

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
SEPTEMBER 14, 2004

45887 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, September 14, 2004.

Chairman Pace called the Meeting to order at 12:32 p.m.

45888 The Meeting was opened with an invocation by Eddie Rigdon, Water System Operations Assistant Group Manager.

45889 The Pledge of Allegiance to the Flag was given, led by Director Isadore Hall, III.

45890 Board Secretary Hansen called the roll. Those answering present were: Directors Abdo, Apodaca, Bakall, Bannister, Blake, Brick, Brown, Coughran, De Jesus, Dick, Edwards, Fellow, Foley, Grandsen, Hall, Hansen, Harris, Koopman, Lewis, Loveland, Mejia, Morris, Murray, Pace, Parker, Peterson, Pocklington, Rez, Tait, and Wright.

Those not answering were: Directors Dentler (entered 12:50 p.m.), Farrar (entered 12:45 p.m.), Kwan (entered 12:38 p.m.), Luddy (entered 12:49 p.m.), Mylne (entered 12:45 p.m.), Record, and Simonds (entered 12:45 p.m.).

Chairman Pace declared a quorum present.

45891 Director Apodaca announced that Central Basin Municipal Water District would be having its annual picnic on September 16, 2004, in Santa Fe Springs, and extended an invitation to all Directors.

45892 As the only current "Water Buffalo", Director Brick inducted Directors Blake and Rez into the "Water Buffalo" Club.

Director Kwan took her seat at 12:38 p.m.

45893 Executive Vice President Ivey announced that Sergio Medina who has worked in the Executive Office and with the Board at its meetings has been promoted and now works with the Information Technology Section. The Board wished Mr. Medina success in his new undertaking.

45894 At 12:43 p.m., the Chair called a public hearing to receive comments on the proposed standby charges for 78th and 79th Fringe Area Annexations 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 12:44 p.m.

45895 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction.

Lynda Poggenpohl, Government and Regional Affairs Representative, introduced Kristie McCormack, Mary Snow, and Bob Duistermars, members of the Retired Senior Volunteer Program (RSVP), who presented to Chairman Pace a plaque for Metropolitan's dedication and outstanding commitment in leading the community in volunteer support. The RSVP is sponsored by United Way and assists with the docents for the Visitor Center, Viewpoint, Education and other programs and special events at Diamond Valley Lake.

Directors Farrar, Mylne, and Simonds took their seats at 12:45 p.m.

45896 There being no objection, Chairman Pace ordered the reading of the Minutes of the Meetings of August 10 and 17, 2004, dispensed with, copies having been mailed to each Director.

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

45897 Chairman Pace presented to Director Betty Harris a pin for her five years of service on Metropolitan's Board, representing the city of Beverly Hills.

Director Luddy took his seat at 12:49 p.m.

45898 Chairman Pace announced there were no new committee assignments.

45899 Chairman Pace reported that on September 9 he attended the latest exhibit of Liquid Art held at Pepperdine University in Malibu. He stated that Liquid Art is Metropolitan's celebration of Southern California's artworks that incorporate water as a theme and has been a great vehicle for Metropolitan to further enhance the awareness of water and its importance to Southern California. Also in attendance was Director Peterson who represented the Las Virgenes Municipal Water District and who partnered with West Basin Municipal Water District to sponsor the artwork at Pepperdine. The Liquid Art show will be on display at the Drescher Library at Pepperdine through November 1.

Director Dentler took her seat at 12:50 p.m.

45900 Regarding Colorado River, Bay-Delta, and CALFED matters, Chief Executive Officer Gastelum referred to his activity report for August dated September 8, 2004, which was distributed earlier.

Chief Executive Officer Gastelum stated that more details on Colorado River matters will be given at the Executive Committee meeting on September 28 by Vice President Underwood since he is currently at a meeting convened by the Secretary of the Interior for signing of the Multi-Species Protection Agreement among the various states. Mr. Gastelum commented that Mr. Underwood would also give an update on the Palo Verde

Irrigation District farmer sign-up program, and that the sign-ups are currently in progress. Mr. Gastelum continued that the canal lining project groundbreaking would soon take place. The project has been under the supervision of Imperial Irrigation District, with input from San Diego County Water Authority and the Coachella Valley Water District. Chief Executive Officer Gastelum remarked on the CALFED legislation moving ahead in Congress.

45901 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for August dated September 3, 2004, which was distributed earlier.

General Counsel Kightlinger reported on *In re Groundwater Cases*, a judicial council coordination of four different toxic tort cases in the San Gabriel Valley. The lower court's ruling was built on the earlier California Supreme Court decision in the *Hartwell* case where it found that a PUC-regulated water utility would not be held liable for serving water as long as that water met state and federal drinking water requirements, even though people were suing and saying because of trace elements of certain elements they wanted to bring toxic tort cases against those water providers. Mr. Kightlinger stated the court's ruling expanded those decisions to the public utilities and retailers, and so it was very significant for Metropolitan's member agencies, as well as for Metropolitan, for the future of drinking water service. He commented that the case would likely be appealed.

45902 General Auditor Riss presented a summary report of the Audit Department's activities for the month of August. He began by discussing the District Housing Audit Report. Mr. Riss stated that this report was issued with an opinion that the accounting and administrative procedures over District housing included those practices usually necessary to provide for a generally satisfactory internal control structure. He then stated that the degree of compliance with such procedures provided effective control for the period January 1, 2003 through June 30, 2004. Mr. Riss then briefly discussed the report and noted that, as of June 30, District housing consisted of 156 units. Mr. Riss then stated that although the audit report expresses an opinion that the internal control structure was effective during the period under review, a recommendation was made for Water System Operations (WSO) management to

complete an analysis of District housing to potentially eliminate some or all of these dwellings. He reported that WSO management had already begun such an analysis, and that the audit encouraged management to complete this review.

Next, General Auditor Riss gave a brief update on the State Audit Response. He stated that the District had filed its 60-day status report to the state auditors and noted that State Auditor Elaine Howle responded with a written request to modify the District's response. Mr. Riss reported that a telephone conference meeting was held with the state auditors, and he noted that an amended status report was filed as a result of that meeting. Mr. Riss then added that the state auditors also discussed the 180-day response due date. He reported that it was agreed that the 180-day response due date be moved from December 5, 2004 to January 5, 2005.

45903 Ethics Officer Elliott reviewed her monthly report. She reported that the notice of revision of the Conflict of Interest Code is due in Sacramento October 1, and that she will be filing a revision for designated positions and disclosure categories. Dr Elliott also commented on three matters currently under review – the SB 60-mandated schedule of penalties for ethics violations; the conflict of interest between contractors, Directors and staff; and the Administrative Code language regarding solicitation and acceptance of campaign contributions. Dr. Elliott announced that a transcript of the May Directors' workshop is complete and will be posted to the Directors' Web site. She stated that an audio version that will be available on CD and through the Ethics Office Web site is in progress. The Ethics Officer's quarterly report will be posted to the Ethics Office home page on September 15.

45904 The reports of the Standing Committees are as follows:

Chairman Pace reported the Executive Committee, at its meeting of August 24, approved Agenda Items 8-1 through 8-3. The committee also discussed and approved the proposed items for September'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, including a thorough discussion on the rate structure with the member agencies, and a follow-up on the request of the state auditors and their recommendations to

develop policies on District activities and Metropolitan's leasing criteria. The Chief Executive Officer recommended that the Board review the state auditors' list of recommendations and consider conclusions to these recommendations.

Asset, Real Estate and Infrastructure Policy Committee Vice Chairman Bannister reported the committee received updates on Ormond Beach property; Arrow Highway property; and on items related to Diamond Valley Lake Recreation, to include Valley-Wide grading plan, Searl Parkway Phase I improvements, marina boat ramp extension, and Diamond Valley Lake surplus property disposition.

Budget, Finance and Investment Committee Chairman Mylne reported the committee unanimously approved Agenda Item 9-4. The committee heard reports on the State Water Project calendar year 2005 Statement of Charges and Metropolitan's investment portfolio.

Communications, Outreach and Legislation Committee Chairman Fellow reported the committee approved Agenda Item 9-10 and requested that it be placed on the Consent Calendar. The committee heard reports on the outdoor conservation effort that began this month, Metropolitan's consultant contracts, the upcoming 2005 Solar Cup competition, and the current activities from both Washington, D.C. and Sacramento.

Engineering and Operations Committee Chairman Wright reported the committee approved Agenda Items 8-5, 8-6, 8-7, 9-1, 9-2, and 9-3. Committee Chairman Wright requested Item 9-1 be added to the Consent Calendar. The committee heard oral reports on the Inland Feeder Program, water quality and treatment strategies, system operations, and engineering activities.

Director Kwan withdrew from the Meeting at 1:11 p.m.

Legal, Claims and Personnel Committee Chairman De Jesus reported that after hearing the reports in closed session on Agenda Items 9-7 and 9-8, in open session the committee approved them. Committee Chairman De Jesus requested Items 9-7 and 9-8 be added to the Consent Calendar. In closed session the committee also heard reports on *Shank/Balfour Beatty v. Metropolitan*, *Dewayne Cargill, et al. v. Metropolitan*, and

the consolidated groundwater cases with respect to the *Hartwell* decision. No actions were taken on these cases.

Water Planning, Quality and Resources Committee Vice Chairman Bakall reported the committee approved Agenda Items 8-8, 8-9, 8-10, and 9-5. Committee Vice Chairman Bakall requested Item 9-5 be added to the Consent Calendar. The committee received updates on the California Performance Review, perchlorate and the Las Vegas Wash, and on efforts to secure Central Valley transfer supplies for 2005.

45905 Chairman Pace announced that Agenda Item 8-4, revisions to the Administrative Code; and Item 9-6, water transfer option agreements with Central Valley water districts, were withdrawn

Director Blake moved, seconded by Director Murray and carried, and the Board approved the Consent Calendar Items, **M.I. 45906** through **M.I. 45919**, as follows:

45906 Adopted the California Environmental Quality Act (CEQA) determination and (a) **Resolution 8918** granting Calleguas Municipal Water District's request for approval of Annexation No. 84, 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) a resolution to impose water standby charge (**Resolution 8919**) 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 August 18, 2004, said Resolutions entitled:

Resolution 8918

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA CONSENTING TO
CALLEGUAS MUNICIPAL WATER DISTRICT'S
ANNEXATION NO. 84 AND FIXING THE TERMS
AND CONDITIONS OF SAID ANNEXATION TO
THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA**

Resolution 8919 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. 84

Director Grandsen requested to be recorded as abstaining.

45907 Adopted the CEQA determination and (a) **Resolutions 8920 and 8921** granting Eastern Municipal Water District's request for approval of the 78th and 79th Fringe Area Annexations, concurrently to Metropolitan and Eastern, conditioned upon approval by the Riverside Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for these annexations; and (b) resolutions to impose water standby charge (**Resolutions 8922 and 8923**) at a rate of \$6.94 per acre or per parcel of less than one acre within the proposed annexation areas, as set forth in the letter signed by the Chief Executive Officer on August 18, 2004, said Resolutions entitled:

Resolution 8920 RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO EASTERN MUNICIPAL WATER DISTRICT'S 78TH FRINGE AREA ANNEXATION AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Resolution 8921 RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO EASTERN MUNICIPAL WATER DISTRICT'S 79TH FRINGE AREA ANNEXATION AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Resolution 8922 **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 78TH FRINGE AREA ANNEXATION**

Resolution 8923 **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 79TH FRINGE AREA ANNEXATION**

45908 Adopted the CEQA determination and approved the new funding arrangement; and contingent on the parties reaching a 100 percent funding level, authorized the Chief Executive Officer to make payments totaling \$300,025 for the Six Agency Fund and the Colorado River Association for fiscal year 2004/05, as set forth in the letter signed by the Chief Executive Officer on August 18, 2004.

45909 Adopted the CEQA determination and appropriated \$820,000 in Capital Investment Plan funds (Appropriation No. 15417, No. 2, from the Construction Funds) for design of a replacement cover, new liner and associated improvements at Orange County Reservoir, as set forth in the letter signed by the Chief Executive Officer on August 25, 2004.

45910 Adopted the CEQA determination and (a) appropriated \$1.87 million in Capital Investment Plan funds (Appropriation No. 15297, No. 3, from the Construction Funds); and (b) authorized entering into an agreement with the Pressure Pipe Inspection Company (USA) Inc. for a not-to-exceed amount of \$1.3 million to inspect approximately 95 miles of prestressed concrete cylinder pipe, as set forth in the letter signed by the Chief Executive Officer on August 23, 2004.

45911 Adopted the CEQA determination and (a) appropriated \$1.57 million in Capital Investment Plan Funds (Appropriation No. 15377, No. 8, from the Construction Funds); and (b) authorized seven projects under the Conveyance and Distribution System Rehabilitation Program, to:

- Perform study, exploratory excavations, and preliminary design for repair of the Box Springs Feeder;
- Perform final design for repair of the Calabasitas Feeder;
- Perform preliminary design of cathodic protection for the Middle Feeder;
- Perform final design, construction, and construction management of cathodic protection for the Middle Cross Feeder;
- Perform investigations, final design and construction for repair of the Rialto Feeder;
- Perform studies and preliminary design for repair of San Diego Pipeline No. 5 and Lake Skinner Outlet Conduit; and
- Perform final design and construction for repair of the Eagle Rock Lateral Interconnection,

as set forth in the letter signed by the Chief Executive Officer on August 23, 2004.

45912 Adopted the CEQA determinations and authorized (a) proposed upgrades to the commercial and institutional landscape water efficiency program; and (b) six months of transitional funding, retroactive to July 1, 2004, for Metropolitan-funded agency landscape programs to adapt to the new program upgrades, as set forth in the letter signed by the Chief Executive Officer on August 23, 2004.

45913 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into a Local Resources Program agreement with Upper San Gabriel Valley Municipal Water District for the Direct Reuse Project Phase IIA to provide incentive payments over 25 years at up to \$200 per acre-foot under the terms included in the letter signed by the Chief Executive Officer on August 25, 2004, subject to (a) successful negotiation of contract language related to rate structure integrity, or (b) reconsideration by the Board if negotiations are not successful.

Director Fellow requested to be recorded as abstaining.

45914 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into a Local Resources Program agreement with Eastern Municipal Water District for the Recycled Water Pipeline Reach 16 Project to provide financial incentives over 25 years at \$82 per acre-foot, subject to (a) successful negotiation of contract language related to rate structure integrity, or (b) reconsideration by the Board if negotiations are not successful, as set forth in the letter signed by the Chief Executive Officer on August 24, 2004.

45915 Adopted the CEQA determinations and (a) appropriated \$19.8 million in capital funds (Appropriation No. 15369, No. 10, from the Construction Funds); (b) awarded a construction contract in the amount of \$14.09 million to Brutoco Engineering & Construction, Inc. to construct the Weymouth Plant Solids Handling Facilities; authorized (c) an increase to an agreement with Black & Veatch Corporation for a new not-to-exceed total of \$3.8 million to provide engineering support of the solids handling facilities; and (d) preliminary design to rehabilitate Basins Nos. 1 and 2 and to replace the filter valves and actuators in Filter Building No. 2, as set forth in the letter signed by the Chief Executive Officer on September 2, 2004.

45916 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into a contract with Honeywell DMC Services, L.L.C. as the long-term regional commercial/ industrial/institutional program vendor for five years, as set forth in the letter signed by the Chief Executive Officer on August 23, 2004.

45917 Adopted the CEQA determination and approved amendment of contracts for legal services with (1) Bingham McCutchen LLP to increase maximum amount payable by \$140,000; (2) Law Offices of John W. Harris & Associates to increase maximum amount payable by \$150,000; (3) Hill, Farrer & Burrill LLP to increase maximum amount payable by \$290,000; and (4) Horvitz & Levy LLP to increase maximum amount payable by \$50,000, to defend litigation against Metropolitan, as set forth in the confidential letter signed by the General Counsel on September 1, 2004.

45918 Adopted the CEQA determination and authorized the Chief Executive Officer and the General Counsel to exercise discretion under Administrative Code Sections 6101(k) and (l) to enter into a Memorandum of Understanding with Water Attorneys of Metropolitan, effective June 20, 2004 through June 30, 2005.

45919 Adopted the CEQA determination and approved the distribution of budgeted and sponsorship grant funds to competitively selected World Water Forum college teams, as set forth in the letter signed by the Chief Executive Officer on September 13, 2004.

45920 Regarding *Shank/Balfour Beatty, a Joint Venture vs. Metropolitan Water District*, no action was taken.

Director Kwan returned to the Meeting at 1:19 p.m.

45921 Director Morris moved, seconded by Director Coughran and carried, that the Board adopt the CEQA determination and (a) appropriated \$6.14 million in capital funds (Appropriation No. 15171, No. 4, from the Construction Funds); authorized (b) final design and permit acquisition for relocation of approximately 300 air-vacuum relief valves to aboveground locations; and (c) the following consultant agreements:

- Orsa Consulting Engineers, Inc., not to exceed \$1.1 million, for design services;
- Vandell and Associates, Inc., not to exceed \$1.1 million, for design services;
- Lee & Ro, Inc., not to exceed \$1.1 million, for design services;
- KEC Engineers, Inc., not to exceed \$250,000, for permit acquisition services; and
- Marrs Services, Inc., not to exceed \$250,000, for permit acquisition services,

as set forth in the letter signed by the Chief Executive Officer on August 24, 2004.

Director Harris requested to be recorded as voting no.

45922 Director Blake moved, seconded by Director Coughran and carried, and the Board adopted the CEQA determination and (a) appropriated \$5.95 million in capital funds (Appropriation No. 15331, No. 4, from the Construction Funds); and (b) awarded a construction contract for \$3.726 million to Kiewit Pacific for the Diemer Basin No. 8 Spillway Conduit, as set forth in the letter signed by the Chief Executive Officer on August 24, 2004.

45923 Director Blake moved, seconded by Director Bakall and carried unanimously, and the Board adopted the CEQA determination and:

- (a) Adopted the Long Range Finance Plan, including the policy changes in (b) through (e);
- (b) Set a budget benchmark to manage departmental O&M budgets within the five-year rolling average change in the CPI;
- (c) Changed Metropolitan's variable rate exposure policy to limit net interest exposure to \$5 million per year and/or 40 percent of total outstanding debt;
- (d) Amended Metropolitan's financial policies to include a goal to maintain a minimum fixed charge coverage of 1.2 times; and
- (e) Changed the name of the PAYG Fund to the Replacement and Refurbishment Fund, eliminated the minimum fund balance requirement for the Replacement and Refurbishment Fund, established an end-of-year maximum fund balance of \$95 million, allowed for carryover of fund balances between years, and provided for the payment of short-lived capital expenditures (e.g., information technology expenditures) and reimbursable expenditures from the General Fund,

as set forth in the letter signed by the Chief Executive Officer on September 7, 2004.

45924 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through July 2004, signed by the Chief Executive Officer on August 23, 2004.
- b. Annual report of payment of claims for lost bonds or coupons, signed by the Chief Executive Officer on August 23, 2004.

- c. Preliminary analysis of State Water Project calendar year 2005 Statement of Charges, signed by the Chief Executive Officer on August 23, 2004.
- d. Report on the California Performance Review Process, signed by the Chief Executive Officer on September 8, 2004.

45925 There being no objection, Chairman Pace adjourned the Meeting at 1:20 p.m.

HELEN Z. HANSEN

SECRETARY

PHILLIP J. PACE

CHAIRMAN