

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
FEBRUARY 10, 2004

45642 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, February 10, 2004.

Chairman Pace called the Meeting to order at 12:31 p.m.

45643 The Meeting was opened with an invocation by Heidi Sun, Miss Chinatown of the Los Angeles Chinese Chamber of Commerce.

Director Kwan introduced Heidi Sun, Chinatown's queen, and a member of her royal court in celebration of the Chinese New Year.

45644 The Pledge of Allegiance to the Flag was given, led by Director Gene Koopman.

45645 Board Secretary Hansen called the roll. Those answering present were: Directors Abdo, Apodaca, Bakall, Bannister, Blake, Brick, Brown, Coughran, De Jesus, Dentler, Dick, Edwards, Farrar, Fellow, Foley, Grandsen, Hall, Hansen, Harris, Herman, Koopman, Kwan, Luddy, Morris, Murray, Mylne, Pace, Parker, Peterson, Record, Rez, Stanton, and Wright.

Those not answering were: Directors Lewis, Loveland, Mejia, and Turner.

Chairman Pace declared a quorum present.

45646 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction. No members of the public responded.

45647 There being no objection, Chairman Pace ordered the reading of the Minutes of the Meeting of January 13, 2004, dispensed with, a copy having been mailed to each Director.

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

45648 The General Counsel's letter signed January 29, 2004, was presented, transmitting the credentials evidencing the appointment by the city of Compton of Isadore Hall, III, as its representative on Metropolitan's Board for an indefinite term, replacing Kenneth M. Orduna.

General Counsel Kightlinger reported the credentials had been examined and found legally sufficient and that the Oath of Office had been administered to Director Hall on February 9, 2004.

Chairman Pace ordered the credentials, together with the General Counsel's letter, received and filed.

Following an introduction by Arlene Williams, Deputy Assistant City Manager, city of Compton, Director Hall took his seat as a Director representing the city of Compton.

45649 Director Kwan introduced Jose Fernandez, board member of West Basin Municipal Water District.

Director Blake introduced David Schickling, General Manager, Water System Management Division, city of Fullerton.

45650 Chairman Pace presented to Director S. Dale Stanton, a pin for his five years of service on Metropolitan's Board, representing the city of Anaheim.

45651 Chairman Pace announced the committee assignments for Director Hall would be presented at a later date.

45652 At the request of Chairman Pace, a video was shown of Metropolitan's 75th anniversary luncheon held at the Pasadena Civic Auditorium.

At 12:55 p.m., Chairman Pace turned the Meeting over to Vice Chairman Foley and withdrew from the Meeting.

Continuing with the Chair's activity report, Vice Chairman Foley stated that the Directors participated in a roundtable on January 20. Director Brick then gave a more detailed report on the topics discussed at the roundtable.

Vice Chairman Foley reported on the workshop also held on January 20 to receive information and discuss the Integrated Resources Plan (IRP) update. Staff provided a presentation with an overview of three major areas – the draft report findings and potential policy questions, financial and rate implications, and a proposed outreach plan. Directors asked a series of questions related to supply reliability, buffer supply and implementation, cost implication and rates, and the outreach process.

45653 Regarding Colorado River, Bay-Delta, and CALFED matters, Chief Executive Officer Gastelum referred to his activity report for January dated January 29, 2004, which was distributed earlier.

Chief Executive Officer Gastelum reported that the Imperial Irrigation District (IID) has negotiated an agreement to purchase land from U.S. Filter, which would help to facilitate the transfer agreement between IID and San Diego County Water Authority. Relative to the Salton Sea, Chief Executive Officer Gastelum stated that a meeting was held recently in Sacramento with the Salton Sea Authority (SSA) and representatives from Metropolitan and the other Quantification Settlement Agreement (QSA) parties to see how the Department of Water Resources (DWR) intended to go forward with the study that is required by the legislation passed in connection with the QSA to identify feasible cost-effective ways of restoring the Salton Sea. This was mostly an organizational meeting, but the SSA requested that they assume a lead position, or a more significant position, in the development of the study. The SSA asked Metropolitan's staff whether they would support such a shift in the emphasis of the study. Mr. Gastelum responded that the legislation was quite clear that the DWR would conduct this

study, and it would essentially take either a change in the legislation or an unusual delegation of that authority by the DWR to accommodate the Salton Sea Authority's request. Mr. Gastelum commented that there was plenty of room for the Salton Sea Authority to be a major player in the study, and he anticipated that Metropolitan would join with IID, Coachella Valley Water District, and San Diego County Water Authority in pushing for completion of the study as indicated by the legislation, and that the Salton Sea Authority be encouraged to participate.

Regarding the Bay-Delta/State Water Project matters, Chief Executive Officer Gastelum announced that there would be an important negotiation meeting on Friday, February 13, among the various stakeholders, including members of the environmental community, to discuss the final piece in the negotiation dubbed the "Napa proposal". The "Napa proposal" addressed the coordinated operation of the Central Valley Project and the State Water Project in the Delta to better achieve the water quality standards and to increase water quality and supply for the exporters. There is an environmental section being addressed in the negotiations. Mr. Gastelum stated it appeared that an agreement is near and that many are watching these negotiations. Senator Machado has scheduled a hearing on February 17 to inquire on the status of the negotiations.

Referring to the state audit, Chief Executive Officer Gastelum reported that the state audit is still progressing, and it is expected that a report will be finalized, probably by spring. General Counsel Kightlinger, General Auditor Riss, and Executive Vice President Ivey have been in regular contact with the state audit team.

45654 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for January dated February 2, 2004, which was distributed earlier.

In the *Arizona v. California* litigation, General Counsel Kightlinger reported on the last phase of this 40-year-old case, which involved the Quechan Indian Tribe's claim for Colorado River water rights. Summary judgment motions were argued by both Arizona and California before a special master in Chicago. Metropolitan argued on behalf of California. This was a question of a boundary issue whether or not the tribe was

governed by the treaties that created the reservation with the United States. Mr. Kightlinger stated the judge denied the motions, which mean that there will be a factual hearing on the basis of the original treaties. It is expected that the judge will want to look at the underlying factual material. The trial will now go forward, and will likely take a year or two to be resolved. From there it would go to the U.S. Supreme Court for a final ruling.

General Counsel Kightlinger reported that there was a favorable settlement to both Arvin-Edison Water Storage District and Metropolitan in the claims and lawsuits filed by Arvin-Edison against the pipeline manufacturer, installers, and design/inspector consultant for the intertie pipeline that would return water to Metropolitan previously stored under the Arvin-Edison/Metropolitan Water Management Program. After installation of the pipeline, there was considerable leakage, and a new steel liner had to be installed.

In *San Diego County Water Authority v. Metropolitan Water District*, the preferential rights case, General Counsel Kightlinger stated that a hearing would take place on February 17, 2004. Mr. Kightlinger will give a further report on this matter at the March meeting.

In the QSA related litigation, General Counsel Kightlinger reported that seven lawsuits were filed, and that six of those have been moved to the Sacramento Superior Court. There is one remaining case in the Imperial Valley, and there will be a hearing on whether or not it should also be moved to Sacramento. After that, the parties involved would try to coordinate the cases before one judge to hopefully avoid the possibility of rulings that would be different in one case from another.

45655 General Auditor Riss gave a summary report of the Audit Department's activities for the month of January. He began by noting that four reports were issued during the month. Specifically, he noted that the P&D Consultants, Inc.—Billings and Overhead Costs special report; Purchasing Process and Controls report; Emergency Management Process Risk Assessment report; and the Suspense Account Process and Controls report were issued in January.

Mr. Riss then conducted a brief discussion of these reports. He began with the P&D Consultants, Inc. billings, which was the result of a special request from the Inland Feeder management. He stated that the Audit Department did an extensive review of the invoices from P&D and came to the conclusion that billings appeared improper which resulted in an overpayment of approximately \$163,000. Mr. Riss reported that management has met with P&D to resolve these matters. In addition, Mr. Riss noted that recommendations were made to improve the administrative controls of the P&D agreement and similar consulting agreements.

Next, General Auditor Riss discussed the audit of the purchasing process and stated that the accounting and administrative controls included those practices usually necessary to provide for a generally satisfactory internal control structure. Mr. Riss then commented on the risk assessment report on the emergency management process and reported that management has hired a business continuity manager to provide leadership and guidance to the emergency management effort. Finally, Mr. Riss stated that a report was issued on the suspense account process and found the controls to be adequate.

45656 The reports of the Standing Committees are as follows:

Vice Chairman Foley reported the Executive Committee, at its meeting of January 27, approved Agenda Items 8-3 through 8-6. Consideration of Agenda item 9-3 regarding the pre-annexation development agreement with the city of Hemet was heard in closed session, and approved in open session. The committee also discussed and approved the proposed items for February's Board and committee agenda items. The committee heard reports on activities of the Ethics Subcommittee and the Colorado River Board. Chief Executive Officer Gastelum reported on Metropolitan's activities. Mr. Gastelum provided the committee with his quarterly report, highlighting Metropolitan's accomplishments in implementing his business plan. The committee again met in closed session to discuss the Chief Executive Officer's semiannual performance review, with no action taken.

Asset, Real Estate and Infrastructure Policy Committee Chairman Record reported the committee approved Agenda Item 8-2. The committee heard reports on the Diamond Valley Recreation Program, real estate activities, the Arrow Highway and Arroyo Seco properties, and the proposed properties for condemnation required for the San Diego Pipeline No. 6 Project.

Budget, Finance and Investment Committee Chairman Mylne reported the committee conducted a public hearing to receive input on the proposed water rates for fiscal year 2004/05. The committee heard oral reports on Metropolitan's investment portfolio and the fiscal year 2004/05 budgets for the Chief Financial Officer and External Affairs.

Communications, Outreach and Legislation Committee Chairman Fellow stated that at the committee meeting he reported that as part of the planning for next fiscal year, he will be issuing a survey to Directors inviting them to comment on areas of communication in addition to inspection trips. Such areas would include their participation in making presentations promoting Metropolitan's programs like the City Makeover gardens, educational forums, community partnering, legislative visits, and water forums. Committee Chairman Fellow also reported that the new Member Agency Web is up and running. This site was developed by Metropolitan with input from the member agencies to provide enhanced customer service. The committee heard reports on the results of the outdoor conservation campaign and the legislative activities from both Washington, D.C., and Sacramento.

Engineering and Operations Committee Chairman Wright reported the committee heard oral reports on the Inland Feeder Program, system operations, engineering activities, and an overview of the Oxidation Retrofit Program.

Legal, Claims and Personnel Committee Chairman De Jesus reported the committee approved Agenda Item 9-4 and requested that it be added to the Consent Calendar. In closed session the committee discussed the General Counsel's performance for the past six months, with no action taken.

Water Planning, Quality and Resources Committee Vice Chairman Bakall reported the committee heard reports on Bay-Delta and State Water Project matters, the Draft Integrated

Resources Plan Update for public outreach, and the Water Surplus and Drought Management Plan Report on water supply and demand.

Director Coughran withdrew from the Meeting at 1:22 p.m.

Director Blake moved, seconded by Director Stanton and carried, and the Board approved the Consent Calendar Items, **M.I. 45657** through **M.I. 45662**, as follows:

45657 Adopted the California Environmental Quality Act (CEQA) determination and (a) appropriated \$681,000 (Appropriation No. 15334, No. 13, from the Construction Funds); and (b) authorized entering into an agreement with The Gas Company to design and construct a gas distribution line to the East Recreation Area of Diamond Valley Lake, as set forth in the letter signed by the Chief Executive Officer on January 22, 2004.

Director Parker requested to be recorded as voting no.

45658 Adopted the CEQA determination and (a) **Resolution 8889** granting Eastern Municipal Water District's request for approval of the 75th Fringe Area Annexation, concurrently to Metropolitan and Eastern, conditioned upon approval by the Riverside Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation; and (b) **Resolution 8890** to impose water standby charge at a rate of \$6.94 per acre or per parcel of less than one acre within the proposed annexation, as set forth in the letter signed by the Chief Executive Officer on January 16, 2004, said Resolutions entitled:

Resolution 8889

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO EASTERN MUNICIPAL WATER DISTRICT'S 75TH FRINGE AREA ANNEXATION AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Resolution 8890 RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING WATER STANDBY CHARGE CONTINGENT UPON EASTERN MUNICIPAL WATER DISTRICT'S 75TH FRINGE AREA ANNEXATION

Director Record requested to be recorded as abstaining.

45659 Adopted the CEQA determination and (a) **Resolution 8891** granting Western Municipal Water District's request for approval of the 49th Fringe Area Annexation, concurrently to Metropolitan and Western, conditioned upon approval by the Riverside Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation; and (b) **Resolution 8892** to impose water standby charge at a rate of \$9.23 per acre or per parcel of less than one acre within the proposed annexation, as set forth in the letter signed by the Chief Executive Officer on January 16, 2004, said Resolutions entitled:

Resolution 8891 RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO WESTERN MUNICIPAL WATER DISTRICT'S 49TH FRINGE AREA ANNEXATION AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Resolution 8892 RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING WATER STANDBY CHARGE CONTINGENT UPON WESTERN MUNICIPAL WATER DISTRICT'S 49TH FRINGE AREA ANNEXATION

45660 Adopted the CEQA determination and (a) **Resolution 8893** granting Calleguas Municipal Water District's request for approval of Annexation No. 78, concurrently to Metropolitan and Calleguas, conditioned upon approval by the Ventura Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation; and (b) **Resolution 8894** to

impose water standby charge at a rate of \$9.58 per acre or per parcel of less than one acre within the proposed annexation, as set forth in the letter signed by the Chief Executive Officer on January 16, 2004, said Resolutions entitled:

Resolution 8893 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO CALLEGUAS MUNICIPAL WATER DISTRICT'S ANNEXATION NO. 78 AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

Resolution 8894 **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. 78**

Director Grandsen requested to be recorded as abstaining.

45661 Adopted the CEQA determination and the amendments to Administrative Code Sections 2522, 2622, and 7316 as set forth in Attachment 1 to the letter signed by the Chief Executive Officer on January 20, 2004, regarding Procedures Pertaining to Board, Committees and Directors, with the correction that for three staff members on the Ethics Inquiry and Review Committee, one shall be appointed by the Chief Executive Officer, one by the General Counsel, and one by the General Auditor.

45662 Adopted the CEQA determination and authorized (1) a statutory settlement offer; (2) making a unilateral payment; and (3) request for funds re pending litigation on the Arrowhead East and Arrowhead West tunnel contracts for legal services with Hunt, Ortmann, Blasco, Palffy & Rossell to increase the compensation to a maximum of \$1.075 million; and amendments to contracts with Tucker Alan, Inc. and Executive Presentations to increase the compensations to a maximum of \$450,000 and \$125,000, respectively, as set forth in the confidential letter signed by the General Counsel on January 28, 2004.

Director Abdo did not participate in the consideration of the above item (Minute Item 45662).

Director Murray withdrew from the Meeting at 1:28 p.m.

Director Coughran returned to the Meeting at 1:29 p.m.

45663 Following a detailed presentation on the need for the subject parcel, Director Blake moved, seconded by Director Morris and carried, and the Board, by a unanimous vote, adopted the CEQA determination and resolution of necessity (**Resolution 8895**) directing the General Counsel to condemn Metropolitan Parcel No. SDSIX1-16-100TEA1 for the San Diego Pipeline No. 6 Project in Riverside County, California, identified by Riverside County Assessor's Parcel No. 951-220-002, and owner's name, Rancho 42/Classic Equities, as set forth in the letter jointly signed by the General Counsel on January 12 and the Chief Executive Officer on January 20, 2004, said Resolution entitled:

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA DIRECTING THE CONDEMNATION OF A TEMPORARY CONSTRUCTION EASEMENT OVER CERTAIN PROPERTIES SITUATED IN THE COUNTY OF RIVERSIDE (San Diego Pipeline No. 6 Project)

45664 Following a detailed presentation on the need for the subject parcel, Director Blake moved, seconded by Director Morris and carried, and the Board, by a unanimous vote, adopted the CEQA determination and resolution of necessity (**Resolution 8896**) directing the General Counsel to condemn Metropolitan Parcel No. SDSIX1-15-170TEA1 for the San Diego Pipeline No. 6 Project in Riverside County, California, identified by Riverside County Assessor's Parcel No. 951-230-007, and owners' name, Kevin Colard and Barbara Colard, as set forth in the letter jointly signed by the General Counsel on January 12 and the Chief Executive Officer on January 16, 2004, said Resolution entitled:

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA DIRECTING THE CONDEMNATION OF A TEMPORARY CONSTRUCTION EASEMENT OVER CERTAIN PROPERTIES SITUATED IN THE COUNTY OF RIVERSIDE (San Diego Pipeline No. 6 Project)

Director Dentler withdrew from the Meeting at 1:43 p.m.

45665 Director Bakall moved, seconded by Director Wright and carried, and the Board authorized the Chief Executive Officer to enter into a pre-annexation development agreement between Metropolitan and the city of Hemet, as set forth in the letter signed by the Chief Executive Officer on January 20, 2004.

Directors Luddy and Parker requested to be recorded as abstaining.

45666 The following communication was submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through December 2003, signed by the Chief Executive Officer on January 20, 2004.

45667 There being no objection, Vice Chairman Foley adjourned the Meeting at 1:44 p.m.

HELEN Z. HANSEN

SECRETARY

PHILLIP J. PACE

CHAIRMAN

JOHN V. FOLEY

VICE CHAIRMAN