

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
OCTOBER 12, 2004

45926 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, October 12, 2004.

Chairman Pace called the Meeting to order at 11:35 a.m.

45927 The Meeting was opened with an invocation by Mike Chrisman, California Secretary of Resources.

45928 The Pledge of Allegiance to the Flag was given, led by Director David Farrar.

45929 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, Koopman, Kwan, Lewis, Loveland, Luddy, Mejia, Morris, Murray, Mylne, Pace, Parker, Peterson, Record, Rez, Simonds, and Wright.

Those not answering were: Directors Pocklington (entered 11:40 a.m.) and Tait.

Chairman Pace declared a quorum present.

45930 Director Edwards introduced Robert Gomperz and Bill Pecsí, president and general manager, respectively, of Foothill Municipal Water District.

Director Pocklington took his seat at 11:40 a.m.

45931 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction.

Mike Chrisman, California Secretary of Resources, addressed the Board on the importance of a CALFED ten-year financing plan based on the concept of "beneficiary pays" and equitable allocation of cost sharing arrangements. Mr. Chrisman also spoke on the South Delta Improvement Program and the continued importance of seawater desalination. He praised Metropolitan and Southern California's leadership role in water conservation, storage and recycling, groundwater cleanup, and water transfers.

45932 Director Mejia introduced Steven Veres, council member from the city of San Fernando, who will be replacing him next month on Metropolitan's Board.

45933 Nominating Committee Chairman Mejia reported that the committee met to consider the candidates to fill the Office of Board Chairman. Following the review, the committee submitted as nominees for the Board Chairmanship for the two-year term commencing January 1, 2005, the following Directors: Wesley M. Bannister, David D. De Jesus, James T. Edwards, John M. Mylne, III, and Glen D. Peterson.

Committee Chairman Mejia called for other nominations from the floor. Hearing none, the nominations were closed.

Committee Chairman Mejia announced that the vote will be by written ballot and after completion of the ballot(s) the votes will be read aloud for recording. The nominee receiving more than fifty percent of the vote will be elected Chairman.

Following the vote on Ballot No. 1, Committee Chairman Mejia announced the tabulation of the votes; with Director Bannister receiving 51.46%; Director Peterson, 31.97%; Director De Jesus, 7.34%; Director Edwards, 3.98%; and Director Mylne, 3.45%.

Committee Chairman Mejia thereupon moved, seconded by Committee Vice Chairman Farrar and carried, that it be recorded that Director Bannister was elected to the Office of the

Chairman of the Board for the two-year term beginning January 1, 2005.

45934 There being no objection, Chairman Pace ordered the reading of the Minutes of the Meeting of September 14, 2004, dispensed with, a copy having been mailed to each Director.

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

45935 Chairman Pace announced there were no new committee assignments.

45936 Chairman Pace reported that on September 21 he and several Directors toured the El Segundo Power Station and West Basin Water Recycling facility, which Director Hansen sponsored. Chairman Pace also commented that on October 30, Chief Executive Officer Gastelum, Executive Vice President Ivey, and himself attended the celebration on the completion of the Foothill Pump Station by San Bernardino Valley Municipal Water District, which pump will provide more water to Diamond Valley Lake. Chairman Pace reported that he was a guest speaker at the 24th Annual Fall Seminar held October 1-3 in Oxnard by the California Contract Cities Association, which event focused on the current and future issues of water.

45937 Regarding Colorado River, Bay-Delta, and CALFED matters, Chief Executive Officer Gastelum referred to his activity report for September dated October 6, 2004, which was distributed earlier.

45938 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for September dated September 30, 2004, which was distributed earlier.

General Counsel Kightlinger reported that in the San Gabriel Valley Aerojet case, Metropolitan's motion for summary judgment to dismiss those claims will be heard on November 1, 2004. He also stated that in the *Shank/Balfour Beatty* case the facts would be submitted to the judge probably by the end of the week. Mr. Kightlinger further reported on the retirement from the Legal Department of Norman Flette, Senior Deputy General Counsel.

45939 General Auditor Riss presented a summary report of the Audit Department's activities for the month of September. He began by noting that four audit reports and a report card were issued during the month. Specifically, he noted that the Employee and Director Expense Audit Report; Metropolitan's Budget Process Audit Report; Protector del Agua Program Process and Controls Audit Report; and the Union Station Facility Maintenance Audit Report were issued in September. He also indicated that the Laboratory Information Management System (LIMS) Report Card was issued.

Mr. Riss then conducted a brief discussion of these reports. He began with the Employee and Director Expense Audit Report, which focused on adherence to the Administrative Code's travel guidelines, including travel policy, expense reporting, and guidelines for preparing and submitting reports. This 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 there were a couple of relatively minor comments and recommendations in the areas of expense reimbursement processing, timely submission of claims, and review and revision of existing policies and procedures, which are always ongoing. Management was encouraged to continue evaluating existing policies and procedures and amend them as necessary.

Next, Mr. Riss stated that an audit of Metropolitan's Budget Process was issued with an opinion that the accounting and administrative procedures over the budget process included those practices usually necessary to provide for a generally satisfactory internal control structure. He stated that this audit focused on the process of identifying adequate financial resources to support Metropolitan's mission and to provide the basis for acceptable and fiscal responsibility in the District. Mr. Riss reported there were isolated and minor instances of non-compliance with the O&M budgeting procedures. Recommendations were made that management remind personnel of the importance of complying with these procedures.

Mr. Riss reported that an audit was also performed on the Protector del Agua Program Process and Controls (PDA). The PDA Program is a conservation and landscape maintenance education program targeting the landscape industry and

homeowners. Mr. Riss stated that this program is relatively new, and the Audit Department was requested to review it for accounting and administrative controls. Again, this 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. Mr. Riss added that some comments were noted in the areas of evaluation of program curricula; invoice processing; review and analysis of class evaluations; and class enrollment procedures.

Next, Mr. Riss stated that an audit was conducted on the Union Station Facility Maintenance function. This audit resulted in an opinion that the accounting and administrative procedures included those practices usually necessary to provide for a satisfactory internal control structure. He reported that very minor comments were made to improve the invoice processing.

Finally, General Auditor Riss commented on the Laboratory Information Management System (LIMS) report card and stated that the project risk appeared to be low and that the project plan had been documented quite well. He also indicated that the subsequent updates and changes were being handled in a controlled process.

45940 Ethics Officer Elliott referred to her activity report for September dated September 30, 2004, which was distributed earlier. She reported that the recruitment for the Ethics Educator position closed yesterday. There were 14 applications, which would be reviewed, with the top candidates to be interviewed again on the Monday after Thanksgiving. Dr. Elliott commented on the various upcoming workshops to be held for: Executive Management on October 25; Directors and designated employees relating to Form 700 on January 25, 2005; and special workshop for Directors on "Adaptive Leadership" on February 15, 2005. In addition, Dr. Elliott stated that the CD on ethics matters, which highlighted the last Directors' ethics workshop, was complete. Two other CDs were in the process of being put together - one on ethical judgments in water quality, and the other on responsible hiring and recruitment practices for responsible government. Finally, Dr. Elliott reported that she would be making a trip to Sacramento to meet with members and staff of the Joint Legislative Audit Committee.

45941 The reports of the Standing Committees are as follows:

Chairman Pace reported the Executive Committee, at its meeting of September 28, approved Agenda Item 8-1. The committee also discussed and approved the proposed items for October's Board and committee agenda items. The committee heard reports on activities of the Audit and Ethics Subcommittees and the Colorado River Board. A detailed presentation was made on the drought protection measures on the Colorado River. Chief Executive Officer Gastelum reported on Metropolitan's activities, including the CALFED bill, discussion on the rate structure integrity language and seawater desalination grants with the member agencies, and a review of the recommendations from the California Performance Review process on reforming California government. The committee also discussed the city of Pasadena lease negotiations on the Arroyo Seco property. The Chief Executive Officer also reported on the National Water Research Institute and the funding process from Metropolitan. The committee voted to withdraw from NWRI and the recommendation was sent to the Board for further action.

Asset, Real Estate and Infrastructure Policy Committee Chairman Record reported the committee unanimously approved Agenda Items 9-7 and 9-10. Agenda Item 9-8 was also approved with an amendment that the proceeds be used for desalination purposes. Committee Chairman Record requested Items 9-7, 9-8, and 9-10 be added to the Consent Calendar. The committee received updates on the Arroyo Seco property and the activities at Diamond Valley Lake. The committee recommended that the Lake Skinner recreation lease with Riverside County be moved to the Diamond Valley Lake and Lake Skinner Oversight Subcommittee for further discussion.

Budget, Finance and Investment Committee Chairman Mylne reported the committee unanimously approved Agenda Items 8-2 and 8-3. The committee heard reports on Metropolitan's quarterly financials, current and future financing activities, and disclosure obligations in connection with bond offerings.

Communications, Outreach and Legislation Committee Chairman Fellow reported the committee approved Agenda Items 8-7 and 9-9, and requested that Item 9-9 be placed on the Consent Calendar. The committee heard reports on the California

Friendly Water Efficiency Recognition Program, the City Makeover Program, the current activities from both Washington, D.C. and Sacramento, and that the World Water Forum would be held at Metropolitan's headquarters on October 22, 2004.

Engineering and Operations Committee Chairman Wright reported the committee approved Agenda Items 8-5, 8-6, 9-2, and 9-3. Committee Chairman Wright requested Items 9-2 and 9-3 be added to the Consent Calendar. The committee heard oral reports on the Inland Feeder Program, system operations, engineering activities, and the construction industry cost trends.

Legal, Claims and Personnel Committee Chairman De Jesus reported that the committee approved Agenda Items 8-4 and 8-8. The committee also heard reports on the recently passed CALFED Bay-Delta Authorization Act, the *Catskill* case regarding the National Pollutant Discharge Elimination System permitting requirements, and the Lower Colorado River Multi-Species Conservation Program.

Water Planning, Quality and Resources Committee Chairman Luddy reported the committee approved Agenda Items 9-4, 9-5, 9-6, and 9-13. Committee Chairman Luddy requested Items 9-5, 9-6, and 9-13 be added to the Consent Calendar. The committee received updates on the legislative activities relating to a CALFED long-term financing plan funding, the summary of issues on the High Efficiency Clothes Washer Incentive Program utilizing state grants, and the staff's progress on the System Overview Study.

45942 Chairman Pace announced that the dedication of the West Dam in honor of the late Director Langdon W. Owen would take place on Saturday, October 30, 2004 at Diamond Valley Lake.

45943 Director Dentler requested Items 8-4 and 8-8 be taken off the Consent Calendar.

Director Coughran moved, seconded by Director Blake and carried, and the Board approved the Consent Calendar Items, **M.I. 45944** through **M.I. 45958**, as follows:

45944 Adopted the California Environmental Quality Act (CEQA) determination and (a) granted conditional approval for 47th Fringe Area, concurrently to Western Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$522,235.40 to Metropolitan if completed by December 31, 2004, or if completed later, at the then current annexation charge rate; (b) approved Western's proposed Plans for Implementing Water Use Efficiency Guidelines; and (c) adopted the resolution of intention (**Resolution 8924**) to impose water standby charge within the proposed annexation territories, substantially in the form of Attachment 3 to the letter signed by the Chief Executive Officer on September 20, 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

45945 Adopted the CEQA determination and **Resolution 8925**, providing that Metropolitan elects to receive its portion of revenue from taxes levied on Amendment No. 1 to the Redevelopment Plan for the San Sevaine Redevelopment Project, and that these additional revenues are attributable to any increase in Metropolitan's base year tax rate applied to the incremental assessed value of the project property, as set forth in the letter signed by the Chief Executive Officer on September 20, 2004, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA ELECTING TO RECEIVE ALLOCATION OF TAXES PURSUANT TO PROVISIONS OF THE COMMUNITY REDEVELOPMENT LAW

45946 Adopted the CEQA determination and amended Metropolitan Water District Administrative Code Section 4000, Chapters 1 and 5 regarding Emergency Storage Program, as set forth in Attachment 2 to the letter signed by the Chief Executive Officer on September 20, 2004.

45947 Adopted the CEQA determination and (a) appropriated \$3.3 million for the Minor Capital Projects Program for 2004/05 for projects costing less than \$250,000 (Appropriation No. 15422 from the Construction Funds and Replacement and Refurbishment

Fund); (b) authorized the Chief Executive Officer to initiate capital projects costing less than \$250,000 and perform all work including the preparation of necessary environmental documentation; and (c) designated the Chief Executive Officer as the decision-making body for purposes of reviewing, approving, and certifying any environmental documentation that may be required for such projects, as set forth in the letter signed by the Chief Executive Officer on September 20, 2004.

45948 Adopted the CEQA determination and awarded a contract for \$871,200 to L. D. Anderson, Inc. for construction of the Arrowhead Tunnels connector road of the Inland Feeder Program, as set forth in the letter signed by the Chief Executive Officer on September 22, 2004.

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

45949 Adopted the CEQA determination and authorized staff to request that the Association of California Water Agencies sponsor legislation adding a specific exemption to the Public Records Act for geological data, security plans, assessments, reports or measures pertaining to a California public water system and public water system facilities, as set forth in the letter signed by the Chief Executive Officer on September 27, 2004.

45950 Adopted the CEQA determination and (a) appropriated \$6.31 million in budgeted funds (Appropriation No. 15371, No. 6; and Appropriation No. 15381, No. 4, from the Construction Funds); (b) awarded a construction contract for \$2,717,518 to Carbon Activated Corp. for partial replacement of filter media at the Jensen filtration plant Modules 1, 2, and 3; and (c) awarded a construction contract for \$2,208,850.71 to ERS Industrial Services, Inc. for replacement of filter media at the Mills filtration plant Modules 3 and 4, as set forth in the letter signed by the Chief Executive Officer on September 20, 2004.

45951 Adopted the CEQA determination and authorized (a) agreements with Butier Construction Managers for construction support services in an amount not to exceed \$5 million, and with P&D Environmental for environmental mitigation monitoring services in an amount not to exceed

\$4 million; and (b) an increase to the professional services agreement with Vanir Construction Management, Inc. for project management support for a new not-to-exceed total of \$2.5 million, as set forth in the letter signed by the Chief Executive Officer on September 20, 2004.

45952 Adopted the CEQA determination and revisions to Section 3107 of the Administrative Code relating to Water Use Efficiency Guidelines, as shown in Attachment 2 to the letter signed by the Chief Executive Officer on September 29, 2004.

45953 Adopted the CEQA determination and authorized paying initial fees to pursue up to 125,000 acre-feet of one-year water transfer option agreements with Central Valley water districts, as set forth in the letter signed by the Chief Executive Officer on October 5, 2004.

45954 Adopted the CEQA determination and authorized entering into an agreement with DHI in an amount not to exceed \$2.3 million to develop and implement a Real time Operating System for Metropolitan's water distribution system, as set forth in the letter signed by the Chief Executive Officer on September 20, 2004.

45955 Adopted the CEQA determination and (a) authorized the Chief Executive Officer to sell the Ormond Beach property of 289 acres; (b) in compliance with Government Code Section 54222, Surplus Lands Act, accepted the offer on 276 acres from The California Coastal Conservancy, a prescribed agency, on behalf of The Nature Conservancy; (c) in compliance with Metropolitan's Administrative Code Section 8254, accepted the offer on 13 acres from the Oxnard Community Development Commission; and (d) included provisions with condition subsequent wherein utility corridors, access easements, and mitigation areas are reserved, as set forth in the letter signed by the Chief Executive Officer on September 27, 2004, with an amendment that proceeds be used for desalination purposes.

45956 Adopted the CEQA determination and (a) appropriated \$3.2 million in unbudgeted Operations and Maintenance funds; and (b) authorized the Chief Executive Officer to amend Agreement No. 61474 with Fraser Communications from a maximum amount payable of \$1.15 million to an amount not to exceed \$4.35 million through June 2005 to extend conservation

advertising campaign, as set forth in the letter signed by the Chief Executive Officer on September 28, 2004. Of the \$3.2 million, \$3 million will be used for purchase of advertising space and \$200,000 for production costs.

Director Dentler requested to be recorded as abstaining due to a financial relationship with a nonprofit corporation that also does business with Fraser Communications.

45957 Adopted the CEQA determination and (a) affirmed the Chief Executive Officer's determination that the eleven parcels near the Diamond Valley Lake facilities comprising 44.8 acres are surplus and prepare disposition plan for the properties in their current condition; and (b) established provision with condition subsequent wherein utility corridors and access easements and mineral rights are reserved, as set forth in the letter signed by the Chief Executive Officer on September 29, 2004.

45958 Adopted the CEQA determination and approved entering into a storage and interstate release agreement and operational agreement with Southern Nevada Water Authority, the Colorado River Commission of Nevada, and the Bureau of Reclamation authorizing the storage of Nevada's unused apportionment of Colorado River water in Metropolitan's facilities and future intentional creation of unused apportionment in an equal amount to the water stored for delivery to Nevada, as set forth in the letter signed by the Chief Executive Officer on October 6, 2004.

45959 Regarding the proposed revisions to Metropolitan's Administrative Code to conform to current laws, practices and board authorizations, and make corrections, Director Dentler expressed her concern that the section in the Administrative Code relating to holidays has not been settled with the labor union and the rush for amending the Administrative Code at this time since it will have to be brought back to the Board at a later time. Director Dentler then suggested that this item be tabled.

General Counsel Kightlinger replied that the union did suggest changes to the section of the Code on holidays, and for that reason that revision was not included in the current board letter, and will be brought back to the Board separately. Chief Executive Officer Gastelum stated that for the end of the year

there were a number of outstanding items that will be brought to the Board relative to the state audit, and the updating of the Administrative Code was one of those.

Legal, Claims and Personnel Committee Chairman De Jesus then moved, seconded by Director Apodaca and carried, that the Board adopt the CEQA determination and approve the changes to the Administrative Code set forth in Attachment 2 to the letter signed by the General Counsel on September 29, 2004, to reflect the changes recommended.

Directors Dentler and Luddy requested to be recorded a voting no.

45960 Following a discussion on the salary grades for certain unrepresented employee positions and the classification of certain titles in reference to a public agency, Director Dentler moved, seconded by Director Luddy, that the revisions to Metropolitan's Administrative Code regarding salaries and benefits for unrepresented employees be tabled.

The Chair called for a vote on the motion to table.

The following is a record of the vote on the motion:

Ayes: Beverly Hills (Dir. Harris, 1,407 votes), Fullerton (Dir. Blake, 1,090 votes), Los Angeles (Dirs. Dentler and Luddy, 14,044 votes), Pasadena (Dir. Brick, 1,381 votes), San Diego County Water Authority (Dirs. Lewis, Loveland, Parker, and Pocklington, 26,222 votes), West Basin Municipal Water District, Dir. Kwan, 4,887.50 votes). Total 49,031.50 votes.

Noes: Burbank (Dir. Brown, 1,287 votes), Calleguas Municipal Water District (Dir. Grandsen, 5,928 votes), Central Basin Municipal Water District (Dir. Apodaca, 4,064 votes), Compton (Dir. Hall, 230 votes), Eastern Municipal Water District (Dir. Record, 3,570 votes), Foothill Municipal Water District (Dir. Edwards, 921 votes), Glendale (Dir. Rez, 1,626 votes), Inland Empire Utilities Agency (Dir. Koopman, 5,379 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,378 votes), Long Beach (Dir. Hansen, 2,669 votes), Los Angeles (Dirs. Farrar and Simonds, 14,044 votes), Municipal Water District of Orange County (Dirs. Bakall, Bannister, Dick, and Foley, 25,126 votes), San Fernando (Dir. Mejia, 109 votes), San Marino (Dir. Morris,

304 votes), Santa Ana (Dir. Coughran, 1,574 votes), Santa Monica (Dir. Abdo, 1,648 votes), Three Valleys Municipal Water District (Dir. De Jesus, 3,706 votes), Torrance (Dir. Wright, 1,652 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 5,256 votes), West Basin Municipal Water District (Dir. Murray, 4,887.50 votes), Western Municipal Water District of Riverside County (Dir. Mylne, 5,043 votes). Total 90,401.50 votes.

Abstain: Central Basin Municipal Water District (Dir. Pace, 4,064 votes). Total 4,064 votes.

Absent: Anaheim (Dir. Tait, 2,622 votes). Total 2,622 votes.

The Chair declared the motion to table failed by a vote of 49,031.50 ayes, 90,401.50 noes, 4,064 abstain, and 2,622 absent.

Director Hall then moved, seconded by Director Edwards and carried, that the Board adopt the CEQA determination and approve the changes to the Administrative Code set forth in Attachment 2 to the letter jointly signed by the Chief Executive Officer on September 30, the General Counsel and the General Auditor on September 29, 2004, to reflect the changes recommended.

Directors Brick, Dentler, and Harris requested to be recorded as voting no.

Director Luddy withdrew from the Meeting at 1:02 p.m.

45961 Director Edwards moved, seconded by Director Blake and unanimously carried, that the Board adopt the CEQA determination and **Resolution 8926** of the Board of Directors giving notice of potential discontinuance of service of Interim Agricultural Water Program water in 2005, as set forth in the letter signed by the Chief Executive Officer on September 22, 2004, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA DIRECTING THE GIVING OF NOTICE OF POTENTIAL DISCONTINUANCE OF SERVICE OF SURPLUS WATER IN 2005

45962 Regarding *Shank/Balfour Beatty, a Joint Venture vs. Metropolitan Water District*, no action was taken.

45963 Director Blake moved, seconded by Director Edwards and carried, and the Board adopted the CEQA determination and authorized the General Auditor to enter into a contract for external audit services with the firm of KPMG for the annual and quarterly audits for fiscal year June 30, 2005, in an amount not to exceed \$208,350, as set forth in the letter signed by the General Auditor on September 29, 2004.

45964 Director Blake moved, seconded by Director Coughran and carried, and the Board confirmed the Chief Executive Officer's action to withdraw from the National Water Research Institute.

Director Morris requested to be recorded as voting no.

45965 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through August 2004, signed by the Chief Executive Officer on September 23, 2004.
- b. Report on California Friendly Water Efficiency Recognition Program, signed by the Chief Executive Officer on September 23, 2004.

45966 At 1:06 p.m., the Chair called a public hearing to receive comments on the proposed standby charge for 50th Fringe Area Annexation to Western 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 1:07 p.m.

45967 There being no objection, Chairman Pace adjourned the Meeting at 1:08 p.m.

HELEN Z. HANSEN

SECRETARY

PHILLIP J. PACE

CHAIRMAN