

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
APRIL 13, 2004

45695 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, April 13, 2004.

Chairman Pace called the Meeting to order at 12:30 p.m.

45696 The Meeting was opened with an invocation by Director Emeritus Kenneth H. Witt.

45697 The Pledge of Allegiance to the Flag was given, led by Director Thom Coughran.

45698 Board Secretary Hansen called the roll. Those answering present were: Directors Bakall, Bannister, Blake, Brick, Brown, Coughran, De Jesus, Dick, Edwards, Farrar, Fellow, Foley, Grandsen, Hansen, Koopman, Luddy, Morris, Murray, Mylne, Pace, Parker, Peterson, Record, Rez, Simonds, Stanton, and Wright.

Those not answering were: Directors Abdo (entered 12:35 p.m.), Apodaca, Dentler (entered 12:37 p.m.), Hall, Harris, Kwan (entered 12:40 p.m.), Lewis, Loveland, Mejia (entered 12:44 p.m.), and Turner.

Chairman Pace declared a quorum present.

45699 At 12:34 p.m., the Chair called a public hearing to receive comments on the proposed Water Standby Charge for fiscal year 2004/05.

Chairman Pace invited interested parties to comment on the proposed Water Standby Charge for fiscal year 2004/05. No members of the public responded. The Chair declared the public hearing closed at 12:35 p.m., stating that the Board's final action on the proposed charge is expected to take place at its regular monthly meeting on May 11, 2004.

Director Abdo took her seat at 12:35 p.m.

45700 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction. No members of the public responded.

45701 There being no objection, Chairman Pace ordered the reading of the Minutes of the Meeting of March 9, 2004, dispensed with, a copy having been mailed to each Director.

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

45702 The General Counsel's letter signed April 8, 2004, was presented, transmitting the credentials evidencing the appointment by the city of Los Angeles of Robert B. Simonds, as one of its representatives on Metropolitan's Board for a term ending December 31, 2004, replacing Bonny L. Herman.

General Counsel Kightlinger reported the credentials had been examined and found legally sufficient and that the Oath of Office had been administered to Director Simonds on April 12, 2004.

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

Following an introduction by Director Luddy, Director Simonds took his seat as a Director representing the city of Los Angeles.

Director Dentler took her seat at 12:37 p.m.

45703 Chairman Pace announced there were no new committee assignments, and that Director Simonds' assignments would be made at a later date.

45704 Chairman Pace reported that on March 16 a Directors' Roundtable was held at the Water Quality Lab at the Weymouth facility in La Verne and at Diamond Valley Lake. Directors toured Metropolitan's state-of-the art lab and received an insight into the many facets of monitoring our water including the taste-and-odor room. At Diamond Valley Lake a tour was taken on the new trailhead and the marina, with an overview of the development on the east side. A presentation was made regarding Diamond Valley and the progress of activities taking place there. On March 27 Executive Vice President Ivey and the Chair attended the Valley-Wide Recreation and Park District's fundraising event, where a check for \$2.1 million was presented to Valley-Wide for the development of an Olympic-style aquatic center at Diamond Valley Lake. On April 8 the Chairman attended the Central Cities Association's Annual Treasures of Los Angeles, an event to celebrate individuals and organizations that have made outstanding contributions in their fields. Many local business leaders and legislators participated in this event.

Director Kwan took her seat at 12:40 p.m.

Director Luddy withdrew from the Meeting at 12:41 p.m.

45705 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for March dated April 7, 2004, which was distributed earlier.

General Counsel Kightlinger reported that Metropolitan has been working closely with the Palo Verde Irrigation District on the proposed fallowing and transfer program. Staff has resolved all of the technical and substantive issues, and they are now reviewing the details to see what documents are to be filed and recorded in terms of the appropriate easements on the land and preparing the agreements to reflect that. Mr. Kightlinger stated that he expected to bring this matter back to the Board in a May/June timeframe.

In the preferential rights case, *San Diego County Water Authority v. Metropolitan, et al.*, the Court of Appeal for the San Francisco Division filed its decision on March 25, 2004, and unanimously affirmed the lower court's ruling that the matter should be thrown out. The basic finding was that this was an issue for the Legislature, not for the court. General

Counsel Kightlinger stated he was informed that the Authority planned to petition the State Supreme Court for a hearing on the matter. In about ninety days there should be an answer to that request.

In *Miccosukee Tribe of Indians v. South Florida Water Management District*, a case to see whether the transfer of water from one body of water to another needs to get a National Pollution Discharge Elimination System (NPDES) permit if anything is done to alter that water, the U.S. Supreme Court issued its decision on March 23, 2004. Mr. Kightlinger stated that this was an important case to Metropolitan since the NPDES permits are issued in California by the regional boards, and that would be problematic for Metropolitan since our service area covered four different regional boards that may issue different permitting requirements to move water from the Colorado River to Lake Mathews, or from Diamond Valley Lake to other storage areas. In that case Metropolitan and other amicus filed numerous briefs, but the Court's decision was that they would not decide the issue at this time since they needed more clarification of the matter. General Counsel Kightlinger reported that this was a complex issue as to whether or not there were two distinct bodies of water, and given the situation in Florida with its high water table, there may be just one body of water that the agency was just shifting back and forth. Mr. Kightlinger also stated that there was another case more on point in New York, dealing with the transportation of water for drinking purposes, and that may get to the U.S. Supreme Court in about a year.

Director Mejia took his seat at 12:44 p.m.

45706 General Auditor Riss presented a summary report of the Audit Department's activities for the month of March. He began by noting that three reports were issued during the month. Specifically, he noted that the Official Statement for the Water Revenue Refunding Bonds, 2004 Series B Review Report; the Other Income and Expense Report; and the Construction-In-Progress Process and Controls Report were issued in March.

Mr. Riss then conducted a brief discussion of these reports. He began with the Official Statement for the Water Revenue Refunding Bonds, 2004 Series B Report and noted that it was undertaken to provide the underwriters of the Bonds

"comfort" that the Official Statement for the Bonds is complete, consistent with supporting financial records and accurate in all material respects. Next, Mr. Riss stated that an audit of the Other Income and Expense Report was issued with an opinion that the accounting and administrative procedures included those practices usually necessary to provide for a satisfactory internal control structure. He added that there were no reportable findings on this examination, which indicated the controls were particularly well established and in place. Finally, Mr. Riss reported that an audit of the Construction-In-Progress Process and Controls Report was issued with an opinion that the accounting and administrative procedures included those practices usually necessary to provide for a generally satisfactory internal control structure. He added that this review was limited to evaluating the accounting and administrative controls over the Construction-In-Progress account as well as compliance with generally accepted accounting principles and Metropolitan's Administrative Code. Mr. Riss noted that comments and recommendations were made in the report to improve controls over periodic reporting, interest capitalization and charges made to completed appropriations; and he reported that management has already implemented corrective actions for these concerns.

45707 Chairman Pace presented to Chief Executive Officer Gastelum a pin for his ten years of service at Metropolitan, both as a Deputy General Counsel and the Chief Executive Officer.

45708 Regarding Colorado River, Bay-Delta, and CALFED matters, Chief Executive Officer Gastelum referred to his activity report for March dated April 6, 2004, which was distributed earlier.

Regarding the Bay-Delta/State Water Project matters, Chief Executive Officer Gastelum reported that Senator Dianne Feinstein now has a bill she believes is ready to proceed and intends to take it to the full committee on CALFED later this month. Mr. Gastelum stated that Congress is currently in recess and that Senator Feinstein has been meeting with stakeholders. He remarked that although the bill is not anywhere near approaching the bill that started out, it still achieves our major objectives of authorizing, at the federal level, federal participation and financial assistance for major components of

CALFED, including Banks pumping plant going to 8,500 cubic-feet-per-second and the Environmental Water Account. At this time it is anticipated that there will be success on the Senate side. Senator Pete Domenici from New Mexico has approved this bill going ahead on its own. Congressman Richard Pombo stated his intention that the bill would get out of Congress this year. From the state side, Mr. Gastelum, commented that the Bay-Delta Authority is focusing on Senator Mike Machado's concerns. Senator Machado had introduced legislation that would have required a number of actions (beyond the CALFED Record of Decision) as conditions for California going forward with CALFED, and in particular the Banks pumping plant operating at 8,500 cfs. Senator Machado is now amending his bill, and it appears that the approach he will take is that any federal use of Banks, the capacity in Banks, would be contingent on the Central Valley Project agreeing to meet salinity standards, in particular at Vernalis relating to the San Joaquin River. Mr. Gastelum advised the Board that he would keep them apprised of the developments as they occur.

Referring to the state audit, Chief Executive Officer Gastelum reported that the state auditors advised that their report would be completed in May. Mr. Gastelum stated that he expects that the report will be provided to Metropolitan at the same time it is distributed, and that Metropolitan would have an opportunity to comment. Mr. Gastelum commented that it appeared, based on the questions that the auditors have asked over the last 45 days, that they have expanded their area of interest beyond the four areas that were identified.

Chief Executive Officer Gastelum announced that the American Society for Public Administration selected Executive Vice President Gilbert Ivey as an awardee for the 2004 Tom Bradley Equal Opportunity award, scheduled for May 13, 2004.

Chief Executive Officer Gastelum stated that Metropolitan's internal employee news communication, both print and on-line editions of *People Interactive*, took top awards in the nation by the League of American Communications Professionals based in San Diego. The print edition rated No. 1 overall, and the on-line edition rated No. 9 overall out of more than 350 submitted publications. Metropolitan beat out some major national companies. Mr. Gastelum then recognized the staff members who contributed to the publications' success:

Joe Pomento, Principal Editor of the publication
Christa Marks, Web Manager for the on-line version
Carole Scurlock, Designer for the on-line edition
Thair Peterson, Writer for the on-line and printed versions
Chris Hamawi, Writer for both editions and on-line Managing Editor
Greg Osti, Designer for the on-line edition
Denis Wolcott, Section Manager, editing
Charles Trevino and Adan Ortega, Members of the editorial team
Suresh Radhakrishnan, Contributor
Patti Arlt, Contributor
Paul Beswick, Contributor
Irwin Jankovic, Contributor
Sharon Muravez, Contributor
Jose Vergara, Contributor
Irene Sinohui, Contributor
Kate Monfort, Contributor

Chief Executive Officer Gastelum commented on his long-planned speaking engagement in Orange County that he had to miss because of his call to Washington, D.C. In his absence Chief Operating Officer Debra Man spoke on his behalf, which meeting was a success.

Chief Executive Officer Gastelum reported that Vice President Dennis Underwood was on a nine-day trip down the Colorado River attended by Assistant Secretary of Interior Bennett Raley, Pat Mulroy from Nevada, a couple of representatives from Arizona, and distinguished members of the press. Assistant Secretary Raley is hoping that this trip would be an important time for key representatives of the Basin States to spend quality time together to talk about the issues facing them – especially the looming shortage on the river and with no system or formula in place on how that would be addressed. Mr. Gastelum commented that Mr. Raley is hoping that there would be some dialog that would put everyone on a positive note.

45709 The reports of the Standing Committees are as follows:

Chairman Pace reported the Executive Committee, at its meeting of March 23, approved Agenda Items 8-7 and 8-8. The committee also discussed and approved the proposed items for April's Board and committee agenda items. The committee heard reports on activities of the Special Committee on Water Education, the Ethics Subcommittee, and the Colorado River Board. Chief Executive Officer Gastelum reported on Metropolitan's activities. He provided an update on the meetings he had with Lester Snow, Director of the Department of

Water Resources, and Secretary Michael Chrisman of the State Resources Agency on the Governor's review of the efficiency of government. Mr. Gastelum also reported on the U.S. Department of Defense's exemption bill and how he would be communicating with Directors and member agencies to join Metropolitan in opposing the Department's exemption. Both the Chief Executive Officer and the General Counsel gave an update on the Palo Verde Irrigation District and the Quantification Settlement Agreements.

Asset, Real Estate and Infrastructure Policy Committee Chairman Record reported the committee approved Agenda Item 9-3, and requested that it be placed on the Consent Calendar. The committee deferred Agenda Item 9-4, the Phase II final design of the Diamond Valley Recreation East Marina Program. The report on the adoption of resolution of necessity for the San Diego Pipeline No. 6 Project was withdrawn. The committee heard reports on Information Technology Benchmarking and the Arroyo Seco property. The report on the Diamond Valley Recreation area was deferred.

Budget, Finance and Investment Committee Chairman Mylne reported the committee unanimously approved Agenda Item 9-2. The committee heard oral reports on fiscal year 2004/05 budgets for the Water Systems Operations Group and the Ethics Office. The committee also heard a report on Metropolitan's quarterly financials. Committee Chairman Mylne announced there would be a Board workshop on Metropolitan's interest rate swap and debt portfolio on April 20, 2004.

Communications, Outreach and Legislation Committee Chairman Fellow reported the committee approved Agenda Item 8-6. The committee heard reports on the legislative activities from both Washington, D.C., and Sacramento. Committee Chairman Fellow commented on the appearance of Chief Executive Officer Gastelum on the Lou Dobbs water quality segment of the *Tonight* show that aired on CNN March 15, 2004. Mr. Gastelum discussed the chromium 6 plume emanating from a Pacific Gas & Electric facility at Topock, California.

Engineering and Operations Committee Chairman Wright reported the committee approved Agenda Items 8-1, 8-2, and 8-3. The committee was requested to withdraw Agenda Item 9-1, site preparation activities for the Skinner Expansion No. 4 Program

and the Skinner Oxidation Retrofit Program. The committee heard oral reports on the Inland Feeder Program, system operations, and engineering activities. The committee received a presentation on Agenda Item 11-2, the proposed amendment to the Administrative Code regarding the streamlining and minimizing costs of Metropolitan service interruptions lasting seven days or less.

Legal, Claims and Personnel Committee Chairman De Jesus reported the committee approved Agenda Item 8-4. In closed session the committee heard reports on the Management and Professional Employees Association negotiations and the litigation regarding the Arrowhead East and West tunnel contracts.

Water Planning, Quality and Resources Committee Vice Chairman Bakall reported the committee approved Agenda Items 8-5 and 9-5 as amended. The committee heard reports on Bay-Delta and State Water Project matters, the System Overview Study, and the Water Surplus and Drought Management Plan Report on water supply and demand. The committee received a presentation from San Diego County Water Authority and Olivenhain Municipal Water District requesting a replenishment discount for filling emergency storage at Olivenhain Reservoir. The committee discussed refinements to existing Board policy positions on cost allocation and financing of CALFED Bay-Delta actions.

45710 Chairman Pace announced that Agenda Items 9-1 and 9-6 were withdrawn, and Agenda Item 9-4 deferred, from the agenda.

Director Coughran moved, seconded by Director Rez and carried, and the Board approved the Consent Calendar Items, **M.I. 45711** through **M.I. 45719**, as follows:

45711 Adopted the California Environmental Quality Act (CEQA) determinations and (a) appropriated \$2 million in budgeted Capital Investment Plan funds (Appropriation No. 15346, No. 6, from the Construction Funds); and authorized (b) all work up to award of a competitively bid construction contract for the Jensen Chlorine Containment and Handling Facilities (CCHF) project; (c) preliminary design of the Mills CCHF project; and (d) amending the professional services agreement with Lee & Ro, Inc. for a new not-to-exceed total of \$2.575 million, as set

forth in the letter signed by the Chief Executive Officer on March 25, 2004.

45712 Adopted the CEQA determination and (a) appropriated \$1.04 million in budgeted funds (Appropriation No. 15369, No. 8, from the Construction Funds); and (b) awarded a construction contract in the amount of \$683,735 to Tri-Technic, Inc. to perform all work as described in Specifications No. 1491 for the Weymouth Plant-Convert Filter Building No. 2 Washwater Pumps to Variable Frequency Drive Project, as set forth in the letter signed by the Chief Executive Officer on March 23, 2004.

45713 Adopted the CEQA determinations and (a) appropriated \$900,000 in budgeted funds (Appropriation No. 15371, No. 5, from the Construction Funds; and authorized (b) the Jensen Solids Handling Facilities Project preliminary design activities; (c) replacement of four Jensen Module No. 1 filter valves; and (d) an increase in the Chief Executive Officer's authority to execute construction change orders from \$622,000 to \$760,000 (no increase in appropriated funds is required) for the Skinner Solids Handling Facilities Project, as set forth in the letter signed by the Chief Executive Officer on March 23, 2004.

Directors Mejia and Morris requested to be recorded as abstaining.

45714 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into an agreement, in form approved by the General Counsel, with Los Angeles Department of Water and Power to refund the 2.4 percent overbillings for Service Connection LA-35 from April 1993 through July 2003, as set forth in the letter signed by the Chief Executive Officer on March 29, 2004.

45715 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 March 23, 2004, and in form approved by the General Counsel.

45716 Adopted the CEQA determination and opposed Senate Bill 1720 (Alarcon) - Metropolitan water districts: civil service, as set forth in the letter signed jointly by the Chief Executive Officer and the General Counsel on March 30, 2004.

Director Dentler requested to be recorded as abstaining.

45717 Adopted the CEQA determination and (a) granted conditional approval for Annexation No. 83, concurrently to Calleguas Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$83,023 to Metropolitan if completed by December 31, 2004, or if completed later, at the then current annexation charge rate; (b) approved Calleguas' proposed Plans for Implementing Water Use Efficiency Guidelines; and (c) adopted resolution of intention (**Resolution 8900**) to impose water standby charge within the proposed annexation territory, substantially in the form of Attachment 3 to the letter signed by the Chief Operating Officer for the Chief Executive Officer on March 16, 2004, 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.

45718 Adopted the CEQA determination and opposed the exemptions by the U.S. Department of Defense to modify federal environmental laws as they currently apply to operations and management of military ranges, as set forth in the letter signed by the Chief Executive Officer on March 17, 2004.

45719 Adopted the CEQA determination and (a) appropriated \$5.603 million in budgeted CIP funds (Appropriation No. 15376, No. 3, from the Pay-As-You-Go Fund); and authorized (b) entering into a contract with Nth Generation Computing, Inc./Hewlett-Packard Company in an amount not to exceed \$513,000 to purchase needed IT server components to build out Metropolitan's recovery site; and (c) entering into a contract with SBC Data Comm, Inc. in an amount not to exceed \$426,000 to purchase needed IT voice

and data network components to build out Metropolitan's recovery site, as set forth in the letter signed by the Chief Executive Officer on March 30, 2004.

45720 Director Blake moved, seconded by Director Morris, that the Board adopt the CEQA determination and (a) adopt the Third Supplemental Resolution to Resolution 8386 (**Resolution 8901**) relating to the issuance of Waterworks General Obligation Refunding Bonds; (b) approve an increase in General Fund Appropriation No. 15409 in the amount of \$1.175 million, against which to charge expenses associated with the sale of water revenue bonds and interest rate swaps; and (c) authorize General Fund Appropriation No. 15418 in the amount of \$240,000, against which to charge expenses associated with the sale of waterworks general obligation bonds; and (d) authorize the reimbursement of expenses paid from the General Fund by bond proceed, with the authorization to expire on December 31, 2004, as set forth in the letter signed by the Chief Executive Officer on March 23, 2004; said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AMENDING CERTAIN PROVISIONS OF RESOLUTION 8386 RELATING TO THE ISSUANCE OF WATERWORKS GENERAL OBLIGATION REFUNDING BONDS (THIRD SUPPLEMENTAL RESOLUTION)

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

45721 Director Blake moved, seconded by Director Coughran, that the Board adopt the CEQA determination and approve the amended recommendation by the committee authorizing the Chief Executive Officer to enter into a Local Resources Program agreement with the Municipal Water District of Orange County and the Orange County Water District for the Groundwater Replenishment System Seawater Barrier Project to provide incentive payments over 23 years at \$121 per acre-foot, as set forth in the letter signed by the Chief Executive Officer on April 7, 2004, subject to successful negotiation of contract language related to rate structure integrity, or reconsideration by the Board if the negotiations are not successful.

Directors Bakall, Bannister, and Dick requested to be recorded as abstaining.

45722 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through February 2004, signed by the Chief Executive Officer on March 23, 2004.
- b. Review of System Overview Study, signed by the Chief Executive Officer on March 23, 2004.
- c. Water Surplus and Drought Management Plan report on water supply and demand as of March 19, 2004, signed by the Chief Executive Officer on March 23, 2004.

45723 Chairman Pace announced that Agenda Items 11-1 and 11-2 were pending items and would be brought back to the Board at a later date.

45724 Director Blake announced that the ACWA conference would be held May 5-7, 2004, in Monterey.

45725 Engineering and Operations Committee Chairman Wright reminded the Directors of the upcoming joint inspection trip of the Engineering and Operations and the Asset, Real Estate and Infrastructure Policy Committees on April 29 and 30, 2004.

45726 There being no objection, Chairman Pace adjourned the Meeting at 1:25 p.m.

HELEN Z. HANSEN

SECRETARY

PHILLIP J. PACE

CHAIRMAN