on redevelopment property which is attributable to any increase in assessed value of the project property, as set forth in the

letter signed by the Chief Executive Officer on June 14, 2002, as follows:

- Resolution 8817** Buena Park Redevelopment Project-2001 Consolidation in the city of Buena Park, county of Orange
- Resolution 8818** Garden Grove Amendment 13 Redevelopment Project in the city of Garden Grove, county of Orange
- Resolution 8819** Redevelopment Project Areas Nos. 5-1986 & 5-1987, Amendment No. 2 (Mead Valley Community) in the unincorporated area of Riverside County
- Resolution 8820** Amendments to the Agua Mansa, Central Business District, Gateway & Industrial Redevelopment Projects in the city of Rialto, county of San Bernardino
- Resolution 8821** Santee Amended Redevelopment Project in the city of Santee, county of San Diego

each Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA ELECTING TO RECEIVE ALLOCATION OF TAXES PURSUANT TO PROVISIONS OF THE COMMUNITY REDEVELOPMENT LAW

44941 Adopted the CEQA determination and authorized the Chief Executive Officer to make payments of \$453,768 for the Six Agency Fund and \$24,198 for the Colorado River Association for fiscal year 2002/03, as set forth in the letter signed by the Chief Executive Officer on June 27, 2002.

44942 Adopted the CEQA determination and authorized the Chief Executive Officer to (a) make payments of \$951,440 for State Water Contractors member dues; \$150,000 for Bay-Delta Fund; \$24,000 for Bay-Delta Urban Fund, and \$137,850 for Municipal Water Quality Investigation (MWQI) Fund for fiscal year 2003; and (b) renew the MWQI agreement, as set forth in the letter signed by the Chief Executive Officer on June 14, 2002.

Sufficient funds are included in Metropolitan's fiscal year 2002/03 Operation and Maintenance Fund for these four payments.

44943 Adopted the CEQA determination and authorized the Chief Executive Officer to amend existing agreements and enter into new contracts with employment service agencies and professional firms supplying temporary personnel in excess of \$250,000, with no individual contract to exceed \$2 million in a single contract year, as set forth in the letter signed by the Chief Executive Officer on June 14, 2002.

44944 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into a water management agreement with Kings River Water Association in form approved by the General Counsel based on the principles in Attachment 1 to the letter signed by the Chief Executive Officer on June 21, 2002.

44945 Adopted the CEQA determination and (a) granted conditional approval for Annexation No. 80 concurrently to Calleguas Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$1,506,190.20 to Metropolitan if completed by December 31, 2002, or if completed later, at the then current annexation charge rate; (b) approved Calleguas' proposed Plan for Implementing Water Use Efficiency Guidelines; and (c) adopted the Resolution of Intention to Impose Water Standby Charge (**Resolution 8822**) within the proposed annexation territory, substantially in the form of Attachment 3 to the letter signed by the Chief Executive Officer on June 14, 2002, said Resolution entitled:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN
WATER DISTRICT OF SOUTHERN CALIFORNIA GIVING NOTICE OF
INTENTION TO IMPOSE WATER STANDBY CHARGES CONTINGENT UPON
ANNEXATION**

Director Grandsen requested to be recorded as abstaining.

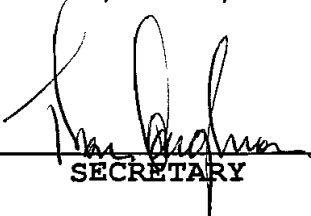
44946 Adopted the CEQA determination and expressed opposition to SB 712 (Costa) - Water Supply Planning, as set forth in the letter signed by the Chief Executive Officer on July 5, 2002.

44947 Chairman Pace reported that no action was taken on Agenda Item 9-1, the report on mediation regarding the *Planning and Conservation League, et al. v. Department of Water Resources, et al.*

44948 The following communication was submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through May 2002, signed by the Chief Executive Officer on June 19, 2002.

44949 There being no objection, at 10:55 a.m., the Chair adjourned the Meeting to Tuesday, August 20, 2002, at 10:00 a.m.



SECRETARY



CHAIRMAN