

**MINUTES**  
**REGULAR MEETING OF THE**  
**BOARD OF DIRECTORS**  
**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**  
**MARCH 11, 2003**

**45227** 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 11, 2003.

Chairman Pace called the Meeting to order at 10:08 a.m.

**45228** The Meeting was opened with an invocation by Reverend Brenda Lamothe of the First African Methodist Episcopal Church.

**45229** The Pledge of Allegiance to the Flag was given, led by Director Regina Murph.

**45230** Board Secretary Hansen called the roll. Those answering present were: Directors Abdo, Bakall, Blake, Brick, Brown, Coughran, De Jesus, Dentler, Edwards, Fellow, Foley, Grandsen, Harris, Hansen, Herman, Kwan, Lewis, Loveland, Luddy, Mejia, Morris, Murph, Murray, Mylne, Pace, Parker, Peterson, Record, Stanton, Troxel, Turner, and Wright.

Those not answering were: Directors Bannister (entered 10:13 a.m.), Castro (entered 10:13 a.m.), Morse, Owen, and Rez.

The Chair declared a quorum present.

**45231** At 10:13 a.m., the Chair called a public hearing to receive comments on the proposed standby charge for 72<sup>nd</sup> Fringe Area Annexation to Eastern Municipal Water District.

No member of the public responded; and after tabulation of the ballots was completed, and with no protests filed, the Chair closed the public hearing at 10:14 a.m.

**45232** Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction. No members of the public responded.

**45233** There being no objection, the Chair ordered the reading of the Minutes of the Meetings of January 29, February 11 and 25, 2003, dispensed with, copies having been mailed to each Director.

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

**45234** Chairman Pace announced there were no new committee assignments.

**45235** Regarding the scheduling of, and Directors' participation at, committee meetings, Chairman Pace announced the Executive Committee reviewed the Directors' responses received from the questionnaire distributed on February 7, 2003 and approved the following:

The committees will be conducted under the "Chair's Rules." The Chair of the committee will manage the committee and the items presented. Committee members will have priority to speak, and non-committee members will be acknowledged and included in the discussion.

### **Schedule of Meetings**

The meetings of the Board and standing committees will remain on the same schedule -- on the second Tuesday of each month and the Monday preceding.

The standing committees meeting on Monday will be: Engineering and Operations; Budget, Finance and Investment; Legal, Claims and Personnel; and Water Planning, Quality and Resources.

The meetings on Tuesday will be: Asset, Real Estate and Infrastructure Policy; Communications, Outreach and Legislation; and the Board.

The meetings of the Executive, special- and sub-committees will be scheduled on the fourth Tuesday of each month.

The third Tuesday of each month will be reserved for special meetings and workshops.

Meetings will not be scheduled concurrently.

#### **Duration of Meetings**

Each committee meeting will be allotted one hour and forty-five minutes.

#### **Presentations**

Staff power point presentations will focus on key points of the agenda item.

Committee Chairs will review presentations in advance and will advise staff if enough information is being presented to the Board.

A brief but informative summary will be provided along with the Board packet.

The presentations will be provided to all Board members prior to each Board meeting.

#### **Role of Ex Officios**

The only members to hold the title of Ex Officio will be the Board Chairman, the Board Vice Chairs, and the Board Secretary. The Ex Officios shall serve as members of all committees with full voting rights and will count towards a quorum if they are present.

Director Blake moved, seconded by Director Peterson and carried, that the above listed items be approved.

**45236** Chairman Pace reported that on February 24 members of the Negotiating Team were requested to meet in the Governor's office in Sacramento to continue discussions of the Quantification Settlement Agreement (QSA). On February 27 Metropolitan hosted a tour of Diamond Valley Lake with elected officials and community leaders of San Diego. They discussed the planning areas of development that would include the two museums; future plans for the community recreational facilities; and the opportunities to provide an outdoor youth camp focusing on education of the environment, water, and ecological related subjects. On February 28 the Chair hosted an inspection trip to the Colorado River with members from Central Basin Municipal Water District.

Chairman Pace announced that to kick off Metropolitan's 75th anniversary, there would be a groundbreaking celebration for the Center for Water Education, Western Center for Archaeology and Paleontology, and the Valley-Wide recreation sites on Saturday, April 5, 2003 (subsequently cancelled to a date yet to be determined). Chairman Pace stated there would be a series of events being planned to celebrate the formation of The Metropolitan Water District of Southern California, and to culminate the events in December with a meeting to be held at the original site in Pasadena.

**45237** Regarding the Colorado River, Bay-Delta and CALFED matters, and the summary of District activities, Chief Executive Officer Gastelum referred to his activity report for February, dated March 5, 2003, which was distributed earlier.

Chief Executive Officer Gastelum commented on the Colorado River Aqueduct break while it was being filled and stated that an extensive report was given at the committee meeting yesterday.

On Colorado River matters, Chief Executive Officer Gastelum reported that meetings are scheduled for tomorrow and the day after under the auspices of the Governor's office to continue the negotiations and to finalize a new QSA package. Mr. Gastelum stated that he believed the package is essentially done, but there are a number of conditions precedent before it can be executed and before the Department of Interior's (DOI) conditions would be met. The package did provide for a range of things comparable to what the Board has seen in the past on the

QSA and going forward to the Legislature is financing for a portion of that package. Metropolitan is scheduled to meet tomorrow with Bennett Raley of the DOI where the state of California will make a presentation outlining conceptually what is in the package. The issues that Metropolitan has been pressing for are addressed in concept. Mr. Gastelum continued that the other parties involved, including the state negotiating team, were put on notice that Metropolitan would need final acceptable language on the four points that it raised before Metropolitan would agree there is an acceptable conceptual package. He stated that much progress has been made and that the Governor's office has been very supportive in the negotiations of the essential points that Metropolitan raised. However, details still need to be worked out before its presentation to the Board. Besides meeting with the DOI, a separate meeting has been scheduled with the Basin states' representatives to review the package. As soon as there is a firm document or outline of the package, it will be sent to the Board members.

Director Blake inquired whether Metropolitan's four points have been given up or changed, and whether Imperial Irrigation District (IID) had backed off on any of the changes it instituted since the end of the year. Director Blake also asked if Proposition 50 monies were going to be used as part of the conceptual package.

Chief Executive Officer Gastelum replied that Metropolitan has not altered its position on the four points that were outlined to the Board. However, in the IID litigation, IID has taken a position that Metropolitan's rights are limited in the original contract still in place for the conservation program. That was one of IID's arguments particularly if IID is shorted by the DOI. Mr. Gastelum stated that Proposition 50 monies were being proposed as part of the package and that the state Legislature would have to pass legislation for it to be effective.

**45238** Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for February, dated February 28, 2003, which was distributed earlier.

In the *Imperial Irrigation District v. United States, et al.* lawsuit, General Counsel Kightlinger reported that IID

has a motion in its suit whereby it is seeking to overturn the Secretary's water order for 2003 for Colorado River water. That motion is scheduled for hearing March 18, 2003 in the United States District Court in San Diego. The judge has scheduled a total of six hours for the oral arguments.

In *Miccosukee Tribe of Indians of Florida, et al. v. South Florida Water Management District*, the court said that the water district, in moving water containing phosphorous from one basin to another, had to get a NPDES permit under the Clean Water Act. This decision has a negative effect on water agencies throughout the country, and potentially to Metropolitan. Those permits were designed for industrial processes that put pollutants in the water and not for just moving waters with different characteristics from one body to another. There is a petition before the United States Supreme Court to take this matter up and resolve it. Fifteen United States senators, including Senator Diane Feinstein, have filed a letter asking the court to grant review. Metropolitan has filed an amicus brief urging the court to take this matter.

General Counsel Kightlinger also highlighted the *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* case. He stated this is an environmental group that is active in water and growth issues. In this case the appellate court ruled that the EIR was inadequate because it only discussed the water wholesaler's supply of water under wet-year conditions. Metropolitan was not involved in that case but it has implications for Metropolitan as a water wholesaler in terms of what developers are going to have to do in looking at Metropolitan, its member agencies and their subagencies in terms of water supply. The court was clear that the agency should be looking at dry-year water, average-year water, and wet-year water and that should be detailed in the amounts of water available so that planning agencies will have that information for their review. The appellate court remanded the case back to the trial court for the EIR to be redone.

Director Mylne requested the General Counsel to comment on Metropolitan's report and to the extent that it complies with that filing.

General Counsel Kightlinger stated that when SB 610 passed, Metropolitan's staff, under the current Chief Executive

Officer, began to put out an annual report. That was a very detailed report in looking at water supply. Metropolitan has been putting out an urban water management plan and this was an attempt to look more at the factors that are contained in SB 610. That report specifically looks at the kind of factors that the court looked at. So this report will be very helpful to the member agencies and their subagencies in making those verifications that are called for under SB 610, which information will be very useful to be included in EIRs for developments.

**45239** General Auditor Riss gave a summary report of the Audit Department's activities for the month of February. He stated a report card was issued on the Review of the Official Statement for the Waterworks General Obligation Refunding Bonds, 2003 Series A, with a low current exposure.

**45240** In the absence of Ethics Officer Anderson, Ethics Subcommittee Chair Fellow stated that at its meeting of February 25, the subcommittee received presentations on the activities for the month of February which included a distribution of the Statement of Economic Interest forms to all Directors and designated employees and a report on the Ethics training plan for the Board of Directors. The subcommittee requested the Ethics Officer to return in April to do a pre-training program. The Ethics Officer also provided a report on the budget activity for fiscal year 2002/03, a proposed budget for 2003/04, and a draft of the Ethics handbook. By July a training program should be in place and the final handbook completed. The Board wished the Ethics Officer a speedy recovery from her surgery.

**45241** Director Murph commented on the history of the Water Buffalo Club begun by former Director Charles Barker for those Directors who were on Metropolitan's Board for 25 years and 15 years, respectively, for men and women. With Director Murph being the only "water buffalo" member still on the Board, she changed the membership rule to 15 years for both men and women. With that, she inducted Director Brick into the club for his 15 years of service on Metropolitan's Board.

**45242** The reports of the Standing Committees are as follows:

Chairman Pace reported that at the Executive Committee meeting on February 25, the committee approved Agenda Items 8-4 and 8-5. The proposed items for March's Board and committee agenda items were discussed and approved. The committee reviewed and discussed the responses received from Directors regarding the process, scheduling, and participation of Directors while at Board and committee meetings. Two videos were shown to the committee on "Water Consumption" and the water taste-testing contest in which Metropolitan received second place in the world. Vice Chairman Foley reported on the activities of the Colorado River Board. In closed session, the committee received an update on the Colorado River negotiations.

Asset, Real Estate and Infrastructure Policy Committee Chair Peterson reported the committee unanimously approved Agenda Item 9-6 and requested that it be added to the Consent Calendar. The committee heard reports on the purchase of 25 boat engines for recreation use at Lake Skinner, the Real Property Database, the status of the proposed master plan for the Diamond Valley Recreation Area, and the inspection trip to the Ormond Beach property. Chair Peterson requested the Ormond Beach item be added to next month's meeting agenda. The committee deferred the reports on the Enterprise GIS and the recreation management options at the Diamond Valley Lake East Marina until next month's meeting.

Budget, Finance and Investment Committee Chairman Castro reported the committee approved Agenda Items 9-1 and 9-2. Committee Chairman Castro requested Items 9-1 and 9-2 be placed on the Consent Calendar. (Agenda Item 9-1 was subsequently taken off the Consent Calendar.) The committee heard a presentation on the Water Resource Management's proposed budget.

Communications, Outreach and Legislation Committee Vice Chair Abdo reported the committee approved Agenda Item 9-5 with an amendment to Item 3 of the proposed legislative policy principles to better inform consumers in Metropolitan's service area about their drinking water. Director Mylne requested that Item 9-5 be added to the Consent Calendar. Committee Chair Abdo also reported on the City Makeover program, the announcement for the groundbreaking for the museums, and the United Nations simulation where students from 14 high schools will debate on

"Is Water A Commodity To Be Traded?" The committee heard reports on the following: the legislative activities from Washington and Sacramento; Metropolitan hosting (a) the Southern Nevada Water Authority board of directors and their guests for a special board meeting and a tour of Gene Village on February 12; and (b) a Water Forum with the Valley Industry Commerce Association, LADWP, LA Chamber, and others, with Senator Machado as the keynote speaker, on February 20.

Engineering and Operations Committee Chairman De Jesus reported the committee unanimously approved Agenda Items 8-1, 8-7, 9-3, and 9-4 as amended, and requested that Items 9-3 and 9-4 be moved to the Consent Calendar. The committee heard oral reports on the rupture of the Colorado River Aqueduct at the Big Morongo Siphon, the status on efforts to secure a new FERC license for the Oroville facilities, the security and vulnerability assessment, Lake Perris, engineering activities, and an overview of the engineering reorganization.

Legal, Claims and Personnel Committee Vice Chairman Lewis reported the committee unanimously approved Agenda Items 8-2 and 8-3. The committee heard a report on two major Bay/Delta matters: litigation regarding the EIR/EIS for East Bay Municipal Utility District's proposed Freeport Project, and the State Water Control Board's adoption of Decision 1641 on water rights and implementation of the state board's 1995 water quality control plan. In closed session, the committee heard reports on *Metropolitan v. Campus Crusade and Imperial Irrigation District v. United States of America, et al.* No actions were taken on these items.

Water Planning, Quality and Resources Committee Vice Chairman Wright reported the committee unanimously approved Agenda Item 8-6. Reports were given on Bay-Delta and State Water Project matters, the Innovative Supply Program, the Water Surplus and Drought Management Plan report on initial water supply and demand as of February 18, 2003, and on water conservation provisions within the annexation policy.

**45243** Chairman Pace announced that this would be Director Murph's last meeting due to a new appointment made by the city of Compton. Chairman Pace recognized Director Murph for her 23 years on Metropolitan's Board. Director Castro thanked Director Murph for her leadership role on diversity.

**45244** Chairman Pace stated that Agenda Item 8-8, amendments to the Administrative Code regarding the Internal Audit Department, has been deferred to next month's meeting.

Director Morris moved, seconded by Director Coughran and carried, and the Board approved the Consent Calendar Items, **M.I. 45245** through **M.I. 45256**, as follows:

**45245** Adopted the California Environmental Quality Act (CEQA) determination and (a) appropriated \$1.095 million in budgeted and non-budgeted Capital Investment Plan (CIP) funds (Appropriation No. 15369, No. 5, from the Construction Funds); and (2) authorized all work as described in the letter signed by the Chief Executive Officer on February 16, 2003, for four projects within the Weymouth Filtration Plant Improvements Program.

**45246** Adopted the CEQA determination and authorized the General Counsel to retain the firms listed on Attachment 1 to the letter signed by the General Counsel on February 14, 2003, as special bond counsel for the three years ending December 31, 2005, at maximum fees negotiated on a transaction-by-transaction or project basis.

**45247** Adopted the CEQA determination and authorized the amendment of the contract with the law firm of Harkins Cunningham to increase the maximum compensation payable by \$300,000 to complete negotiations on the QSA and related documents for the California Colorado River Water Use Plan, as set forth in the letter signed by the General Counsel on February 14, 2003.

**45248** Adopted the CEQA determination and (a) granted conditional approval for the 73<sup>rd</sup> Fringe Area Annexation concurrently to Eastern Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$52,471.20 to Metropolitan, if completed by December 31, 2003, or if completed later, at the then current annexation charge rate, and compliance with those terms and conditions fixed upon final request for approval pursuant to Administrative Code Section 3100 et seq.; (b) approved Eastern's proposed Plan for Implementing Water Use Efficiency Guidelines; and (c) adopted the resolution of intention (**Resolution 8839**) 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 February 16, 2003, 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 Record requested to be recorded as abstaining.

**45249** Adopted the CEQA determination and approved the changes to the Administrative Code to conform to current laws and practices and make corrections as set forth in Attachment 2 to reflect the changes recommended in the letter signed by the General Counsel on February 26, 2003.

**45250** Adopted the CEQA determination and authorized the Chief Executive Officer to enter into an Environmental Water Account demand shifting agreement with the California Department of Water Resources consistent with the terms in Attachment 1 to the letter signed by the Chief Executive Officer on February 16, 2003, and in form approved by the General Counsel.

**45251** Adopted the CEQA determination and authorized the Chief Executive Officer to negotiate and execute revisions to the existing Services Agreement with the California Department of Water Resources as described in the letter signed by the Chief Executive Officer on February 27, 2003, and in form approved by the General Counsel, relating to the scope and the annual and total dollar amount of services that can be provided.

**45252** Adopted the CEQA determination and **Resolution 8840** authorizing execution of agreement for low-interest financing from the Drinking Water State Revolving Fund for the Oxidation Retrofit Program for the Henry J. Mills Filtration Plant, and pledging funds for repayment, as set forth in the letter signed by the Chief Executive Officer on February 15, 2003, said resolution entitled:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AUTHORIZING EXECUTION OF LOAN AGREEMENT AND PLEDGING FUNDS FOR REPAYMENT**

**45253** Adopted the CEQA determination and (a) appropriated \$3.095 million in budgeted CIP funds (Appropriation No. 15377, No. 4, from the Construction Funds); and (b) awarded a competitively bid contract in the amount of \$2,654,400 to AA-1 Services, Inc., for recoating of the interior and exterior of the Sepulveda Canyon water storage tanks, as set forth in the letter signed by the Chief Executive Officer on February 16, 2003.

**45254** Adopted the CEQA determination and authorized the Chief Executive Officer, with the approval of the General Counsel, to enter into agreement with the San Diego County Water Authority for enhanced operations through surface storage in San Diego County, substantially in the form of Attachment 1 to the letter signed by the Chief Executive Officer on February 16, 2003, with revision to Section III, subparagraph C, to read as follows:

C. **Renewal.** The agreement shall only be renewed by mutual agreement on similar terms if adequate benefits are demonstrated. Metropolitan, member public agencies and water providers share a common responsibility to ensure reliability of service through the operation of existing facilities and the timely addition of capacity. This agreement is a temporary measure only. The intent of the agreement is to encourage the closely coordinated operation of local facilities with the regional imported water system until additional local and regional treatment capacity can be added. Any renewal of the agreement will consider the costs and benefits of renewal, including alternatives to the pricing of MWD services that encourage the use of existing local facilities to reduce peak demands on the Metropolitan system.

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

**45255** Adopted the CEQA determination and the policy principles as proposed regarding consumers' right to know and understand the quality of their drinking water, as set forth in the letter signed by the Chief Financial Officer for the Chief Executive Officer on February 21, 2003, with Item 3 of the policy principles amended to read as follows:

3. Support the development of simplified and standardized terminology to support consumers' right to know and understand the quality of their drinking water.

Directors Bannister, Edwards, Foley, and Stanton requested to be recorded as voting no.

**45256** Adopted the CEQA determination and increase Appropriation No. 15401 (No. 3) by \$6.086 million in budgeted funds to a total of \$8.37 million; and awarded a construction contract to Riverside Construction Company, Inc., in an amount not to exceed \$4.646 million, as set forth in the letter signed by the Chief Executive Officer on March 7, 2003.

**45257** Director Murray moved, seconded by Director Blake, that the Board adopt the CEQA determination, approve the recommended rates and charges, and adopt the following resolutions:

- a. **Resolution 8841** to impose the Readiness-to-Serve Charge in the form shown as Attachment 3 to the letter signed by the Chief Financial Officer for the Chief Executive Officer on February 21, 2003;
- b. **Resolution 8842** to impose a Capacity Charge in the form shown as Attachment 4 to the aforementioned letter; said resolutions entitled:

**Resolution 8841**                    **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA ADOPTING A READINESS-TO-SERVE CHARGE FOR FISCAL YEAR 2003/04**

**Resolution 8842**                    **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING A CAPACITY CHARGE FOR FISCAL YEAR 2003/04**

and

- c. Approve the changes to the Administrative Code necessary to administer the Capacity Charge.

Director Lewis stated that given Metropolitan's history of having excess revenues at the end of each fiscal year and the fact that Metropolitan's projects have between \$30 to \$55 million at the end of this year, he felt that these funds should be returned to the municipalities and the districts for their own infrastructure improvements. If the monies are not to be returned, then the excess funds should be used to supplement the increases going to the rate changes.

Budget, Finance and Investment Committee Chairman Castro replied that his committee is trying to take a longer term perspective of three to five years, with respect to rates and costs, to get those in line with each other because there should be a direct relationship between the two, subject to weather pattern over which there is no control. In regard to the reserves, Committee Chair Castro stated that he has proposed that debt be paid down so that there is the financial flexibility to deal with all areas, unforeseen patterns, in the revenue stream. Metropolitan should maintain maximum financial flexibility by paying down debt when there is the opportunity. Metropolitan should introduce a budget process that links the cost structure, on a three- to five-year basis, to inflation.

The Chair called for a vote on the motion, which carried.

Directors Parker and Turner requested to be recorded as abstaining.

Director Lewis requested to be recorded as voting no.

**45258** 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.

**45259** The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through January 2003, signed by the Chief Executive Officer on February 19, 2003.

- b. Purchase 25 boat engines for recreation use at Lake Skinner, signed by the Chief Executive Officer on February 26, 2003.
- c. Report on the Innovative Supply Program, signed by the Chief Executive Officer on February 16, 2003.
- d. Water Surplus and Drought Management Plan report on water supply and demand as of February 18, 2003, signed by the Chief Executive Officer on January 24, 2003.

**45260** There being no objection, the Chair adjourned the Meeting at 11:29 a.m.

  
SECRETARY

  
CHAIRMAN