

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
SEPTEMBER 13, 2005

46351 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 13, 2005.

Chairman Bannister called the Meeting to order at 11:05 a.m.

46352 The Meeting was opened with an invocation by employee Helen Ogden, Business Support Team Manager.

46353 The Pledge of Allegiance to the Flag was given, led by Director Deborah Dentler.

46354 Board Secretary Hansen called the roll. Those answering present were: Directors Apodaca, Bannister, Blake, Brick, Brown, De Jesus, Dentler, Dick, Edwards, Farrar, Fellow, Grandsen, Griset, Hansen, Harris, Koopman, Kwan, Lewis, Loveland, Morris, Murray, Mylne, Pace, Parker, Record, Rez, Simonds, Tait, and Wright.

Those not answering were: Directors Abdo (entered 11:08 a.m.), Bakall, Deaton, Foley, Hall, Peterson (entered 11:08 a.m.), Pocklington, and Veres.

Chairman Bannister declared a quorum present.

46355 At 11:07 a.m., the Chair called a public hearing to receive comments on the proposed standby charges for the 86th and 87th Fringe Area Annexations to Eastern 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 11:08 a.m.

Directors Abdo and Peterson took their seats at 11:08 a.m.

46356 Chairman Bannister invited members of the public to address the Board on matters within the Board's jurisdiction. No members of the public responded.

46357 There being no objection, Chairman Bannister ordered the reading of the Minutes of the Meetings of August 9 and 16, 2005, dispensed with, copies having been mailed to each Director.

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

46358 The General Counsel's letter signed September 7, 2005, was presented, transmitting the credentials evidencing the reappointment by the City of Pasadena of Timothy F. Brick as its representative 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 Brick.

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

46359 Chairman Bannister presented to Director Carol Kwan a five-year pin for her service on Metropolitan's Board from January 1998 through January 1999, and September 2001 through the present, representing West Basin Municipal Water District.

46360 The Board approved a 30-day leave of absence for Director Bakall, commencing September 8, 2005.

46361 Chairman Bannister reported on the formation of a new committee and its membership, as follows:

Department Head Evaluation Committee

James Rez, Chair
George Loveland, Vice Chair
Wes Bannister
David De Jesus
Larry Dick
Anthony Fellow
Ted Grandsen
Gene Koopman
Robert Simonds

The Chair stated this committee would review the semiannual evaluations of the CEO/General Manager, the General Counsel, the General Auditor, and the Ethics Officer; and that the committee would meet on Tuesday, September 20, 2005.

Other committee assignments made by Chairman Bannister were: Director Blake, Chair, Audit Committee; and a member of the Asset and Real Property Committee; and Director Dick, Vice Chairman of the Board; and an ex officio member to the Budget, Finance, Insurance and Investment Committee; Communications and Legislation Committee; and Education and Outreach Committee.

46362 Chairman Bannister reported on events in which he participated since the last Board Meeting, as follows:

- August 15 - Hosted a reception for Congressman Devin Nunes and his staff, who were here for a water facility inspection tour, but due to inclement weather they visited the City of Long Beach desalination facility;
- August 23 - Guest speaker at Metropolitan's Business Outreach graduation ceremony;
- August 25 - Attended the Urban Water Institute conference;
- August 30 - Participated with other Directors and staff in site visits to Mills plant and Diamond Valley Lake;
- August 31 - At the invitation of Director Bud Lewis, attended a meeting with the Governor's staff in Carlsbad and toured their desalination facility;
- September 7 - Participated with other Directors and staff in site visits to Jensen plant;

- September 8 - Attended Los Angeles Department of Water and Power's exhibit commemorating the 150th anniversary of William Mulholland;
- September 12 - Participated in the reception at Metropolitan for the Mulholland Gallery exhibit.

Executive Vice President Ivey thanked the staffs of Security and Facilities for their efficient handling of Metropolitan's operations during the major power outage in downtown Los Angeles yesterday.

46363 Regarding Colorado River, Bay-Delta, and CALFED matters, CEO/General Manager Underwood referred to his activity report for August dated September 1, 2005, which was distributed earlier.

CEO/General Manager Underwood reported that after the devastation by Hurricane Katrina in the Gulf Coast staff has been in contact with the Red Cross and the Federal Emergency Management Agency to see if Metropolitan could assist with their efforts. The employee associations have been working together toward this relief effort. Mr. Underwood stated that Metropolitan made some immediate inroads on September 9 when we participated in a job fair at the Dream Center in Los Angeles where about 300 evacuees from the Gulf States have been staying.

CEO/General Manager Underwood made reference to the approval by the Board to execute seawater desalination program agreements with five member agencies, which projects are anticipated to benefit the region by replacing demand for imported water supplies that would reduce costs for water importation, increase overall regional water supply reliability, and defer the need for Metropolitan's capital improvements. The City of Long Beach was the first of the five agencies to fully execute an agreement with Metropolitan.

On Colorado River matters, CEO/General Manager Underwood commented on a letter from the Colorado River Basin states to the Secretary of the Interior regarding the operation of Lakes Powell and Mead under low reservoir storage conditions. This letter was in response to a comment deadline referenced in the June 19 Federal Register notice, and Metropolitan and other water contractor stakeholders participated in the discussions with the Basin states' representatives in formulating the

letter's content. The Bureau of Reclamation has been seeking comments on the development of management strategies for Lakes Powell and Mead, including guidelines for reducing delivery of Colorado River water from Lake Mead when the lakes are relatively low.

46364 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for August dated August 31 2005, which was distributed earlier.

General Counsel Kightlinger referred to the electrical industry restructuring matter where the Ninth Circuit overruled a Federal Energy Regulatory Commission (FERC) opinion that California public agencies were not liable for refunds for some of the price swings in the electrical industry several years back. This provides savings to Metropolitan directly in that Metropolitan would not have to do refunds. However, it was a significant savings, particularly for the State Water Project. In this case, Mr. Kightlinger stated there likely would be an appeal or a petition to the Supreme Court. If the Supreme Court does not take the case, the matter would be closed, and there would be a significant savings to Metropolitan and the State Water Contractors.

General Counsel Kightlinger reported that a number of cases have been filed by environmental groups regarding the CALFED process. This indicated a shift away from the "discussion part" of CALFED by some environmental groups to use litigation as a tool to force CALFED back to what they consider their goals of a "more greener" CALFED. Mr. Kightlinger stated these cases would be discussed more in committee meetings as they move forward.

46365 General Auditor Riss presented a summary report of the Audit Department's activities for the month of August. He stated that one audit report on Surplus Personal Property was issued during the month.

Mr. Riss then conducted a brief discussion of this report and stated that the report was issued with an opinion that the accounting and administrative procedures over surplus personal property included those practices usually necessary to provide for a generally satisfactory internal control structure. He stated that a recommendation was made for the Contracting

Services Unit Manager and the Investment Recovery Coordinator to update the operating manuals to include policies and procedures for web-based auctions.

In response to her concern at the July meeting on negative audit reports and the conclusions drawn, Director Dentler reported that she met with the General Auditor who provided her with the back-up documents and the detailed reports in response to her questions, which she found very useful and which substantiated the General Auditor's analysis in arriving at his opinions.

46366 Ethics Officer Elliott referred to her activity report for August dated August 31, 2005, which was distributed earlier.

Dr. Elliott announced that the workshop on Contracting, Consulting and Ethics planned for October will be postponed until spring so that we would be more in compliance with Assembly Bill 1234. AB 1234 by Assemblyman Salinas is awaiting the Governor's signature. Dr. Elliott gave a summary of how AB 1234 would affect the Ethics Program. Among other things, AB 1234 would require ethics training annually beginning January 2006 for every local agency official. Over a two-year period every local agency official is expected to complete two years of training in general ethics principles and ethics laws.

Dr. Elliott requested those Directors who have not sent in their cards acknowledging receipt of the Ethics Manual to fill out the sheet at their seats. At the next Ethics Committee meeting, Dr. Elliott said she would outline the future Ethics Program and how it conforms to AB 1234, and also plans to involve the member agencies in future programming through the ethics interchange.

Director Morris moved, seconded by Director Blake and carried, and the Board approved the Consent Calendar Items, **M.I. 46367** through **M.I. 46373**, as follows:

46367 Adopted the California Environmental Quality Act (CEQA) determination and granted conditional approval for (a) 90th Fringe Area Annexation concurrently to Eastern Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$68,664 to Metropolitan if completed by December 31, 2005, or if completed later, at the then current

annexation charge rate; (b) 91st Fringe Area annexation concurrently to Eastern and Metropolitan, conditioned upon receipt in full of annexation fee of \$63,162.60 to Metropolitan if completed by December 31, 2005, or if completed later, at the then current annexation charge rate; (c) 92nd Fringe Area Annexation concurrently to Eastern and Metropolitan, conditioned upon receipt in full of annexation fee of \$41,676 to Metropolitan if completed by December 31, 2005, or if completed later, at the then current annexation charge rate; (d) approved Eastern's Statements of Compliance with the current Water Use Efficiency Guidelines; and (e) adopted the resolutions of intention to impose water standby charge within the proposed annexation territories, substantially in the form of Attachments 3, 6, and 9 to the letter signed by the CEO/General Manager on August 15, 2005, said Resolutions entitled:

Resolution 8969 **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 – 90TH FRINGE AREA**

Resolution 8970 **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 – 91ST FRINGE AREA**

Resolution 8971 **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 – 92ND FRINGE AREA**

Director Record requested to be recorded as abstaining.

46368 Adopted the CEQA determination and (a) **Resolution 8972** granting Eastern Municipal Water District's request for annexation of the 84th Fringe Area Annexation into Metropolitan's

service area, conditioned upon approval by the Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation; and (b) a resolution to impose water standby charge (**Resolution 8973**) at a rate of \$6.94 per acre or per parcel of less than one acre within the proposed annexation area, as set forth in the letter signed by the CEO/General Manager on August 15, 2005, said Resolutions entitled:

Resolution 8972 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO EASTERN MUNICIPAL WATER DISTRICT'S 84TH FRINGE AREA ANNEXATION AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

Resolution 8973 **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 84TH FRINGE AREA ANNEXATION**

Director Record requested to be recorded as abstaining.

46369 Adopted the CEQA determination and authorized the CEO/General Manager to enter into a one year contract with a maximum amount payable of \$1.5 million annually with Johnson/Ukropina for advertising and media buying services, as set forth in the letter signed by the CEO/General Manager on August 15, 2005.

46370 Adopted the CEQA determination and approved amendment of contract for legal services with Davis Wright Tremaine LLP to increase maximum amount payable from \$100,000 to \$240,000 for legal services related to FERC relicensing of the Oroville Facilities, as set forth in the letter signed by the General Counsel on August 23, 2005.

46371 Adopted the CEQA determination and authorized amendment of the Administrative Code to update contracting policies, as set forth in the letter signed by the CEO/General Manager on August 22, 2005.

46372 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into an agreement with Three Valleys Municipal Water District consistent with the Agreement Summary as set forth in Attachment 1 to the letter signed by the CEO/General Manager on August 22, 2005, and in a form acceptable to the General Counsel for the Upper Claremont Heights Conjunctive Use Program.

Director De Jesus requested to be recorded as abstaining.

46373 Adopted the CEQA determination and approved contract increase to \$450,000 for EcoPlan Associates, Inc. consulting services through December 2006 for the Palo Verde Program, as set forth in the letter signed by the CEO/General Manager on August 22, 2005.

46374 Asset and Real Property Committee Chairman Farrar reported that the committee considered Agenda Item 8-1, which authorizes a farm lease of 2,280 acres in Imperial County. This lease is for ten years and includes Metropolitan's standard terms and conditions, and is projected to generate \$316,540 in annual rent based on market rates. Following discussion at the committee meeting, the committee requested that Directors with farming expertise have an additional dialog with staff to determine the optimum farming operations prior to their recommending action to the Board. Pursuant to their discussion, which resulted in a concurrence of the terms and conditions of the lease, it was recommended that this matter be brought to the Board for approval.

Committee Chairman Farrar then moved, seconded by Director Blake, that the Board adopt the CEQA determination and authorize the Chief Executive Officer to (a) enter into Farm Lease No. R.L. 2364 over MWD Parcel No. PVID-1-100 in Imperial County, California; and (b) execute a lease with River Valley Ranches, a California farming partnership, in a form approved by the General Counsel, as set forth in the letter signed by the CEO/General Manager on August 26, 2005.

Director Koopman stated that he had requested information, which he had not received, on what the rate was based on the current market value being that there was very little land for sale and the price of land had escalated dramatically. Director Koopman said he would like to get this information so he would have some knowledge of what the market is before voting on this matter.

Following a discussion, Director Farrar withdrew his motion and referred the item back to committee for clarification and to be brought back to the Board in October. Chairman Bannister then concurred with the withdrawal of this farm lease item from the agenda.

46375 Recreation Committee Chairman Record moved, seconded by Director Morris, adopting the CEQA determination and (a) requiring all expenditures for this and other trails to be funded by Metropolitan's Recreation budget; and (b) adopting a resolution (**Resolution 8974**) to accept grant funding for the Diamond Valley Lake Trails Program, as set forth in the revised letter signed by the CEO/General Manager on August 26, 2005, and as amended by the committee to provide that Metropolitan will accept grants only if they have acceptable conditions, said Resolution entitled:

RESOLUTION OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA BOARD OF DIRECTORS TO THE STATE OF CALIFORNIA APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE RECREATIONAL TRAILS PROGRAM

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

Director Loveland withdrew from the Meeting at 12:00 p.m.

46376 Engineering and Operations Committee Chairman Mylne moved, seconded by Director Blake and carried, adopting the CEQA determinations and (a) appropriated \$2,329,000 in budgeted funds (Appropriation No. 15374, No. 5, in the amount of \$1,952,000 from the Revenue Bonds, Replacement and Refurbishment or General Funds; and Appropriation No. 15373, No. 8, in the amount of \$377,000 from the Revenue Bonds, Replacement and Refurbishment or General Funds); and authorized (b) construction to

rehabilitate the circulating water systems at the five Colorado River Aqueduct pumping plants; and (c) desert water tanks access assessment, main pump motor exciters assessment, pumping plant vulnerability assessment, reservoir dam sluiceways and outlet reliability assessment, as set forth in the letter signed by the CEO/General Manager on August 23, 2005.

46377 Engineering and Operations Committee Chairman Mylne moved, seconded by Director Blake and carried, adopting the CEQA determinations and (a) appropriated \$2.60 million in budgeted funds (Appropriation No. 15424, No. 2, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and authorized (b) final design of the Mills Ozone Contactors 3 and 4 Project; and (c) an agreement with URS Corporation for project management support in an amount not to exceed \$0.6 million a year for five years, as set forth in the letter signed by the CEO/General Manager on August 22, 2005.

46378 Engineering and Operations Committee Chairman Mylne moved, seconded by Director Blake and carried, adopting the CEQA determination and (a) appropriated \$2.67 million in budgeted funds (Appropriation No. 15380, No. 8, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) awarded a \$1,849,331 contract to Norman A. Olsson Construction, Inc. to rehabilitate filter surface wash headers at the Diemer plant, as set forth in the letter signed by the CEO/General Manager on August 22, 2005.

46379 Legal and Claims Committee Chairman De Jesus moved, seconded by Director Dick and carried, and the Board adopted the CEQA determination and approved increase in contract with Williams, Yasinski & Jones by \$225,000 for legal services in *Lance Charles, Sr. v. Metropolitan*, Los Angeles Superior Court Case No. BC 313797, as set forth in the confidential letter signed by the General Counsel on August 23, 2005.

46380 Legal and Claims Committee Chairman De Jesus moved, seconded by Director Mylne and carried, and the Board adopted the CEQA determination and authorized amendment of the contract with outside counsel Lindborg Drill LLP by \$250,000 to an amount not to exceed \$350,000 for assistance related to the Arrowhead Tunnels construction within the Inland Feeder Program, as set forth in the confidential letter signed by the General Counsel on August 29, 2005.

46381 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through July 2005 signed by the CEO/General Manager on August 23, 2005.
- b. Report on federal Endangered Species Act legislation and review of board-adopted policy principles, jointly signed by the General Counsel on August 30, and the CEO/General Manager on August 31, 2005.
- c. Annual report of payment of claims for lost bonds or coupons, signed by the CEO/General Manager on August 22, 2005.
- d. Preliminary analysis of State Water Project calendar year 2006 Statement of Charges, signed by the CEO/General Manager on August 26, 2005.
- e. Update of the Regional Urban Water Management Plan, signed by the CEO/General Manager on August 24, 2005.
- f. Semiannual Report on Metropolitan's State Water Project Initiatives, signed by the CEO/General Manager on August 22, 2005.

46382 Ethics Committee Chairman Edwards emphasized the importance of acknowledging receipt of the Ethics Manual as reading that document would count towards one of the requirements contained in AB 1234 if we get approval from the Attorney General's office and the Fair Political Practices Commission.

Asset and Real Property Committee Chairman Farrar stated that a joint meeting of the Asset and Real Property Committee and the Recreation Committee was scheduled for Tuesday, September 27, 2005. He reminded the Directors that the Request for Proposal process for the Diamond Valley recreation area is out and will be taken up at the joint meeting on September 27, and urged all Directors to participate in this proposal.

46383 Chairman Bannister presided over a Groundwater Conjunctive Use signing ceremony between Three Valleys Municipal Water District and Metropolitan, which partnership will enable Metropolitan to store up to 3,000 acre-feet of water in the Upper Claremont Heights Basin when surplus water is available during wet years, and produce 1,000 acre-feet per year for three years to meet Three Valleys' water demands during dry, drought, or emergency periods.

46384 There being no objection, Chairman Bannister adjourned the Meeting at 12:15 p.m.

HELEN Z. HANSEN

SECRETARY

WES BANNISTER

CHAIRMAN