

**MINUTES**

**REGULAR MEETING OF THE**

**BOARD OF DIRECTORS**

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**APRIL 10, 2007**

**47027** 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 10, 2007.

Chairman Brick called the Meeting to order at 12:06 p.m.

**47028** The Meeting was opened with an invocation by Dr. Deni Elliott, Ethics Officer.

**47029** The Pledge of Allegiance to the Flag was given, led by Director Bill Wright.

**47030** Board Secretary Abdo called the roll. Those answering present were: Directors Abdo, Anderson, Apodaca, Bakall, Barrett, Blake, Bond, Brick, Brown, De Jesus, Dick, J. Edwards, M. Edwards, Fellow, Foley, Grandsen, Hansen, Harris, Koopman, Little, Morris, J. Murray, W. Murray, Pace, Parker, Peterson, Quiñonez, Record, Rez, Sutley, Veres, and Wright.

Those not answering were: Directors Griset, Grunfeld, Hall, Mylne (entered 12:14 p.m.), and Pocklington.

Chairman Brick declared a quorum present.

**47031** At 12:09 p.m., Chairman Brick called public hearings to receive comments on the proposed standby charge for the 98th Fringe Area Annexation to Eastern Municipal Water District; and the proposed Water Standby Charge for fiscal year 2007/08.

No members of the public responded to the proposed standby charge for the 98th Fringe Area Annexation; and after tabulation of the ballots was completed, and with no protests received from the majority owners, the Chair closed the public hearing for that part of the hearing.

Chairman Brick then invited interested parties to comment on the proposed Water Standby Charge for fiscal year 2007/08. No members of the public responded. The Chair declared the public hearing closed at 12:11 p.m., stating that the Board's final action on the proposed charge is expected to take place at its monthly meeting on May 8, 2007.

**47032** Chairman Brick invited members of the public to address the Board on matters within the Board's jurisdiction. No members of the public responded.

**47033** There being no objection, Chairman Brick ordered the reading of the Minutes of the Meeting of March 13, 2007, dispensed with, a copy having been mailed to each Director.

Director Pace moved, seconded by Director Veres and carried, approving the foregoing Minutes as mailed.

**47034** A written report of meetings attended by Directors at Metropolitan expense during the month of March was distributed. The following Directors reported on their attendance at meetings:

Director Peterson: March 23, 2007, attended the ACWA board meeting following the Legislative Symposium.

Director Morris: March 7-8, 2007, reported that the airfare and a portion of the lodging and meals were paid for by the American Society of Civil Engineers, and not Metropolitan.

Director Mylne took his seat at 12:14 p.m.

**47035** The General Counsel's letter signed April 5, 2007, was presented, transmitting the credentials evidencing the appointment by West Basin Municipal Water District of Edward C. Little as one of its representatives on Metropolitan's Board for an indefinite term, replacing Carol Kwan.

General Counsel Tachiki reported the credentials had been examined and found legally sufficient, and that the Oath of Office had been administered to Director Little on April 9, 2007.

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

**47036** Director Blake moved, seconded by Vice Chairman Fellow and carried, approving the recommendation of the Chairman to assign Director Little to the Water Quality and Operations Committee and the Communications and Legislation Committee.

**47037** Chairman Brick reported on events in which he participated, as follows:

- March 16 - Attended the Water Resources Archives meeting in Berkeley.
- March 20 - Attended the Groundwater Resources Association Legislative Symposium in Sacramento, where he was the guest speaker.
- March 22-23 - Attended the Alliance for Water Efficiency meeting in Chicago, Illinois.
- March 26-29 - Along with Chief Administrative Officer Ivey, participated in the ACCESS D.C. trip to Washington, sponsored by the Los Angeles Chamber of Commerce, where more than 200 business and civic leaders joined forces for the annual trip to advocate for important issues affecting our region.
- April 3-5 - Attended the Rocky Mountain Water Supply Sustainability Workshop in Broomfield, Colorado.

Chairman Brick reminded the Board of the Chairman's Bike Ride to be held at Diamond Valley Lake on April 28, 2007.

**47038** Regarding Colorado River, Bay-Delta, and CALFED matters, General Manager Kightlinger referred to the activity report for March dated March 30, 2007, which was distributed earlier.

General Manager Kightlinger commented on a number of events that occurred recently, starting with the legal order for shutdown of the pumps at Banks pumping plant; the snow pack report; the headlines on the "permanent" drought; the United

Nations report on global warming and its impacts on worldwide water supply; and the accumulation of dry years in every single region from which Metropolitan gets water. Mr. Kightlinger cited that the past water year seems to be the driest year on record in Southern California since the 1870s. He remarked on the four areas that Metropolitan gets its water from, which are all dry simultaneously, and yet Metropolitan is able to supply the required amount of water to the member agencies. General Manager Kightlinger gave tremendous credit to Metropolitan and the Board for their foresight and reliability programs.

General Manager Kightlinger reported on the last maintenance shutdown for the season at the Diemer plant; and although there was tremendous coordination with the member agencies in Orange County, there was still no reduction in use and no voluntary conservation. With that, the member agencies in Orange County requested that Caltrans use its freeway signs to request consumers to conserve water during the shutdown. The notification on the freeway signs brought the attention of the consumers, even the Governor's office and the Office of Emergency Services for the state, who thought this shutdown was in response to the court order on Banks pumping plant.

General Manager Kightlinger announced that there will be a Vendors' Fair tomorrow at the Convention Center that Metropolitan is co-hosting with the City and County of Los Angeles, the Los Angeles Unified School District, and the Metropolitan Transit Authority. It is part of Metropolitan's outreach program. Another business outreach event for subcontractors and contractors will be held at the Weymouth plant.

General Manager Kightlinger referred to news on chlorine gas issues. He stated that as part of the security effort, Metropolitan is going to have a full briefing on security issues with the Board at its meeting in May. Mr. Kightlinger reported that the Operations staff have taken a number of extra precautions and put them into place, all dealing with chlorine gas and its transportation.

**47039** Regarding Legal Department activities, General Counsel Tachiki referred to the General Counsel's activity report for March dated March 30, 2007, which was distributed earlier.

General Counsel Tachiki reported that the Ninth Circuit gave a favorable ruling in the *All-American Canal* federal case; and that San Diego County Water Authority is expected to begin work on the canal-lining project some time in June.

General Counsel Tachiki informed the Board that the CalPERS board would finally consider the settlement in the ongoing *Cargill* litigation (temporary workers' lawsuit) at its meeting on April 18. She stated that the outcome of CalPERS' meeting would be reported to Metropolitan's Board in May and that Metropolitan would move into the implementation phase of that settlement.

Director Bakall withdrew from the Meeting at 12:31 p.m.

**47040** General Auditor Riss presented a report of the Audit Department's activities for the month of March, dated March 29, 2007. He stated that three Audit Reports – Black & Veatch Corporation Audit Report, GeoPentech, Incorporated Audit Report, and Ozonia North America Audit Report, were issued during the month.

Mr. Riss then conducted a brief discussion of these reports. He noted that the opinions issued were as follows: Black & Veatch Corporation, generally satisfactory; GeoPentech, Incorporated, generally satisfactory; and Ozonia North America, satisfactory. General Auditor Riss noted that there were minor non-compliance issues in these reports, which management corrected quickly.

General Auditor Riss remarked that his monthly report included information relating to Continuous Audit Activities on the Inland Feeder Project and The Center for Water Education.

General Auditor Riss informed the Board that the KPMG report was almost done and that it should be ready for the April meeting of the Executive Committee.

**47041** Ethics Officer Elliott referred to the activity report for March dated March 30, 2007, which was distributed earlier.

Ethics Officer Elliott commented on the Ethics dinner-discussion held last evening, with Kirk O. Hanson, Executive Director of the Markkula Center for Applied Ethics at Santa Clara University, as the guest speaker. Dr. Elliott reported that Mr. Hanson spoke about the conflict of interest rule change in the state from the legal narrow interpretation to more of a focus on solutions that engender public trust. Dr. Elliott announced that the Markkula Center would be holding its summer ethics camp for public officials at Santa Clara University on June 27 and 28, 2007.

**47042** In reference to votes taken at meetings, Chairman Brick stated that he would not be participating in voting on matters before the Board, which is consistent with past practices of the Board, as well as Robert's Rules of Order, for a chairman presiding over a meeting. To exercise his voting right on a particular matter, he will announce his vote or record his electronic vote; otherwise, the minutes will record that he did not participate in the voting.

Director Apodaca moved, seconded by Director Hall and carried, and the Board approved the Consent Calendar Items, **M.I. 47043** through **M.I. 47045**, as follows:

**47043** Adopted the California Environmental Quality Act (CEQA) determination and (a) **Resolution 9026** granting approval of Calleguas Annexation No. 92 concurrently to Calleguas Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$245,349.20 to Metropolitan if completed by December 31, 2007, or if completed later, at the then-current annexation charge rate, conditioned upon approval by the Ventura County Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for the annexation; and (b) approved Calleguas' Statement of Compliance with the current Water Use Efficiency Guidelines, as set forth in the letter signed by the General Manager on March 26, 2007, said resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO CALLEGUAS MUNICIPAL WATER DISTRICT'S CALLEGUAS ANNEXATION NO. 92 AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Director Grandsen requested to be recorded as abstaining.

**47044** Adopted the CEQA determination and (a) appropriated \$487,000 in budgeted funds (Appropriation No. 15369, No. 22, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized refurbishment of the Weymouth Basin No. 1 flocculators, as set forth in the letter signed by the General Manager on March 27, 2007.

**47045** Adopted the CEQA determination and authorized increase in funds allotted for temporary personnel in the amount of \$87,000, as set forth in the letter signed by the General Manager on March 28, 2007.

Director Koopman requested to be recorded as voting no.

**47046** Business and Finance Committee Chairman Bond moved, seconded by Director Sutley and carried, and the Board adopted the CEQA determination and (a) approved water rates effective January 1, 2008 as shown in Table 1 of the letter signed by the General Manager on March 27, 2007; and adopted (b) **Resolution 9027** to Impose the Readiness-to-Serve Charge in the form shown as Attachment 3 to the foregoing letter; and (c) **Resolution 9028** to Impose the Capacity Charge in the form shown as Attachment 4 to the foregoing letter, said Resolutions entitled:

**Resolution 9027**

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FIXING AND ADOPTING A READINESS-TO-SERVE CHARGE FOR FISCAL YEAR 2007/08

**Resolution 9028****RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE METROPOLITAN WATER DISTRICT OF  
SOUTHERN CALIFORNIA FIXING AND ADOPTING  
A CAPACITY CHARGE EFFECTIVE JANUARY 1,  
2008**

**47047** Engineering and Capital Programs Committee Chairman Koopman moved, seconded by Director Blake and carried, and the Board adopted the CEQA determination and authorized an increase of \$2 million to the existing agreement with Jacobs Associates, for a new not-to-exceed total of \$12 million, for specialized engineering support on the Inland Feeder Program, as set forth in the letter signed by the General Manager on March 26, 2007.

Director Bakall withdrew from the Meeting at 12:37 p.m.

**47048** Water Quality and Operations Committee Chairman Brown moved, seconded by Director Blake and carried, and the Board adopted the CEQA determination and (a) appropriated \$4.41 million in budgeted funds (Appropriation No. 15397, No. 4, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized an increase of \$4.21 million to the agreement with FluidIQs to complete Phase II of the Automatic Meter Reading System upgrade, as set forth in the letter signed by the General Manager on March 27, 2007.

**47049** Regarding the Updated Policy and Procedure for Local Resources Program, Water Planning and Stewardship Committee Chair Sutley moved, seconded by Director Morris and carried, and the Board adopted the CEQA determination and authorized (a) open program alternative with sliding scale incentive approach up to \$250/AF for new local projects as outlined in Attachment 3 and the overarching program elements in Attachment 1 to the revised letter signed by the General Manager on April 10, 2007; (b) Metropolitan's regional facilitator role to address local projects as outlined in Attachment 6 to the foregoing letter; and; (c) conversion of existing agreements from sliding scale incentive terms to fixed incentive terms as outlined in the foregoing letter.

The amendments, as reflected in the revised board letter, include increasing the targeted yield to 174,000 acre-feet and limiting the number of project phases to a total of three.

**47050** Legal and Human Resources Committee Chairman Quiñonez reported that the committee heard a report on *Felicia Clayton-Gordon v. Metropolitan* (LASC Case No. BC333064) and approved the staff's recommendation. Committee Chairman Quiñonez then moved, seconded by Director J. Murray and carried, and the Board approved the recommendation of the committee.

**47051** Legal and Human Resources Committee Chairman Quiñonez moved, seconded by Director J. Murray and carried, approving the staff's recommendation in *L. H. Woods & Sons, Inc. v. Metropolitan*, San Bernardino Superior Court Case No. SCVSS 131976, as set forth in the confidential letter jointly signed by the General Manager and the General Counsel on March 29, 2007.

Director Anderson requested to be recorded as voting no.

**47052** Legal and Human Resources Committee Chairman Quiñonez moved, seconded by Director J. Murray and carried, and the Board adopted the CEQA determination and authorized increase of \$75,000 for a total of \$350,000 in maximum amount payable under contract with Meserve, Mumper & Hughes to represent Metropolitan in litigation in *Steven Slack v. Metropolitan*, LASC Case No. BC349404, as set forth in the confidential letter signed by the General Counsel on April 2, 2007.

**47053** Legal and Human Resources Committee Chairman Quiñonez reported that the committee deferred Agenda Item 8-9, *Lollett Jones-Boyce v. Metropolitan, et al.*, LASC Case No. BC310915.

**47054** Legal and Human Resources Committee Chairman Quiñonez moved, seconded by Director J. Murray and carried, and the Board adopted the CEQA determination and authorized increase of \$35,000 for a total of \$285,000 in maximum amount payable under contract with Hunt Ortman Palffy Nieves Lubka Darling & Mah for legal services to represent Metropolitan in *Shank/Balfour Beatty, a Joint Venture v. Metropolitan*, LASC Case No. BC283438 (consolidated with BC283439), Court of Appeal Case No. B184987, as set forth in the confidential letter signed by the General Counsel on April 2, 2007.

Secretary Abdo requested to be recorded as abstaining.

**47055** Communications and Legislation Committee Vice Chairman Dick moved, seconded by Director Morris and carried, and the Board adopted the CEQA determination and authorized sponsorship for Clean Renewable Water supply bond legislation, as set forth in the letter signed by the General Manager on March 29, 2007.

**47056** Communications and Legislation Committee Vice Chairman Dick moved, seconded by Director Sutley and carried, and the Board adopted the CEQA determination and (a) authorized sponsorship of and support for AB 1481 (De La Torre, D-South Gate), General Water Recycling Permit; and (b) expressed support for AB 1406 (Huffman, D-San Rafael), Toilet and Urinal Flushing with Recycled Water in Condominiums, as set forth in the letter signed by the General Manager on March 29, 2007.

**47057** Communications and Legislation Committee Vice Chairman Dick moved, seconded by Director Sutley and carried, and the Board adopted the CEQA determination and amended the recommendation set forth in the letter signed by the General Manager on April 4, 2007, regarding state legislative measures promoting water-use efficiency, as follows: (a) authorized support for AB 662, AB 888, AB 1058, AB 1560, AB 715, and AB 1404; and (b) directed staff to pursue clarifying amendments to AB 1560 and AB 1404.

**47058** Communications and Legislation Committee Vice Chairman Dick moved, seconded by Board Vice Chairman Fellow and carried, and the Board adopted the CEQA determination and expressed support for AB 1260 (Caballero, D-Salinas) regarding Local government fees and charges, as set forth in the letter signed by the General Manager on March 29, 2007.

**47059** Communications and Legislation Committee Vice Chairman Dick moved, seconded by Director Morris and carried, and the Board adopted the CEQA determination and expressed support for SB 1029 (Ducheny, D-Chula Vista) as proposed to be amended regarding drinking water regulations, as set forth in the letter signed by the General Manager on April 4, 2007.

**47060** Communications and Legislation Committee Vice Chairman Dick moved, seconded by Director Morris and carried, and the Board adopted the CEQA determination and expressed support for

SB 258 (Ducheny, D-Chula Vista) regarding State Water Resources Control Board water rights fees, as set forth in the letter signed by the General Manager on March 29, 2007.

Director Sutley requested to be recorded as abstaining.

**47061** Communications and Legislation Committee Vice Chairman Dick reported that the committee deferred Agenda Item 8-16 on SB 59 (Cogdill, R-Fresno) regarding the Reliable Water Supply Bond Act of 2008.

Director Peterson made a motion to approve staff's recommendation to support SB 59 with amendments. Director Morris seconded the motion. Director Peterson also moved to table the motion until Friday, April 13, 2007, for further discussion and possible action at the Board Retreat. The motion to table was approved and no action was taken on the main motion to support SB 59.

**47062** Regarding the Delta Levees Emergency Preparedness and Response Plan, Water Planning and Stewardship Committee Chair Sutley moved, seconded by Director Wright and carried, and the Board adopted the CEQA determination and directed staff to work with the State Water Contractors, Department of Water Resources, and state and other stakeholders to develop a plan to implement the post-event strategy of creating an emergency freshwater pathway to export pumps substantially within the estimated time and costs described in the letter signed by the General Manager on April 3, 2007.

**47063** Engineering and Capital Programs Committee Chairman Koopman moved, seconded by Director Blake and carried, and the Board adopted the CEQA determination and (a) appropriated \$1.38 million for urgent repair of a segment of the Rialto pipeline (Appropriation No. 15427, No. 5, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized the General Manager to increase change order authority by \$994,549 on the Rialto Pipeline Improvements contract, for a new aggregate amount of \$1.3 million, as set forth in the letter signed by Chief of Operations Man for the General Manager on April 2, 2007.

**47064** General Manager Kightlinger reported that this item was the one which Director Sutley was going to chair at her committee meeting; and after discussion, it was recommended that Agenda Item 8-19, water policy principles for statewide water management, be continued to the Board Retreat on April 13, 2007.

Chairman Brick confirmed the discussion and deferred this item to the Board Retreat.

**47065** Communications and Legislation Committee Vice Chairman Dick moved, seconded by Director Sutley and carried, and the Board adopted the CEQA determination and authorized the General Manager to express Metropolitan's support for AB 224 (Wolk, D-Davis) if it is amended as described in the letter signed by the General Manager on April 5, 2007, regarding water supply planning and climate change.

**47066** Communications and Legislation Committee Vice Chairman Dick moved, seconded by Director Morris and carried, and the Board adopted the CEQA determination and authorized the General Manager to express Metropolitan's support for SB 27 (Simitian, D-Palo Alto; Machado, D-Linden; Perata, D-Oakland; and Steinberg (D-Sacramento) and to seek amendments consistent with the letter signed by the General Manager on April 5, 2007, regarding the Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement Act of 2008.

**47067** The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through February 2007 signed by the General Manager on March 27, 2007.
- b. Review of Water Conservation Program, signed by the General Manager on March 27, 2007.
- c. Water Surplus and Drought Management Plan report on water supply and demand as of March 26, 2007, signed by the General Manager on March 27, 2007.
- d. Review of Draft Groundwater Assessment Study Report, signed by the General Manager on March 27, 2007.

- e. Staff review of Draft EIS on Colorado River Interim Shortage Guidelines and Coordinated Management Strategies for Lakes Powell and Mead, signed by the General Manager on March 27, 2007.

**47068** There being no objection, at 12:54 p.m., the Chairman adjourned the Meeting in memory of Judith Griset.

**JUDY ABDO**  
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**SECRETARY**

**TIMOTHY F. BRICK**  
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**CHAIRMAN**