

MINUTES
ADJOURNED REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
NOVEMBER 19, 2002

45059 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, November 19, 2002.

Chairman Pace called the Meeting to order at 10:10 a.m.

45060 The Meeting was opened with an invocation by employee Dwight Cleveland, the representative for Metropolitan's Veterans Association.

45061 The Pledge of Allegiance to the Flag was given, led by Chairman Phillip J. Pace. Chairman Pace made reference to the flags of the United States and of the State of California that were in the Board Room, which flags Senator David Kelley gave to Metropolitan for display in the Southern California Water Education Center and Museum. Those flags stood in Senator Kelley's office during his 24 years as a State legislator.

45062 Secretary Coughran called the roll. Those answering present were: Directors Abdo, Bakall, Ball, Bannister, Blake, Brick, Brown, Castro, Coughran, De Jesus, Dentler, Edwards, Fellow, Foley, Grandsen, Harris, Hansen, Herman, Kwan, Lewis, Loveland, Morris, Morse, Murray, Mylne, Owen, Pace, Parker, Peterson, Rez, Stanton, and Wright.

Those not answering were: Directors Ashley, Luddy, Mejia, Murph, and Troxel.

The Chair declared a quorum present.

45063 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction.

Conner Everts of the Southern California Watershed Alliance spoke in favor of conservation programs and applauded the staff and the Board in their efforts to continue the high-efficiency clothes washer program, the outdoor water usage project, and the upcoming public outreach program to seek water use efficiency.

The Chair introduced Jacqueline Smith, member of the board of the Foundation for the Southern California Water Education Center, and Dr. Jerome Silverman, chairman of the board of Golden Security Bank.

45064 There being no objection, the Chair ordered the reading of the Minutes of the Meetings of October 8 and 22, 2002, dispensed with, copies having been mailed to each Director.

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

Director Hansen requested to be recorded as abstaining.

45065 Chairman Pace presented to Director Emeritus George Wein a Commendatory Resolution for his service on Metropolitan's Board from 1993 to 2002, representing the City of Los Angeles.

45066 Chairman Pace reported there were no new committee appointments.

45067 Chairman Pace reported that on October 21 he attended a signing ceremony at La Verne City Hall with Director De Jesus for the Live Oaks Conjunctive Use Agreement with Three Valleys Municipal Water District and the city of La Verne. On November 8 Metropolitan, the Foundation for the Southern California Water Education Center, and the Western Center hosted a reception for retiring Senator David Kelley with a western barbecue held at Diamond Valley Lake in Hemet. Several city and state officials joined with Metropolitan's board members and guests in this tribute.

Chairman Pace congratulated those Directors who recently won their reelection bids and appointment for public offices, as follows:

Director Anthony Fellow	Upper San Gabriel Valley Municipal Water District
Director Willard Murray	West Basin Water Replenishment District
Director Glen Peterson	Las Virgenes Municipal Water District
Director Harold Ball	Helix Water District
Director Marion Ashley	County of Riverside Board of Supervisors 5 th District
Director Bud Lewis	Mayor of Carlsbad
Director David De Jesus	President of Covina Irrigating Company

45068 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 November 7, 2002, which was distributed earlier.

Chief Executive Officer Gastelum commented on the passage of Proposition 50 in the recent election, and stated that he planned to bring to the Board new water management programs for Metropolitan and its member agencies to take advantage of Proposition 50 opportunities.

At the request of the Chairman of the Water Planning, Quality and Resources Committee, Chief Executive Officer Gastelum called on Water Resource Management Assistant Group Manager Falagan to give his report on the Central Pool Augmentation Project. Mr. Falagan gave an update on the CPA Project, providing an overview on the timing and the need for the project. He stated that the project had several objectives that were identified in the EIR the Board approved in 1995--to meet total treated water demands within the Central Pool service area, to strengthen the water system reliability, and to increase operational flexibility for Metropolitan's system. With the aid of slides, Mr. Falagan then described the CPA Project Components, the Central Pool Service Area, the development and timing of the project, and current activities relating to the project.

Following a discussion on reliability and transportation needs, the construction timeline, the need for the project, and the proposed costs, staff was requested to again place this item on next month's Water Planning, Quality and Resources Committee agenda.

With the aid of a video, Water System Operations Group Manager Wicke reported on the complete shutdown of the Colorado River Aqueduct October 1-15. Mrs. Wicke stated that another shutdown is scheduled for February 4-18, 2003.

45069 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for October 2002, which was distributed earlier.

General Counsel Kightlinger also highlighted other matters of interest to Metropolitan. He reported that Shank Balfour/Beatty, the contractor, had served Metropolitan with two new litigation cases on the Arrowhead East and Arrowhead West tunnels, part of the Inland Feeder Project. The contractor's claims were denied, and Metropolitan will now move forward with discovery.

Regarding the electric industry restructuring, General Counsel Kightlinger reported that the California Department of Water Resources (DWR) had been pursuing an arbitration proceeding with Southern California Edison in the matter of DWR's contract with Edison. This resulted in potential over-billing, the main subject of the arbitration. A settlement has been reached with Edison to pay DWR \$30 million for energy costs and potential over-billing. This would give Metropolitan a return of \$15-20 million in terms of rebates on power costs.

Director Castro commented on news articles relating to fraud in the electric utility industry, and inquired whether Metropolitan is pursuing any remedy against companies that may have fraudulently victimized Metropolitan in entering into these contracts. General Counsel Kightlinger responded that staff from the Legal Department and the Chief Executive Officer's Department had been reviewing the contracts. After a full analysis and if any fraudulent measures are found, Metropolitan will consider whether to intervene in current lawsuits or to pursue its own actions. Director Castro requested that this item be agendized and a report be given to the Board.

General Counsel Kightlinger also reported that *amicus* briefs would be filed by Metropolitan in *Rio Grande Silvery Minnow v. Keys*, a case in New Mexico; and in *Miccosukee Tribe of Indians of Florida, et al. v. South Florida Water Management*

District. Both cases have the potential to impact Metropolitan's operations and water storage programs.

Mr. Kightlinger noted that former General Counsel Roderick Walston, now Deputy Solicitor for the U.S. Department of Interior, is handling the briefing and preparation on the *Rio Grande Silvery Minnow* case and has provided Metropolitan with information on that matter. Mr. Kightlinger announced that Mr. Walston had published two recent law review articles, with copies available in the Legal Department.

45070 General Auditor Riss gave a summary report of the Audit Department's activities for the month of October. He noted that a traditional report was issued on the agreement with Eurest Dining Services, which report was identified as low risk exposure. In addition, three report cards were completed on the WINS New Rate Structure Implementation, the Oracle Financials Update Project, and the Supervisory Control and Data Acquisition Upgrades, with all indicating low current exposures.

45071 Ethics Officer Anderson thanked Director Brick for inviting her participation in the new Directors' orientation program. As a result of being involved with more in-service presentations and being interviewed for an article in *People Interactive*, she reported that there has been a positive increase in employees and staff members asking questions and inquiring about policies. Ms. Anderson also reported on publishing the proposed amendments to the Statement of Economic Interest and the Conflict of Interest Code for public comment, with the assistance of the General Counsel. The amendments will be brought to the Board for action next month.

45072 The reports of the Standing Committees are as follows:

Chairman Pace reported that at the Executive Committee meeting on October 22, the committee approved Agenda Items 8-7, 8-8, and 9-6. Chairman Pace requested that Item 9-6 be moved to the Consent Calendar. The Executive Committee heard reports from Board Executive Officer Ivey and Vice Chairman Foley. On behalf of the Subcommittee on Rules and Ethics, Board Executive Officer Ivey reported that Congressman Ed Pastor of Arizona addressed the subcommittee on current issues and acknowledged Metropolitan's work on the California 4.4 Plan. The subcommittee approved the proposed items for November and

December, and the Ethics Officer gave an update of recent activities. Vice Chairman Foley reported on the activities of the Colorado River Board. Chairman Pace also reported that he would be reviewing the committee structure.

Asset, Real Estate and Infrastructure Policy Committee Chairman Peterson reported the committee approved Agenda Item 8-4. The committee heard reports on the updated surplus property guidelines and procedures, and on the recording of desert properties.

Budget, Finance and Investment Committee Chairman Castro reported the committee unanimously approved Agenda Item 8-2. He announced that the quarterly meeting of the committee to consider investments, originally scheduled for November 26, has been cancelled and will be rescheduled.

Communications, Outreach and Legislation Committee Chairman Fellow reported that Metropolitan, in partnership with Western Municipal Water District, exhibited education programs at the Science and Technology Education Partnership conference at the Riverside Convention Center November 1-2. On November 12 a water forum was held in Fullerton. On November 13 a workshop was held in the San Gabriel Valley with city officials and members of local water boards to receive an update on regional water issues. This was followed by an inspection trip to Diamond Valley Lake. A report on the inspection trips program was complete and would be distributed. Committee Chairman Fellow also reported the committee approved Agenda Item 9-5, and requested that it be moved to the Consent Calendar. The legislative representatives in Washington, D.C. and Sacramento gave reports on current activities.

Engineering and Operations Committee Vice Chairman Murray reported the committee approved Agenda Items 8-1 and 9-2, and he requested that Item 9-2 be moved to the Consent Calendar. The committee deferred Agenda Item 9-1, the agreements for the Hayfield Groundwater Storage Program, to the December meeting. The committee heard oral reports on the October 2002 Colorado River Aqueduct shutdown and on the feasibility of hydroelectric pumped-storage power generation potential using Copper Basin.

Legal, Claims and Personnel Committee Chairman Owen reported the committee approved Agenda Items 8-3, 9-7, 9-8, and

9-9. He requested Items 9-7, 9-8, and 9-9 be added to the Consent Calendar. The committee heard a report on two cases in which Metropolitan will be joining in *amicus* briefs, and a report on Metropolitan's coordinated use of dry-year supply programs.

Director Dentler commented on the excellent report on diversity in Metropolitan's work force. She noted that diversity reports were done semiannually, with the next one due in April and looked forward in the discussion of it at the Legal, Claims and Personnel Committee meeting. Director Dentler shared some of her observations with the current report, which she hoped would help to lay the groundwork for the April report.

Water Planning, Quality and Resources Committee Chairman Morse reported the committee approved Agenda Items 9-3 and 9-4 and requested that they be moved to the Consent Calendar. Reports were given on Bay-Delta and State Water Project matters, a water supply update, and the Integrated Resources Plan Update report. The committee deferred the report on the status of the Central Pool Augmentation Project, to be heard at today's Board Meeting (see M.I. 45068).

Director Bannister moved, seconded by Director Blake and carried, and the Board approved the Consent Calendar Items, **M.I. 45073** through **M.I. 45088** as follows:

45073 Adopted the California Environmental Quality Act (CEQA) determination and authorized (a) the Chief Executive Officer to negotiate and execute new bilateral contracts, in form approved by the General Counsel, with a maximum term of five years for the sale of capacity and energy from some of Metropolitan's small hydroelectric generation plants pursuant to the California Public Utilities Commission procurement process described in the letter signed by the Chief Executive Officer on October 29, 2002; and (b) the Chief Executive Officer to negotiate and execute new bilateral contracts, in form approved by the General Counsel, with a maximum term of five years for load sheds from Hinds pumping plant and possibly supplemental load sheds from the Gene and Intake pumping plants.

45074 Adopted the CEQA determination and (a) approved an increase in Appropriation No. 15396 in the amount of \$65,000 against which to charge expenses associated with the issuance of

debt; (b) approved an increase in Appropriation No. 15372 in the amount of \$135,000 against which to charge expenses associated with the issuance of debt and interest rate swaps; and (c) authorized the Chief Executive Officer to effect such reimbursement to the extent permitted under federal laws and regulations in accordance with instructions from bond counsel, as set forth in the letter signed by the Chief Executive Officer on October 28, 2002.

45075 Adopted the CEQA determination and in accordance with the negotiated labor agreements with Metropolitan's four bargaining units, adopted **Resolution 8827** increasing Metropolitan's contributions to the medical plans maintained by Public Employees' Retirement System for employees and annuitants in classifications represented by these units, said changes to be effective January 1, 2003 through December 31, 2003, as set forth in the letter signed by the Chief Executive Officer on October 28, 2002, said Resolution entitled:

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

45076 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into an agreement in an amount not to exceed \$600,000 to acquire ten acres of off-site mitigation lands for the Inland Feeder Project in compliance with the requirements of the amended biological opinion issued by the United States Fish and Wildlife Service, as set forth in the letter signed by the Chief Executive Officer on October 28, 2002.

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

45077 Adopted the CEQA determination and authorized (a) \$200,000 in Appropriation No. 15334 (No. 3) from the Construction Funds; and (b) all work in advance of award of a construction contract for site grading at the Southern California Water Education Center and Western Center at the Diamond Valley Lake East Recreation Area, as set forth in the letter signed on behalf of the Chief Executive Officer on October 16, 2002.

45078 Adopted the CEQA determination and authorized (a) an increase in Appropriation No. 15334 (No. 4) by \$1.7 million to a total of \$15.5 million from the Construction Funds and authorized all work in advance of award of a construction contract for supporting infrastructure at the Diamond Valley Lake East Recreation Area; and (b) the Chief Executive Officer to enter into agreement(s) for design services with the selected respondent(s) in an amount not to exceed \$1.4 million, as set forth in the letter signed by the Chief Executive Officer on October 16, 2002.

45079 Adopted the CEQA determination and (a) granted conditional approval for Annexation No. 79, concurrently to Calleguas Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$168,104.40 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 **(Resolution 8828)** to impose water standby charge within the proposed annexation territory, substantially in the form of Attachment 3 to the letter signed on behalf of the Chief Executive Officer on October 16, 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.

45080 Adopted the CEQA determination and adopted (a) a resolution **(Resolution 8829)** granting Calleguas Municipal Water District's request for approval of Annexation No. 80, 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; (b) a resolution **(Resolution 8830)** 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; and (c) authorized the Chief Executive Officer to enter into an agreement with Calleguas to pay a portion of the annexation fee through installments in accordance with Metropolitan's Administrative

Code Section 3106(b) and (c) and in form approved by the General Counsel, as set forth in the letter signed on behalf of the Chief Executive Officer on October 16, 2002, said Resolutions entitled:

Resolution 8829 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO CALLEGUAS MUNICIPAL WATER DISTRICT'S ANNEXATION NO. 80 AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

Resolution 8830 **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. 80**

Director Grandsen requested to be recorded as abstaining.

45081 Adopted the CEQA determination and awarded a fixed price construction contract in the amount of \$2.229 million to J.R. Pipeline Co., Inc. for the construction of the North Rim adit lining, as set forth in the letter signed by the Chief Executive Officer on October 31, 2002. Improvement would address access and worker safety concerns. Improved access would facilitate timeliness of monitoring and response capabilities for performing additional seepage control measures should they be required.

45082 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into a Water Management Program Agreement with Kern Delta Water District based on the contractual principles in the letter signed by the Chief Executive Officer on November 1, 2002, all in form approved by the General Counsel.

45083 Adopted the CEQA determination and authorized pursuit of up to 205,000 acre-feet of one-year water transfer option agreements with various Sacramento Valley water districts, based

on the principles in Attachment 1 to the letter signed by the Chief Executive Officer on November 1, 2002.

45084 Regarding the region-wide public outreach program to seek water use efficiency for summer 2003 and beyond, Director Ball requested assurance that Metropolitan would reinstate the member agency group to provide coordination and effort. Director Ball also asked that \$75,000 be designated to The Water Conservation Garden at Cuyamaca College in the city of El Cajon.

Chief Executive Officer Gastelum stated that Metropolitan has been working with the member agencies on this program, and that there is a small group of the member agency conservation managers that meets regularly to review the conservation programs. In considering the programs that are worthy of financial contributions, a competitive process has been used, utilizing panel members from outside the District and member agency managers and their staff. Mr. Gastelum stated that it would be difficult to choose a particular project without going through the process.

The Board then adopted the CEQA determination and authorized the expenditure of \$2.374 million for a public outreach campaign aimed at reducing water use in Metropolitan's service area in summer 2003 and beyond, as set forth in the letter signed by the Chief Executive Officer on October 30, 2002.

Board Secretary Coughran requested to be recorded as abstaining.

Directors Harris and Stanton requested to be recorded as voting no.

45085 Adopted the CEQA determination and amended Section 7305 of the Administrative Code regarding the "Revolving Door" Policy as shown in Attachment 1 to the letter signed by the Ethics Officer on October 16, 2002.

Director Edwards requested to be recorded as voting no.

45086 Adopted the CEQA determination and authorized amendment to agreement with Flavell, Tennenbaum & Edwards to increase by up to \$75,000 the maximum amount to be paid for appraisal services and litigation support in the eminent domain action for the Inland Feeder Project entitled *Metropolitan Water District of Southern California v. Campus Crusade for Christ*, San Bernardino Superior Court Case No. SCV 34598, as set forth in the confidential letter signed by the General Counsel on October 29, 2002.

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

45087 Adopted the CEQA determination and approved amendment to contract for litigation support and expert witness services with Geoscience Support Services by an increase of up to \$50,000 in *Metropolitan Water District v. Hartford Fire Insurance Co.*, U.S.D.C. Case No. CV00-10536-GHK (MCx), as set forth in the confidential letter signed by the General Counsel on November 6, 2002.

45088 Adopted the CEQA determination and approved the Memorandum of Understanding between The Metropolitan Water District of Southern California and the Management and Professional Employees Association/AFSCME Chapter 1001, as set forth in the confidential letter signed by the Chief Executive Officer on November 16, 2002.

Director Dentler requested to be recorded as abstaining.

45089 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through September 2002, signed by the Chief Executive Officer on October 28, 2002.
- b. Water supply update, signed by the Chief Executive Officer on November 1, 2002.

45090 Director Blake moved, seconded by Director Murray and carried, approving the recommendation by the Executive Committee that the General Counsel performed at an "above expectation"

level and has earned the full support of the Board; and awarded the General Counsel a \$15,000 increase in his flat rate salary to \$180,000 effective November 1, 2002, for successful completion of the first six months in this position, as set forth in the letter signed by the Chairman of the Board on November 4, 2002.

45091 There being no objection, the Chair adjourned the Meeting at 11:44 a.m.



SECRETARY



CHAIRMAN