

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
APRIL 12, 2005

46167 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 12, 2005.

Chairman Bannister called the Meeting to order at 10:15 a.m.

46168 The Meeting was opened with an invocation by employee Jill Wicke.

46169 The Pledge of Allegiance to the Flag was given, led by Director Ergun Bakall.

46170 Board Secretary Hansen called the roll. Those answering present were: Directors Abdo, Apodaca, Bakall, Bannister, Blake, Brick, Brown, De Jesus, Dentler, Dick, Edwards, Farrar, Fellow, Foley, Grandsen, Griset, Hansen, Harris, Koopman, Kwan, Lewis, Loveland, Morris, Mylne, Pace, Parker, Peterson, Record, Rez, Tait, and Wright.

Those not answering were: Directors Hall, Luddy, Murray (entered 10:35 a.m.), Pocklington, Simonds, and Veres.

Chairman Bannister declared a quorum present.

46171 At 10:20 a.m., the Chair called a public hearing to receive comments on the proposed Water Standby Charge for fiscal year 2005/06.

Chairman Bannister invited interested parties to comment on the proposed Water Standby Charge for fiscal year 2005/06. No members of the public responded. The Chair declared the public hearing closed at 10:21 a.m., stating that the Board's final action on the proposed charge is expected to take place at its regular monthly meeting on May 10, 2005.

46172 Chairman Bannister invited members of the public to address the Board on matters within the Board's jurisdiction.

David Czamanske, Water Resource Consultant of the Angeles Chapter of the Sierra Club, commented on the disposition of the Arroyo Seco property and read from his letter to the Board dated April 8, 2005 regarding the "Sale of MWD Property in Pasadena's Arroyo Seco."

Director Record withdrew from the Meeting at 10:22 a.m.

46173 There being no objection, Chairman Bannister ordered the reading of the Minutes of the Meeting of March 8, 2005, dispensed with, a copy having been mailed to each Director.

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

46174 Chairman Bannister presented to Director John Morris a 15-year pin for his service on Metropolitan's Board from March 1990, representing the city of San Marino.

Director Record returned to the Meeting at 10:24 a.m.

46175 Chairman Bannister stated the reports on evaluation ratings of the General Counsel, General Auditor, and Ethics Officer would be received and filed.

46176 Vice Chairman Blake moved, seconded by Director Bakall and carried, authorizing the preparation of a Commendatory Resolution for former Director Thom Coughran.

46177 The Chair reported there were no new committee assignments.

46178 Chairman Bannister reported on his meetings with Senator John Kyl of Arizona and Representatives Gary Miller and Jerry Lewis of California. With Senator Kyl, Chairman Bannister discussed the prospects of enhanced dialogue between the members of the Board and the policy makers responsible for the Central Arizona Project. Representative Miller is Southern California's only majority member with a seat on the powerful House Committee on Transportation. He was given a tour of the Diamond Valley Lake system and other important local projects along the transportation route that stands to benefit water agencies in Riverside, Orange, and Los Angeles Counties from his sponsorship of federal legislation. Representative Lewis is Chairman of the House Committee on Appropriations and has continually been helpful to the water industry throughout his tenure in Washington, D.C.

Chairman Bannister recognized Water System Operations Group Manager Jill Wicke and the staff from the Mills plant for their receipt of the bronze certificate in the International Water Tasting Competition held in Berkeley Springs, West Virginia.

46179 Vice Chairman Blake moved, seconded by Vice Chairman Grandsen, and the Board approved the following compensation and benefits for the new Chief Executive Officer/General Manager, Dennis B. Underwood, as set forth in the letter signed by the Board Chairman on April 6, 2005, as follows:

- Base salary \$260,000 per annum, effective April 12, 2005
- Car allowance or appropriate District vehicle at Mr. Underwood's option
- One (1) year salary for involuntary severance plus benefits
- All other compensation and benefits as provided to other unrepresented Metropolitan employees

Director Murray took his seat at 10:35 a.m.

46180 Regarding Colorado River, Bay-Delta, and CALFED matters, Interim Chief Executive Officer Ivey referred to his activity report for March signed March 31, 2005, which was distributed earlier.

Interim Chief Executive Officer Ivey reported that the Chairman, other executive staff members, and himself continued their trips out to the field sites to meet with the employees. The goal is to open the doors of communication between the Directors, management, and the employees. Mr. Ivey stated other site visits would be scheduled at a later date with new CEO/General Manager Underwood.

Other events that Interim Chief Executive Officer Ivey attended on behalf of Metropolitan were the Greater Los Angeles Area African-American Chamber of Commerce reception on March 24 where he was given a special recognition award; the YMCA 47th annual breakfast meeting on March 25 with Senator John Kyl of Arizona as the guest speaker; the signing of the Multi-Species Conservation Program agreement on April 4 in Nevada, which was attended by officials from the federal and state governments, the western states, and all the parties to the agreement. Also present were our new CEO/General Manager Underwood and General Counsel Kightlinger. On April 5 Mr. Ivey was the keynote speaker at the CA-Nevada AWWA spring conference. On March 21-23 Metropolitan conducted inspection trips of the San Jacinto Tunnel.

Mr. Ivey reported that staff is working out the issue of the pepper trees on Metropolitan's property in Santa Clarita; and that management is currently in the midst of negotiations with the bargaining units.

Director Dentler commended Interim Chief Executive Officer Ivey on his monthly reports, and for his and the Chairman's handling of the backlog of the 200 outstanding labor grievances.

46181 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for March dated March 31, 2005, which was distributed earlier.

In the *Shank/Balfour Beatty v. Metropolitan* case, General Counsel Kightlinger reported that this case has now been resolved. The statement of decision from the court agreed with Metropolitan's proposal to the court (against Ameron) that it owed Ameron \$1.9 million and that Metropolitan's contract was properly terminated.

46182 General Auditor Riss presented a summary report of the Audit Department's activities for the month of March. He began by noting that four audit reports were issued during the month and listed them as follows: the Temporary Agency Agreements Audit Report; the Accounts Payable Audit Report; the Agreement with Jacobs Associates, Inc. Audit Report; and the Fleet Management Audit Report.

Mr. Riss then conducted a brief discussion of these reports. He noted that the Temporary Agency Agreements Audit Report was issued with a generally satisfactory opinion. He further stated that this assignment was performed at the request of the Legal Department and noted that no major issues were found within the scope of the examination. However, he also indicated that several minor administrative matters needing improvement were noted during the review. Mr. Riss then discussed the Audit Report for the Agreement with Jacobs Associates, Inc., a major contractor for the Inland Feeder Project. He indicated that management also requested this review and noted that this report was issued with a generally satisfactory opinion, with minor administrative issues. He further stated that the controls were found to be acceptable, on an overall basis. Mr. Riss then discussed the Fleet Management Program Audit Report and indicated that management has been requested to improve fleet utilization studies. He further noted that management has an action plan to address this matter. Finally, Mr. Riss stated that this report was issued with a generally satisfactory opinion and that no significant concerns were noted.

46183 Ethics Officer Elliott referred to her activity report for March dated March 31, 2005, which was distributed earlier.

Dr. Elliott reported that the investigation of the formal complaint regarding the award and administration of the contract with Securitas has now been closed. The review by both the internal and external auditors provided no evidence to support concerns that Securitas has been given unfair advantage in the award of the contract or that Securitas is making inappropriate use of District facilities or property. Dr. Elliott stated that the Inquiry and Review Committee, the Chief Executive Officer, and herself have now determined that all future Request for Proposals and Request for Qualifications should provide more information on equipment and facilities to

be provided by the District, and that resulting agreements should classify in detail what is to be provided. The General Counsel reviewed the findings and concurred with them.

Dr. Elliott further commented on two long-standing matters, which were closed, or near closure. The first related to concerns that inventory was disappearing from District warehouses, and while the investigation revealed no specific theft, it did reveal a need for better inventory controls and those controls are being instituted. Following that, a memo was sent out from the Chief Operating Officer reminding employees that use of materials, supplies and equipment for personal use is a violation of policy and may be subject to disciplinary action. The second concern related to District housing, and the General Auditor and the Ethics Officer toured some of those facilities last spring, which was followed by an intensive study of the housing situation. Dr. Elliott stated that a housing study is now under review by senior management and recommendations will follow soon.

Continuing with her report, Dr. Elliott commented on the packet sent to the Board that contained a book of materials from the Institute of Local Self Government and two new CDs on the Ethics Matters series. The Institute of Local Self Government looks specifically at what state law requires in terms of conflict of interest, and the CDs address the ethically ideal aspects of our work and values.

Vice Chairman Blake moved, seconded by Director Mylne and carried, and the Board approved the Consent Calendar Items, **M.I. 46184** through **M.I. 46188**, as follows:

46184 Adopted the California Environmental Quality Act (CEQA) determination and **Resolution 8942** on property taxes for a new redevelopment area in San Diego County in the form shown as Attachment 1 to the letter signed by the Interim Chief Executive Officer on March 21, 2005, electing to receive that portion of revenue from taxes levied on the Grantville Redevelopment Project Area that are attributable to any increase in Metropolitan's base year tax rate applied to the incremental assessed value of the project property, 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**

46185 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into a Local Resources Program agreement with Three Valleys Municipal Water District and the city of Pomona for the Harrison Well No. 37 Groundwater Treatment Project, as set forth in the letter signed by the Interim Chief Executive Officer on March 22, 2005.

Director De Jesus requested to be recorded as abstaining.

46186 Adopted the CEQA determination and authorized the Chief Executive Officer to execute a new agreement that would replace two existing Local Resources Program agreements between Metropolitan, San Diego County Water Authority, and Otay Water District for the Otay Recycled Water Program, and terminate two existing agreements upon execution of the new agreement, as set forth in the revised letter signed by the Chief Financial Officer for the Interim Chief Executive Officer on April 5, 2005.

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

46187 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into a Local Resources Program agreement with Calleguas Municipal Water District and Ventura County Waterworks District No. 8 for the Tapo Canyon Groundwater Treatment Project, as set forth in the letter signed by the Interim Chief Executive Officer on March 28, 2005.

Director Grandsen requested to be recorded as abstaining.

46188 Adopted the CEQA determination and supported the Reaffirmation Statement of Diversity and Nondiscrimination, as set forth in the letter signed by the Interim Chief Executive Officer on March 29, 2005.

46189 Engineering and Operations Committee Chairman Mylne moved, seconded by Vice Chairman Blake and carried, that the Board adopt the CEQA determination and (a) appropriated \$17.8 million in budgeted funds (Appropriation No. 15392, No. 2, from Revenue Bonds, Replacement and Refurbishment or General Funds); authorized (b) all final design activities up to award of competitively bid contracts for the Weymouth Oxidation Retrofit Program; and (c) an increase of \$0.9 million to the existing professional services agreement with Tetra Design for a new not-to-exceed total of \$1.75 million, as set forth in the letter signed by the Interim Chief Executive Officer on March 21, 2005.

46190 Engineering and Operations Committee Chairman Mylne moved, seconded by Vice Chairman Blake and carried, that the Board adopt the CEQA determination and (a) appropriate \$4.13 million in budgeted funds (Appropriation No. 15369, No. 11, from Construction Funds, Revenue Bonds, General or Replacement and Refurbishment Funds); and (b) award a \$3,136,400 construction contract to Brutoco Engineering & Construction, Inc. for the Weymouth Filter Building No. 1 Surface Wash Headers Replacement Project, as set forth in the letter signed by the Interim Chief Executive Officer on March 21, 2005.

46191 Water Planning, Quality and Resources Committee Chairman Brown moved that the Board adopt the CEQA determination and the proposed policy principles to support legislative and administrative efforts to adopt cost-effective drinking water regulations to help ensure the protection of human health, maintain or improve water quality and aesthetics, as set forth and amended in the letter signed by the Interim Chief Executive Officer on March 21, 2005.

Director Brick expressed his concerns about the statement on water quality, which he did not think is comprehensive. He stated that these principles basically put us in immediate opposition to the champions of water quality at the legislative level. He further commented on perchlorate and the legislative bills relating to its cleanup, and the principle and meaning of "sound science". Director Brick then moved that the proposed policy principles for drinking water quality be referred to the Communications and Legislation Committee for further review. The motion was seconded by Director Peterson.

A discussion followed on further refinement of the principles and whether delays would hamper Metropolitan's ability to take positions on upcoming bills. General Counsel Kightlinger stated there are current bills both in Sacramento and Washington; and if Metropolitan had guidelines in place, then we could take a position at the policy hearings scheduled for this month, but going back to the Legislation Committee at this time without guidelines would not allow us to take a position on specific bills. Mr. Kightlinger further commented that the solution would be to take action on the current recommendation on the proposed policy principles for drinking water quality, and then refer the matter back to the Legislation Committee to have the policy principles rewritten, which would enable staff to take positions on the various bills.

The Chair called for a vote on the motion.

The following is a record of the vote on the motion to refer the proposed policy principles for drinking water quality back to the Communications and Legislation Committee:

Ayes: Beverly Hills (Dir. Harris, 1,407 votes), Eastern Municipal Water District (Dir. Record, 3,570 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,378 votes), Los Angeles (Ayes: Dirs. Dentler and Farrar. Absent: Dirs. Luddy and Simonds. 28,088 votes), Municipal Water District of Orange County (Dir. Bannister, 6,281.50 votes), Pasadena (Dir. Brick, 1,381 votes), Santa Monica (Dir. Abdo, 1,648 votes), Three Valleys Municipal Water District (Dir. De Jesus, 3,706 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 5,256 votes), West Basin Municipal Water District (Dirs. Kwan and Murray, 9,775 votes). Total 62,490.50 votes.

Noes: Anaheim (Dir. Tait, 2,622 votes), Burbank (Dir. Brown, 1,287 votes), Calleguas Municipal Water District (Dir. Grandsen, 5,928 votes), Central Basin Municipal Water District (Dirs. Apodaca and Pace, 8,128 votes), Foothill Municipal Water District (Dir. Edwards, 921 votes), Fullerton (Dir. Blake, 1,090 votes), Glendale (Dir. Rez, 1,626 votes), Inland Empire Utilities Agency (Dir. Koopman, 5,379 votes), Long Beach (Dir. Hansen, 2,669 votes), Municipal Water District of Orange County (Dirs. Bakall, Dick, and Foley, 18,844.50 votes), San Diego County Water Authority (Noes: Dirs. Lewis, Loveland, and Parker. Absent: Dir. Pocklington. 26,222 votes), San Marino

(Dir. Morris, 304 votes), Santa Ana (Dir. Griset, 1,574 votes), Torrance (Dir. Wright, 1,652 votes), Western Municipal Water District of Riverside County (Dir. Mylne, 5,043 votes). Total 83,289.50 votes.

Abstain: None.

Absent: Compton (Dir. Hall, 230 votes), San Fernando (Dir. Veres, 109 votes). Total 339 votes.

The Chair declared the motion failed by a vote of 62,490.50 ayes, 83,289.50 noes, and 339 absent.

Director Brown then moved, seconded by Vice Chairman Blake, that the Board adopt the CEQA determination and the proposed policy principles to support legislative and administrative efforts to adopt cost-effective drinking water regulations to help ensure the protection of human health, maintain or improve water quality and aesthetics, as set forth and amended in the letter signed by the Interim Chief Executive Officer on March 21, 2005.

The Chair called for a vote on the motion.

The following is a record of the vote on the motion to adopt the proposed policy principles for drinking water quality:

Ayes: Anaheim (Dir. Tait, 2,622 votes), Burbank (Dir. Brown, 1,287 votes), Calleguas Municipal Water District (Dir. Grandsen, 5,928 votes), Central Basin Municipal Water District (Dirs. Apodaca and Pace, 8,128 votes), Eastern Municipal Water District (Dir. Record, 3,570 votes), Foothill Municipal Water District (Dir. Edwards, 921 votes), Fullerton (Dir. Blake, 1,090 votes), Glendale (Dir. Rez, 1,626 votes), Inland Empire Utilities Agency (Dir. Koopman, 5,379 votes), Long Beach (Dir. Hansen, 2,669 votes), Municipal Water District of Orange County (Dirs. Bakall, Bannister, Dick, and Foley, 25,126 votes), San Diego County Water Authority (Ayes: Dirs. Lewis, Loveland, and Parker. Absent: Dir. Pocklington. 26,222 votes), San Marino (Dir. Morris, 304 votes), Santa Ana (Dir. Griset, 1,574 votes), Torrance (Dir. Wright, 1,652 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 98,028.50 votes.

Noes: Beverly Hills (Dir. Harris, 1,407 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,378 votes), Los Angeles (Noes: Dirs. Dentler and Farrar. Absent: Dirs. Luddy and Simonds. 28,088 votes), Pasadena (Dir. Brick, 1,381 votes), Santa Monica (Dir. Abdo, 1,648 votes), Three Valleys Municipal Water District (Dir. De Jesus, 3,706 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 5,256 votes), West Basin Municipal Water District (Dir. Kwan, 4,887.50 votes). Total 47,751.50 votes.

Abstain: None.

Absent: Compton (Dir. Hall, 230 votes), San Fernando (Dir. Veres, 109 votes). Total 339 votes.

The Chair declared the motion carried by a vote of 98,028.50 ayes, 47,751.50 noes, and 339 absent.

46192 Communications and Legislation Committee Chairman Fellow moved, seconded by Vice Chairman Blake and carried, and the Board adopted the CEQA determination and authorized the Chief Executive Officer to express Metropolitan's support of Senate Bill 820 (Kuehl, D-Los Angeles) regarding water planning, if it is amended, as described in the letter jointly signed by the General Counsel and the Interim Chief Executive Officer on April 6, 2005.

46193 Communications and Legislation Committee Chairman Fellow moved, seconded by Director Bakall and carried, and the Board adopted the CEQA determination and authorized the Chief Executive Officer to express opposition to Senate Bill 31 (Florez, D-Shafter) unless it is amended as summarized in the board letter signed by the Interim Chief Executive Officer on March 24, 2005, and to work with the author on appropriate amendments; and to oppose Assembly Bill 1290 (La Malfa, R-Richvale), regarding water rights fees.

46194 Communications and Legislation Committee Chairman Fellow moved that the Board adopt the CEQA determination and express support for Assembly Bill 1244 (Wolk, D-Vacaville); and express support, if amended, for Assembly Bill 1245 (Wolk) regarding the CALFED Bay-Delta Program, as set forth in the letter signed by the Interim Chief Executive Officer on March 24

and the supplemental letter signed by the Interim Chief Executive Officer on April 11, 2005.

Director Bakall reported that the California Bay-Delta Authority had recently taken actions regarding the user fees and the time period for the finance plan.

Director Bakall then moved, seconded by Director Foley, that the Board amend the staff's recommendation and adopt the CEQA determination and take a "watch" position on Assembly Bill 1244 (Wolk) due to the California Bay-Delta Authority's actions with respect to establishing user fees and changing the ten-year finance plan to a two-year finance plan; and express support, if amended, for Assembly Bill 1245 (Wolk), regarding the CALFED Bay-Delta Program.

Communications and Legislation Committee Chairman Fellow then withdrew his motion for lack of a second.

The Chair then called for a vote on the motion made by Director Bakall. The motion was voted upon and carried.

46195 Communications and Legislation Committee Chairman Fellow moved, seconded by Vice Chairman Blake and carried, and the Board adopted the CEQA determination and expressed support for Senate Bill 543 (Margett, R-Arcadia), if amended, to clarify Metropolitan's interaction with the California Department of Water Resources regarding State Water Project property, as set forth in the letter signed by the Interim Chief Executive Officer on March 29, 2005.

46196 Communications and Legislation Committee Chairman Fellow moved, seconded by Director Bakall and carried, and the Board adopted the CEQA determination and authorized the Chief Executive Officer to express support for Assembly Bill 1453 (Daucher, R-Brea) in concept, regarding water courts, as set forth in the letter jointly signed by the General Counsel and the Interim Chief Executive Officer on March 29, 2005.

46197 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through February 2005 signed by the Interim Chief Executive Officer on March 24, 2005.
- b. Report on potential legislative changes to pension benefits provided to public sector employees, signed by the Interim Chief Executive Officer on March 24, 2005.
- c. Report on Water Surplus and Drought Management Plan, signed by the Interim Chief Executive Officer on March 24, 2005.
- d. Report on Assembly Bill 1665 (Laird, D-Santa Cruz) and ACA 13 (Harman, R-Huntington Beach) regarding flood management, signed by the Interim Chief Executive Officer on March 24, 2005.
- e. Report on Assembly Bill 371 (Goldberg, D-Los Angeles): The Water Recycling Act of 2005, signed by the Interim Chief Executive Officer on March 28, 2005.

46198 Chairman Bannister reported that he met with Senator Kuehl in Sacramento regarding Senate Bill 820 and expressed his appreciation to her and her staff for supporting Metropolitan's amendments, and invited her to attend our Board Meeting.

Engineering and Operations Committee Chairman Mylne announced the committee will be holding its inspection trip of District properties on April 21 and 22, 2005, and invited all Directors to participate.

Director Koopman informed the Board of Director Emeritus Anne Dunihue's death. She represented Chino Basin Municipal Water District (now Inland Empire Utilities Agency) on Metropolitan's Board from September 1988 to February 1992.

Education and Outreach Committee Chair Kwan thanked the members of her committee and other Directors for their participation at the workshop on The Center for Water Education held last month. She stated that at the next committee meeting

on April 26 she would be inviting those who were not able to make their presentations due to the lack of time.

46199 There being no objection, at 11:15 a.m., Chairman Bannister adjourned the Meeting in memory of Chairman Emeritus Earle C. Blais who served on Metropolitan's Board from June 1961 to June 1985, representing the city of Burbank; and Director Emeritus Anne Dunihue.

HELEN Z. HANSEN

SECRETARY

WES BANNISTER

CHAIRMAN