

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
DECEMBER 10, 2002

45092 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, December 10, 2002.

Chairman Pace called the Meeting to order at 9:17 a.m.

45093 The Meeting was opened with an invocation by employee Charisse Anderson, Ethics Officer.

45094 The Pledge of Allegiance to the Flag was given, led by Director Deborah Dentler.

45095 Secretary Coughran called the roll. Those answering present were: Directors Abdo, Ashley, Bakall, Ball, Bannister, Brick, Brown, Castro, Coughran, De Jesus, Dentler, Edwards, Fellow, Foley, Grandsen, Harris, Hansen, Kwan, Lewis, Loveland, Luddy, Mejia, Morris, Morse, Murph, Murray, Mylne, Owen, Pace, Parker, Peterson, Rez, Stanton, and Wright.

Those not answering were: Directors Blake, Herman, and Troxel.

The Chair declared a quorum present.

45096 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 8-3, the lease agreement with the Riverside County Regional Park and Open-Space District for management of recreation

facilities at Lake Skinner. He also expressed concern on the types of boats and engines that are going to be used on Lake Skinner with the objective of protecting drinking water quality and protecting and enhancing the recreational experience of users of the lake. Mr. Czamanske stated that he was puzzled by the possible emphasis on the increased development at Lake Skinner whereas at Lake Mathews the public is totally excluded from the lake.

Director Brick introduced Jess Waiters of the Rose Bowl and Jane Raftis from the Pasadena Water and Power Department, and asked for their comments on the water conservation program they have implemented.

Jess Waiters and Jane Raftis reported on the installation of 259 waterless urinals at the Rose Bowl with the expectation of saving an estimated one million gallons of water, and about \$25,000 per year.

45097 Staff from the education section of the External Affairs Group introduced students from kindergarten to high school, whose artwork was featured on Metropolitan's 2003 "Water is Life" calendar.

Vice Chairman Foley withdrew from the Meeting at 9:32 a.m.

45098 There being no objection, the Chair ordered the reading of the Minutes of the Meetings of November 12 and 19, 2002, dispensed with, copies having been mailed to each Director.

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

45099 Nominating Committee Vice Chair Murph reported that the committee met and considered candidates to fill the position of Board Secretary for the two-year term effective January 1, 2003 and ending December 31, 2004. Following the committee review, the committee nominated Director Helen Z. Hansen for the two-year term as Board Secretary.

Nominating Committee Vice Chair Murph then moved, seconded by Director Murray, the nomination of Director Helen Z. Hansen for the position of Board Secretary for a two-year term ending December 31, 2004.

Chairman Pace called for other nominations from the floor. Director Rez reported that the current Board Secretary, Thom Coughran, is eligible for a second two-year term. He then moved, seconded by Director Edwards, the nomination of Director Coughran for the position of Board Secretary for a two-year term ending December 31, 2004.

Following the above nominations, Director Fellow moved, seconded by Director Murph and carried, that the above nominations for Board Secretary be closed.

Chairman Pace then called for the vote. Following the vote and tabulations of the ballots, Board Secretary Coughran recorded the results from the vote. The majority of the weighted votes of the Board was cast in favor of Director Hansen for the position of Board Secretary for a two-year term commencing January 1, 2003 and ending December 31, 2004.

45100 Chairman Pace reported there were no new committee appointments. Chairman Pace announced the forthcoming departure of Directors Ashley and Ball from the Board in January 2003.

Vice Chairman Foley returned to the Meeting at 9:42 a.m.

45101 Chairman Pace reported that on November 20-22 a number of Directors and himself attended ACWA's fall conference in Anaheim. John Keys, commissioner with the U.S. Bureau of Reclamation, Senator Jim Costa, Assemblyman Robert Hertzberg, Arthur Baggett Jr. with the State Water Resources Control Board, and Patricia Mulroy, general manager of the Las Vegas Valley Water District, were some of the guest speakers at this conference.

45102 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 December 4, 2002, which was distributed earlier.

Chief Executive Officer Gastelum introduced state Senator Tom Torlakson of Antioch and the current chairman of the Senate Local Government Committee.

Chief Executive Officer Gastelum further reported on Colorado River issues, noting the rejection by Imperial Irrigation District (IID) of environmental documentation in support of the proposed transfer of water to San Diego County Water Authority (SDCWA) and the Quantification Settlement Agreement (QSA). He referred to his memorandum to the Board dated December 10, 2002 regarding IID's action and the proposed resolution prepared for the Metropolitan Board's action. Metropolitan's resolution would provide the direction and leadership, not only for the staff but also for the region, in Metropolitan's ability to deal with the present circumstances, as well as sending a positive message to go forward in cooperation with the other partners on the Colorado River to realize the pursued goal. Discussions are also to be held with the Department of Interior and the other Basin states about the means that would allow Metropolitan to maintain the surplus guidelines, meet the full expectations of the Department of the Interior, the other Basin states, and provide room for the QSA to be executed in a proper time frame. With IID not ready to move ahead right now, Metropolitan plans to continue working with IID, Coachella Valley Water District, and the SDCWA to arrive at a solution. Chief Executive Officer Gastelum requested the Board to take action today on the proposed resolution, as well as the other items on the agenda regarding the All American and Coachella canal lining projects and the QSA.

Director Stanton moved, seconded by Director Bannister, that the Board adopt **Resolution 8831** regarding the QSA and related programs.

Following comments on IID's water use and the development of a performance-based formula for continuation of the Interim Surplus Guidelines and the opportunity for the parties to execute and implement the QSA, Chairman Pace stated he would take up the matter of **Resolution 8831** with Agenda Item 9-3 (see M.I. 45117).

45103 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report dated November 27, 2002, which was distributed earlier.

General Counsel Kightlinger also highlighted other matters of interest to Metropolitan. He reported that in the *Diamond Valley Recreation Group v. Metropolitan* case, Metropolitan filed a second demurrer. There were five causes of action filed by DVRG, and the court sustained the demurrer on two of the causes, the one alleging Metropolitan's Directors violated the Brown Act, and the other relating to "constructive trust" that would have enabled DVRG to maintain and keep control of its work product that it had given to Metropolitan as part of its proposal. Three causes of action remain in the case regarding breach of contract. The court gave DVRG time to refile its complaint.

In the case of *Metropolitan v. Hartford Insurance Company*, settlement negotiations were held on December 3, which were fairly productive. The parties grew closer in their discussions, and both sides agreed to schedule a trial date somewhere between April and early summer of next year, and to also schedule further negotiations on January 28 with a hired mediator-facilitator to hopefully resolve this matter.

45104 General Auditor Riss gave a summary report of the Audit Department's activities for the month of November. He noted that a traditional report was issued on a review of federal grants. Another traditional report was issued on the Community Partnering Program, which report was identified as low risk exposure. In addition, a report card was completed on the Oracle Financials Update Project, indicating low current exposure.

45105 Ethics Officer Anderson stated that a copy of the report by the Ethics Officers' Association dated back in 2000 was distributed to Directors. The purpose for disseminating that report was to provide information so everyone could obtain a greater understanding of just how ethics officers operate, whatever their titles are within organizations, whether multinational, global, or local companies. Ms. Anderson reported that she accompanied the Equal Employment Opportunity manager and others from the Employee Organization Advisory Team to the desert facilities for an orientation to introduce the new

Ethics Program and talk about future training. A preview will be brought before the next meeting of the Executive Committee.

45106 The reports of the Standing Committees are as follows:

Chairman Pace reported that at the Executive Committee meeting on November 26, the committee approved Agenda Item 8-4. The Executive Committee heard reports from Director Hansen and Vice Chairman Foley. Subcommittee on Rules and Ethics Chair Hansen reported the subcommittee approved the proposed items for December 2002 and January 2003. The subcommittee also approved canceling the previously scheduled subcommittee meetings on December 17, with the Executive Committee to meet on December 19. Director Hansen stated that staff would come to the Board in December for approval on the agreements for the Coachella and All American Canal Lining Projects, and also for the Quantification Settlement Agreement. The subcommittee also discussed possible options for the review process of agenda items. In closed session the subcommittee reviewed the six-month performance of the Ethics Officer. Vice Chairman Foley reported on the activities of the Colorado River Board. Chief Executive Officer Gastelum gave his report on Metropolitan's activities, to include the Kern Delta agreement, an update on the State Water Project and the CALFED issue.

Budget, Finance and Investment Committee Chairman Castro reported the committee unanimously approved Agenda Item 8-1 and the process for determining water revenue requirements for fiscal year 2003/04 as the first step in setting water rates and charges for the coming fiscal year. In addition, the committee discussed the oversight role of the committee and Board regarding Metropolitan's financial statements, as well as management's responsibilities for accurate and reliable financial reporting.

Engineering and Operations Committee Chairman Ashley reported the committee approved Agenda Item 9-4, and requested that it be moved to the Consent Calendar. The committee heard an oral report on the Lake Mathews Outlet Facilities Program.

Legal, Claims and Personnel Committee Vice Chairman Brick reported the committee approved Agenda Item 9-5 and requested that it be added to the Consent Calendar. The

committee heard oral reports on Colorado River, Bay-Delta and State Water Project matters.

Water Planning, Quality and Resources Committee Chairman Morse reported the committee unanimously approved Agenda Items 8-2, 9-1, 9-2, 9-3, and 9-6. He requested that Item 9-6 be moved to the Consent Calendar. Reports were given on Metropolitan's urban water management plan for adequacy in achieving increased emphasis on cost-effective conservation, recycling, and groundwater recharge, and the perchlorate situation in the Las Vegas Wash. The committee discussed the Central Pool Augmentation Project.

Director Morris moved, seconded by Director Wright and carried, and the Board approved the Consent Calendar Items, **M.I. 45107** through **M.I. 45113** as follows:

45107 Adopted the California Environmental Quality Act (CEQA) determination and approved additional payments up to \$80,000 to a total of \$320,000 under Agreement No. 26456 for contract year 2002 for financial advisory services with Public Resources Advisory Group, as set forth in the letter signed by the Chief Executive Officer on November 22, 2002.

45108 Adopted the CEQA determination and amended the Memorandum of Understanding for a water management partnership with the Friant Water Users Authority based on the principles in Attachment 1 to the letter signed by the Chief Executive Officer on November 22, 2002.

45109 Adopted the CEQA determination and authorized amendment of the existing lease with the County of Riverside Regional Park and Open-Space District for the management of the recreational facility at Lake Skinner consistent with the terms outlined in the letter signed by the Chief Executive Officer on November 21, 2002.

45110 Adopted the CEQA determination and (a) granted conditional approval for the Podrasky Ohlson Annexation concurrently to San Diego County Water Authority and Metropolitan, conditioned upon receipt in full of annexation fee of \$26,867.20 to Metropolitan, if completed by December 31, 2002, or if completed later, at the then current annexation charge rate; (b) approved SDCWA's proposed Plan for Implementing

Water Use Efficiency Guidelines; and (c) adopted the resolution of intention (**Resolution 8832**) to impose water standby charge within the proposed annexation territory, substantially in the form of Attachment 3 to the letter signed by the Chief Executive Officer on November 21, 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

45111 To proceed with design of Phase 1 facilities for the Hayfield Groundwater Storage Project on an accelerated schedule with an on-line date of 2004, the Board adopted the CEQA determination and (a) authorized Appropriation No. 15402 in the amount of \$18.14 million in budgeted CIP funds from the Construction Funds; (b) authorized amending Agreement No. 40443 with Kennedy/Jenks Consultants for an additional \$2.5 million for additional aquifer characterization; (c) authorized completion of design, preparation of construction bid documents, and performance of all other work in advance of award of competitively bid contracts for Phase 1 facilities and completion of design for the entire Hayfield Groundwater Storage Project; and (d) delegated to the Chief Executive Officer the authority to enter into professional service agreements for hydrogeology and groundwater modeling for Phase 1 facilities, design of Phase 1 wells, design of equipping of Phase 1 wells, and design of conveyance facilities and appurtenant structures in amounts not to exceed \$800,000, \$400,000, \$500,000, and \$3.5 million, respectively, as set forth in the letter signed by the Chief Executive Officer on November 25, 2002.

45112 Adopted the CEQA determination and approved amendment to professional services contract, increasing maximum compensation from \$90,000 to \$265,000 with the law firm of Bell, Orrock & Watase, Inc. for the matter of *Diamond Valley Recreation Group v. Metropolitan*, Riverside Superior Court Case No. 377291, as set forth in the confidential letter signed by the General Counsel on November 19, 2002.

45113 Adopted the CEQA determination and approved (a) the expenditure of \$3 million of unbudgeted funds for the High Efficiency Clothes Washer (HECW) Program through June 2003; and (b) HECW rebate plus marketing contributions of \$110 per unit

through December 2003, as set forth in the letter signed by the Chief Executive Officer on November 26, 2002.

45114 Chairman Pace announced no action was taken on Agenda Item 9-7, the trial of Inland Feeder Pipeline eminent domain action, *The Metropolitan Water District of Southern California v. Campus Crusade for Christ, Inc.*, San Bernardino Superior Court Case No. SCV35498.

45115 Water Planning, Quality and Resources Committee Chairman Morse moved, seconded by Director Morris and carried, and the Board adopted the CEQA determination and authorized finalizing contract terms and principles for the Seawater Desalination Program agreements and development of a Local Resources Program action plan for 2003, as set forth in the letter signed by the Chief Executive Officer on November 22, 2002.

Vice Chairman Foley requested clarification, and received confirmation from the Chief Executive Officer, that the 150,000 acre-feet cap is still in place for the seawater desalination program.

45116 Water Planning, Quality and Resources Committee Chairman Morse moved, seconded by Director Murph and carried, and the Board adopted the CEQA determination and (a) approved the allocation agreement with the Department of the Interior, Imperial Irrigation District (IID), Coachella Valley Water District, Palo Verde Irrigation District, and the San Luis Rey Indian Water Rights Settlement Parties for the All American Canal Lining (AACL) Project and the Coachella Canal Lining Project; (b) approved the construction agreement with U.S. Bureau of Reclamation and IID for the AACL Project; and (c) authorized the Chief Executive Officer, in consultation with the Board-designated Negotiating Team, to execute modifications to the agreement terms, as set forth in the letter signed by the Chief Executive Officer on December 3, 2002.

45117 Water Planning, Quality and Resources Committee Chairman Morse moved, seconded by Director Murph, that the Board adopt the CEQA determination and (a) approve the Quantification Settlement Agreement (QSA) and related agreements and authorize the Chief Executive Officer to execute the finalized QSA and related agreements listed in Attachment 2 to the letter signed

by the Chief Executive Officer on December 3, 2002; and
(b) authorize the Chief Executive Officer, in consultation with the Board-designated Negotiating Team, discretion to agree to modifications to the agreement terms, which do not materially increase Metropolitan's costs or decrease Metropolitan's supply reliability as necessary to meet the December 31, 2002, QSA execution deadline.

In conjunction with the above motion on the QSA, Director Stanton moved, seconded by Director Bannister, that the Board adopt **Resolution 8831** attached to the memorandum to the Board of Directors dated December 10, 2002 from the Chief Executive Officer regarding the action of Imperial Irrigation District, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Regarding the request to adopt the proposed resolution in connection with the QSA and related programs, Director Loveland reiterated his support for the QSA. However, in light of the action taken by IID not to move forward with the QSA before the December 31 deadline, Director Loveland commented on the timeliness of the resolution and that there was still additional time before the December 31 deadline in which to continue further negotiations with all parties. He suggested, as an alternative to that proposed by the Chief Executive Officer would be to wait and see if there was no agreement by all four parties by December 31, 2002.

A discussion took place on the QSA and the conditions already approved by the Board, the suspension of the Interim Surplus Guidelines, the responsibility of Metropolitan to supply water to the Southern California coastal plain, and the adoption of the resolution.

Following the discussion, Chairman Pace called for a vote on the motion, which was carried.

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

45118 In closing the year, Chairman Pace recognized that Metropolitan has approved contract terms for seawater desalination program agreements, increased conservation rebate programs, and appropriated funds for storage programs. He stated Metropolitan left no stones unturned over the past year in its quest to prevail over the uncertainties that surround us, including the weather and the politics in critical areas of our region. Metropolitan's action on the Quantification Settlement Agreement was forged out of good will and good faith, and no one should mistake the action in favor of the QSA for complacency or out of a lack of alternatives. In the coming weeks Metropolitan will stretch itself to make everyone understand that its diverse portfolio of resources has bought us the time and provided us the water to make intelligent and value-added decisions for the years beyond. Chairman Pace thanked the Board for its oversight.

45119 The following communication was submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through October 2002, signed by the Chief Executive Officer on November 22, 2002.

45120 Director Hansen moved, seconded by Director Ball and carried, approving the recommendation by the Executive Committee that the Ethics Officer performed at a "meets expectation" level and has earned the full support of the Board; and awarded the Ethics Officer a \$3,750 increase in her flat rate salary to \$78,750 effective December 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 December 6, 2002.

45121 There being no objection, the Chair adjourned the Meeting at 10:46 a.m.

THOM COUGHRAN

SECRETARY

PHILLIP J. PACE

CHAIRMAN