

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
FEBRUARY 8, 2005

46086 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 8, 2005.

Chairman Bannister called the Meeting to order at 10:06 a.m.

46087 The Meeting was opened with an invocation by employee Edgar Dymally.

46088 The Pledge of Allegiance to the Flag was given, led by Director Robert Apodaca.

46089 Board Secretary Hansen called the roll. Those answering present were: Directors Abdo, Apodaca, Bannister, Blake, Brick, Brown, De Jesus, Dick, Fellow, Foley, Grandsen, Griset, Hall, Hansen, Harris, Koopman, Lewis, Loveland, Morris, Mylne, Pace, Parker, Peterson, Pocklington, Record, Rez, Simonds, and Wright.

Those not answering were: Directors Bakall, Dentler (entered 10:10 a.m.), Edwards, Farrar, Kwan (entered 10:19 a.m.), Luddy, Murray (entered 10:26 a.m.), Tait, and Veres (entered 10:19 a.m.).

Chairman Bannister declared a quorum present.

46090 At 10:08 a.m., the Chair called a public hearing to receive comments on the proposed standby charge for annexation of the 47th Fringe Area to Western Municipal Water District.

No members of the public responded; and after tabulation of the ballots was completed, and with no protests filed, the Chair closed the public hearing at 10:09 a.m.

46091 On behalf of Flex Your Power, California's statewide energy efficiency education and outreach initiative, Mark Stuart, Southern District Director for the Department of Water Resources; Karen Kukurin, Deputy District Director for Governor Schwarzenegger; and Dan Wasserman, Project Manager with Flex Your Power, honored Metropolitan with a 2004 Flex Your Power Energy Efficiency Award.

Director Dentler took her seat at 10:10 a.m.

46092 Chairman Bannister presented to Executive Secretary Dawn Chin a pin for her thirty years of service at Metropolitan Water District.

46093 There being no objection, Chairman Bannister ordered the reading of the Minutes of the Meeting of January 11, 2005, dispensed with, a copy having been mailed to each Director.

Vice Chairman Blake moved, seconded by Vice Chairman Rez and carried, approving the foregoing Minutes as mailed.

46094 The General Counsel's letter signed February 1, 2005, was presented, transmitting the credentials evidencing the appointment by the city of Santa Ana of Daniel E. Griset as its representative on Metropolitan's Board for an indefinite term, replacing Thom Coughran.

General Counsel Kightlinger reported the credentials had been examined and found legally sufficient and that the Oath of Office had been administered to Director Griset on February 3, 2005.

The Chair ordered the credentials, together with the General Counsel's letter, received and filed.

Following an introduction by Director Emeritus Coughran, Mr. Griset took his seat as a Director representing the city of Santa Ana.

Directors Kwan and Veres took their seats at 10:19 a.m.

46095 The General Counsel's letter signed February 1, 2005, was presented, transmitting the credentials evidencing the reappointment by the city of Los Angeles of Robert Simonds as one of its representatives on Metropolitan's Board for the term ending December 31, 2008.

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.

The Chair ordered the credentials, together with the General Counsel's letter, received and filed.

46096 Chairman Bannister announced the following committee assignments: Director Griset to the Budget, Finance, Investment and Insurance Committee, the Education and Outreach Committee, and the Audit Committee; Director Edwards as Chair of the Ethics Committee; and Director Farrar as Vice Chair of the Ethics Committee.

46097 Chairman Bannister presided over a Groundwater Conjunctive Use signing ceremony between the city of Compton and Metropolitan, which partnership will enhance water supply reliability by providing nearly 2,300 acre-feet of water in storage in the central basin.

46098 Chairman Bannister invited members of the public to address the Board on matters within the Board's jurisdiction. No members of the public responded.

46099 Chairman Bannister reported that he would be establishing a new subcommittee on CALFED/Bay-Delta, which would report both to the Water Planning, Quality and Resources Committee and the Engineering and Operations Committee. The members of the subcommittee will be named at a later date. The Chair stated this subcommittee will work very closely with Vice President of State Water Project Resources Timothy Quinn and other organizations in the north to keep the Board advised as to what Metropolitan is doing on CALFED and the direction in which Metropolitan should go.

Director Murray took his seat at 10:26 a.m.

46100 Director Brick reported on the ongoing relief efforts of water agencies, engineering companies, ACWA, and UNICEF to aid the countries involved in the tsunami damages of December 26, 2004. He extended an invitation to the Board to attend the Tsunami Relief Lunar New Year Celebration on February 22, 2005, from 5:00-7:00 p.m. at Metropolitan's Headquarters. Director Brick then moved, seconded by Director Murray and carried unanimously, that Metropolitan support the relief effort.

46101 Regarding Colorado River, Bay-Delta, and CALFED matters, Interim Chief Executive Officer Ivey referred to the activity report for January signed February 2, 2005, which was distributed earlier.

Interim Chief Executive Officer Ivey reported that staff is currently developing an Ethics Interchange, which would provide regular forums for "ethics coordinators" among the family of Southern California water agencies to gather and compare specific issues of mutual interest. The Interchange would also allow the member agencies and Metropolitan to collaborate with expert resources to develop compatible program components as they find necessary.

Mr. Ivey further stated the Labor Management Committee has held discussions with the bargaining units on classification issues, and that Labor Management Committee meetings have been suspended pending the completion of upcoming negotiations. An update on the selection of a labor negotiator was presented at the Organization and Personnel Committee. Interim Chief Executive Officer Ivey then called on Jill Wicke for an update on NDMA.

Water System Operations Group Manager Wicke gave a report on the detection of the unregulated chemical, nitrosodimethylamine or NDMA. This compound is currently not included in the USEPA contaminant candidate list and has shown to cause cancer in lab animals and is possibly a human carcinogen at low levels. As a result, the California Department of Health Sciences has established a notification level of 10 parts per trillion. Ms. Wicke noted that Metropolitan has been sampling for this chemical since 1998 and

in December 2004, NDMA was detected at Service Connection LA-21 immediately downstream of Palos Verdes Reservoir at a concentration of 12.4 parts per trillion, just slightly above the notification level. As a result, this report is provided to inform the Board of the findings, as well as the affected member agency, in this case, the Los Angeles Department of Water and Power. Ms. Wicke said that the preliminary finding in this case was likely due to the disinfection process although the formation of NDMA is not well understood. She stated that staff would continue to monitor for NDMA quarterly, with the next sample to be taken later this month. The Board will be notified of the results.

Continuing with his report, Mr. Ivey commented on the Metrolink train crash that happened two weeks ago and of the six Metropolitan employees who were on the train, and who are all doing well. News of the employees' status was shared throughout the company via e-mail, and management continued to communicate throughout the day to relay information from Metropolitan Transit Authority about alternative routes and methods for commuters to get home that day.

46102 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for January dated January 31, 2005, which was distributed earlier.

In the Quantification Settlement Agreement (QSA) related cases, General Counsel Kightlinger reported that Metropolitan joined in a demurrer that was filed by Imperial Irrigation District (IID) against complaints by the county of Imperial. Mr. Kightlinger stated that two cases were dismissed, which still left eight different cases on consolidation in Sacramento, with all challenging various components of the QSA.

In *Central Delta Water Agency, et al. v. State Water Resources Control Board*, General Counsel Kightlinger stated this is a case that involved a project in which Metropolitan is not a participant. It is the Delta Wetlands Properties project in the Bay-Delta where the project proponent wanted to turn the islands into reservoirs. Delta Wetlands received permits from the SWRCB to do so. The granting of these permits was challenged by a number of local groups, who prevailed in both the Superior Court and the Appellate Court to invalidate the permits. A petition has now been filed with the California Supreme Court and

Metropolitan filed a joinder in that petition for review on the basis that it has set a poor precedent for planning purposes for most water agencies.

General Counsel Kightlinger announced the death of Charles Nichols, former Chief Engineer of Metropolitan, who worked on every single Metropolitan treatment plant at some point during their construction. After Mr. Nichols' retirement, he continued to work as a retired annuitant on Diamond Valley Lake.

46103 General Auditor Riss presented a summary report of the Audit Department's activities for the month of January. He began by noting that two audit reports were issued during the month. Specifically, he noted the Property Leases Audit Report and the Skinner Facility Maintenance Audit Report.

Mr. Riss then conducted a brief discussion of these reports. He began by reporting that the Property Leases Audit Report was issued with an opinion that the accounting and administrative controls included those practices usually necessary to provide for a generally satisfactory internal control structure. Next, Mr. Riss stated that an audit was conducted on the Skinner Facility Maintenance. He added that this audit 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.

General Auditor Riss then noted that in October 2004 a RFP was issued for external audit services. However, he stated that no qualified bids were received for this work and the Board directed the General Auditor to renegotiate a one-year extension with KPMG for the 2005 Annual Financial audit. Mr. Riss then stated that a correction in this board letter is necessary to properly reflect the fact that this was a negotiated contract per the direction of the Board instead of a competitive process contract as stated in his letter.

46104 Ethics Officer Elliott referred to her activity report for January dated January 31, 2005, which was distributed earlier.

Dr. Elliott reported that the hiring for the Ethics Office continued with the new Ethics Educator and the Secretary to the Ethics Officer to begin early next month. She stated that the presentation on Form 700 disclosure was provided at the Ethics Committee meeting yesterday, and reminded Directors and designated employees to complete their filings with the Ethics Office.

Dr. Elliott commented on the meeting of the Inquiry and Review Committee regarding the complaint concerning the award and administration of the contract with Securitas, the security company hired by Metropolitan. She stated that the matter was investigated internally by the Audit Department and by an External investigator. The committee is now preparing its report and recommendations, which will then be forwarded to her. Following her review, she will then send the committee's and her reports to the Chief Executive Officer who will have thirty days to respond regarding the findings and recommendations.

46105 Director Pocklington requested Agenda Item 7-3 regarding the repairs to the West Valley Feeder No. 1 be taken off the Consent Calendar.

Vice Chairman Blake moved, seconded by Director Mylne and carried, and the Board approved the Consent Calendar Items, **M.I. 46106** through **M.I. 46111**, as follows:

46106 Adopted the California Environmental Quality Act (CEQA) determination and amended Metropolitan Water District Administrative Code Section 3300 regarding the annexation charge calculation, effective January 1, 2006, as set forth in Attachment 1 to the letter signed by the Interim Chief Executive Officer on January 16, 2005.

46107 Adopted the CEQA determination and (a) appropriated \$840,000 in budgeted funds (Appropriation No. 15380, No. 5, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and authorized (b) preliminary design of the Diemer Washwater Reclamation Plant No. 2 Rehabilitation Project; (c) preliminary and final design of the Diemer Washwater Tank Pumps Replacement Project; and (d) the Chief Executive Officer to have all work performed to replace the Diemer Administration Building roofs, as set forth in the letter signed by the Interim Chief Executive Officer on January 16, 2005.

46108 Adopted the CEQA determination and authorized executing one-year water transfer option agreements with Richvale Irrigation District and Western Canal Water District for up to 47,200 acre-feet, based on the terms described in the board letter signed by the Interim Chief Executive Officer on January 25, 2005, and the Addendum to the board letter signed on February 3, 2005. Based on the uncertainty of the ultimate amount of State Water Project supply available to Metropolitan in 2005, it was also recommended that the Board authorize executing the subject water transfer option agreements to provide additional supply options in 2005, and that the decision to execute the options and purchase the transfer water would be made when Metropolitan's water supply picture for 2005 was more certain.

46109 Adopted the CEQA determination and approved the amendments to Administrative Code Section 7100 *et seq.* relating to Conflicts of Interest and Ethics Requirements, as set forth in the letter jointly signed by the Ethics Officer and the General Counsel on January 18, 2005.

46110 Adopted the CEQA determination and (a) **Resolution 8931** granting San Diego County Water Authority's (SDCWA) request for approval of the Baxter Annexation, concurrently to Metropolitan and SDCWA, conditioned upon approval by the San Diego Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation; and (b) **Resolution 8932** to impose water standby charge at a rate of \$11.51 per acre or per parcel of less than one acre within the proposed annexation area, as set forth in the letter signed by Interim Chief Executive Officer on January 16, 2005, said Resolutions entitled:

Resolution 8931

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO SAN DIEGO COUNTY WATER AUTHORITY'S BAXTER ANNEXATION AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AND MAKING CERTAIN ENVIRONMENTAL FINDINGS RELATING THERETO

Resolution 8932 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING WATER STANDBY CHARGE CONTINGENT UPON SAN DIEGO COUNTY WATER AUTHORITY'S BAXTER ANNEXATION**

46111 Adopted the CEQA determination and (a) **Resolution 8933** granting Western Municipal Water District's request for annexation of the 47th Fringe Area into Metropolitan's service area, conditioned upon approval by the Riverside Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation; and (b) **Resolution 8934** 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 area, as set forth in the letter signed by Interim Chief Executive Officer on January 16, 2005, said Resolutions entitled:

Resolution 8933 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO WESTERN MUNICIPAL WATER DISTRICT'S 47TH FRINGE AREA ANNEXATION AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AND MAKING CERTAIN ENVIRONMENTAL FINDINGS RELATING THERETO**

Resolution 8934 **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 47TH FRINGE AREA ANNEXATION**

46112 Director Pocklington requested that Agenda Item 7-3 be taken off the Consent Calendar to receive clarification on who should bear the cost of repairing the West Valley Feeder No. 1, and amended the recommendation to include that the repair cost be reimbursed pursuant to the terms of the lease agreement with Los Angeles Department of Water and Power (LADWP).

Director Pocklington then moved, seconded by Director Parker that the Board approve an amended motion to adopt the CEQA determination and (a) appropriate \$2.16 million (Appropriation No. 15377, No. 10, from the Revenue Bonds Replacement and Refurbishment or General Funds); (b) award a contract for \$989,000 to DenBoer Engineering & Construction Inc. for repairs to the West Valley Feeder No. 1; and (c) that the repair cost of the West Valley Feeder No. 1 be reimbursed pursuant to the terms of the lease agreement with LADWP with a follow-up report to the Board, as set forth in the letter signed by the Interim Chief Executive Officer on January 25, 2005.

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

46113 Legal and Claims Committee Chairman De Jesus moved, seconded by Vice Chairman Blake, that the Board adopt the CEQA determination and (a) approve participation in the Lower Colorado River Multi-Species Conservation Program (LCR MSCP); and (b) authorize the Chief Executive Officer to execute the finalized LCR MSCP agreements as approved by the General Counsel, as set forth in the letter signed by the General Counsel on January 20, 2005.

Director Lewis requested that the motion be amended to add a qualifying statement regarding the obtaining of state permits. Director Lewis therefore moved an amended motion, seconded by Director Parker, that the Board adopt the CEQA determination and (a) approve participation in the Lower Colorado River Multi-Species Conservation Program (LCR MSCP); (b) authorize the Chief Executive Officer to execute the finalized LCR MSCP agreements as approved by the General Counsel; and (c) that state permits would be provided before any agreements are signed.

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

46114 Engineering and Operations Committee Chairman Mylne moved, seconded by Vice Chairman Blake and carried, and the Board adopted the CEQA determination and (a) appropriated \$9.14 million in budgeted funds (Appropriation No. 15388, No. 6, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) awarded a procurement contract for

\$8.545 million to Ameron International Corporation to furnish fabricated steel pipe and fittings for the Skinner Oxidation Retrofit Program, as set forth in the letter signed by the Interim Chief Executive Officer on January 16, 2005.

46115 Legal and Claims Committee Chairman De Jesus moved, seconded by Vice Chairman Blake and carried, and authorized increase of \$225,000 in maximum amount payable under the contract with Williams, Yasinski & Jones for legal services to defend Metropolitan in *Lance Charles, Sr. v. Metropolitan*, LASC Case No. BC 313797, as set forth in the confidential letter signed by the General Counsel on January 20, 2005.

46116 Legal and Claims Committee Chairman De Jesus moved, seconded by Vice Chairman Blake and carried, and authorized increase of \$600,000 in maximum amount payable under the contract with Bergman & Dacey for legal services to defend Metropolitan in *Naylor, et al. v. Metropolitan*, LASC Case No. BC 288114, as set forth in the confidential letter signed by the General Counsel on January 20, 2005.

46117 At 10:58 a.m., the Chair called the Meeting into closed session pursuant to Government Code Section 54956.9(b) to receive a report on potential claims and reallocate budgeted funds towards extra work authority in the amount of \$25.8 million for Arrowhead Tunnels construction within the Inland Feeder Program.

Director Kwan withdrew from the Meeting at 11:43 a.m.

At 11:45 a.m., the Chair called the Meeting into open session.

Engineering and Operations Committee Chairman Mylne moved, seconded by Director Morris and carried, and the Board adopted the CEQA determination and authorized \$25.8 million in additional extra work order authority needed for tunnel boring machine improvements and to pay for future extra work that may be required by the contractor and authorized adjustments to the work program in the form of directed work, mining incentives, and contract amendments, as set forth in the confidential letter signed by the Interim Chief Executive Officer on January 25, 2005.

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

Director Kwan returned to the Meeting at 11:46 a.m.

46118 Director Kwan introduced her guests from the Chinese Chamber of Commerce and members of the Chinatown's royal court in celebration of the Chinese New Year.

46119 The following communication was submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through December 2004, signed by the Interim Chief Executive Officer on January 21, 2005.

46120 Interim Chief Executive Officer Ivey commented on the background and tenure of Charles "Chuck" Nichols during his thirty-three years of service at Metropolitan.

46121 There being no objection, at 11:56 a.m., Chairman Bannister adjourned the Meeting in memory of Charles Nichols, former Chief Engineer of Metropolitan Water District.

HELEN Z. HANSEN

SECRETARY

WES BANNISTER

CHAIRMAN