

MINUTES

REGULAR MEETING OF THE

BOARD OF DIRECTORS

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

SEPTEMBER 14, 2010

48384 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 14, 2010.

Chairman Brick called the Meeting to order at 12:05 p.m.

48385 The Meeting was opened with an invocation by Gerald Riss, General Auditor, Metropolitan Water District.

48386 The Pledge of Allegiance to the Flag was given by Director Randy Record.

48387 Board Secretary Abdo called the roll. Those answering present were: Directors Abdo, Ackerman, Barbre, Blake, Brick, Brown, De Jesus, Dick, Edwards, Evans, Fellow, Fleming, Foley, Friedman, Grandsen, Griset, Hawkins, Heidel, Lewinger, Little, J. Murray, Peterson, Quiñonez, Record, Sanchez, Santiago, Steiner, Wright, and Wunderlich.

Those not answering were: Directors Ballin, Gray, Grunfeld (entered 12:16 p.m.), Lowenthal, Montalvo, Morris, K. Murray, and Pocklington.

Chairman Brick declared a quorum present.

48388 Vice Chairman J. Murray introduced Junichi Ihara, Consul General of Japan, who addressed the Board and discussed his country's involvement in key water issues including international water development assistance, water recycling, water-efficient devices, and reducing water lost to leaking municipal pipes.

Director Grunfeld took his seat at 12:16 p.m.

48389 The Board heard a progress report from Robert Simonds, Chairman of the Blue Ribbon Committee.

48390 Chairman Brick invited members of the public to address the Board on matters within the Board's jurisdiction. No members of the public requested to speak.

48391 There being no objection, Chairman Brick ordered the reading of the Minutes of the Meetings for August 10 and 17, 2010, dispensed with, copies having been mailed to each Director.

Vice Chairman J. Murray moved, seconded by Director Grunfeld and carried, approving the foregoing Minutes as mailed.

48392 A written report of meetings attended by Directors at Metropolitan expense during the month of August was distributed, which was received and filed.

48393 The letter signed by General Counsel Tachiki on September 14, 2010, was presented, transmitting the credentials evidencing the appointment by the City of Compton of Diana Sanchez as its representative on Metropolitan's Board for an indefinite term, replacing Yvonne Arceneaux.

General Counsel Tachiki reported that the credentials had been examined and found legally sufficient; and that the Oath of Office was administered to Mrs. Sanchez earlier today. The Chair ordered the credentials, together with the General Counsel's letter, received and filed. Following an introduction by Joel Estrada, former Compton Unified School board member, Mrs. Sanchez took her seat as a Director representing the City of Compton.

48394 Chairman Brick reported there were no new committee assignments.

48395 Chairman Brick reported on events in which he participated, as follows:

- August 18 - Attended a Global Water & Technology Forum hosted by Metropolitan's Business Outreach Group and held in Metropolitan's Board Room.
- August 25 - At the invitation of The Milken Institute, participated in a series of videos addressing ideas on "How We Fix California".
- August 26 - Attended the Montebello Chamber of Commerce luncheon featuring Congresswoman Grace Napolitano at the Quiet Cannon Restaurant in Montebello, California.
- September 2 - Participated in a proclamation presentation to Speaker-Emeritus Karen Bass at her Wilshire offices in Los Angeles.
- September 9 - Spoke at West Basin MWD Caucus luncheon on Metropolitan's IRP and Blue Ribbon Committee.
- September 10 - Attended a Community Leaders' Briefing scheduled with Assemblymember Eng at the San Gabriel Hilton.

Chairman Brick announced that Metropolitan would host a "20 x 2020 Water Summit" on November 10, 2010 to be held in the Union Station Ticket Concourse and Fred Harvey Room. He stated that this summit would bring together a mix of federal and state legislators and regulators, water industry experts, municipal planners, environmentalists, climatologists, and other stakeholders who would discuss all aspects of the extensive work being carried out across the State of California to help ensure water supply reliability through the year 2035.

Chairman Brick commented on the "Israeli Innovation Days" event to be held on October 27 and 28, 2010, announced by Director Grunfeld last month. As a follow-up, Chairman Brick encouraged the Board and member agency staff to participate in this two-day event which is being cosponsored by Metropolitan and the Israeli Economic Mission to be held at Metropolitan's Headquarters. This event will be an opportunity for the water industry colleagues from both Israel and the United States to address the critically important issues, challenges, and solution to ensure water reliability.

Chairman Brick reported on the moving of the Water Resource Center archives from the University of California Berkeley to the University of California Riverside, which documents were housed at Berkeley for the past 53 years. This decision was made through an application process from various universities and colleges, and the University at Riverside, together with California State University San Bernardino put together a very effective application in order to take over the sponsorship and maintenance of the Water Resource Center archives.

Director Evans commented on the five students from Arlington High School in Riverside who recently won the international competition in the Envirofest program addressing environmental issues.

48396 Director Peterson moved seconded by Board Vice Chairman Santiago and carried, and the Board adopted a resolution in recognition of the Association of California Water Agencies (ACWA) Centennial Anniversary.

48397 Director De Jesus, Chair of the Ad Hoc Committee on Governance, reported on the ad hoc committee's review of the membership of the Executive Committee, especially the vice chairs and the number of members. The Ad Hoc Committee on Governance will report to the Executive Committee on September 28, 2010.

48398 Regarding Colorado River, Bay-Delta, and CALFED matters, General Manager Kightlinger referred to the activity report for August dated August 31, 2010, which was posted to the Directors' website.

General Manager Kightlinger commented on the amounts of water moving through the Inland Feeder into Diamond Valley Lake.

General Manager Kightlinger noted that Metropolitan has received some late comment letters on the IRP and those have been placed at each Director's seat. He stated that staff would be addressing the various comments with a discussion to be taken up at the IRP Workshop after the Board Meeting.

General Manager Kightlinger announced that the Bureau of Reclamation would be celebrating the 75th anniversary of Hoover Dam on September 30, 2010, and invited the Directors to attend.

48399 Regarding Legal Department activities, General Counsel Tachiki referred to the General Counsel's activity report for August dated September 8, 2010, which was posted to the Directors' website.

General Counsel Tachiki reported that at the end of the month Metropolitan will be filing its opening appellate brief on the Quantification Settlement Agreement cases, and by the end of the calendar year the briefing should be completed, and oral argument to take place some time in 2011.

48400 General Auditor Riss referred to the Audit Department's activity report for the month of August, dated August 31, 2010, which was posted to the Directors' website.

General Auditor Riss stated that three audit reports were issued: (1) Property Leases Audit Report; (2) Skinner East Bypass Screening Structure Rehabilitation Audit Report; and (3) Yuba Accord Dry Year Water Purchase Program Audit Report.

General Auditor Riss gave a brief review of the above-listed audit reports and stated that Item (2) received an opinion that the areas under audit included those practices usually necessary to provide for a satisfactory internal control structure; whereas Items (1) and (3) received opinions of having a generally satisfactory internal control structure.

Director Friedman withdrew from the Meeting at 12:50 p.m.

48401 In the absence of Ethics Officer Elliott, Audit and Ethics Committee Chairman Wunderlich referred to the activity report for August dated August 31, 2010, which was posted to the Directors' website.

Committee Chairman Wunderlich reported that the Ethics Educator presented a seminar on how to address rumors and gossip in the workplace to 20 managers at Iron Mountain. He stated

that this seminar was also available to other work groups upon request.

Committee Chairman Wunderlich announced that at the end of today's Board Meeting the final AB 1234 training session would take place, which is required by state law for Directors and certain staff members to attend. Committee Chairman Wunderlich reminded the Board that the sexual harassment prevention training is available online, which is also a requirement.

Director Quiñonez withdrew from the Meeting at 1:00 p.m.

Director Blake moved seconded by Board Vice Chairman Fellow and carried, and the Board approved the Consent Calendar Items, **M.I. 48402** through **M.I. 48408** as follows:

48402 Adopted the California Environmental Quality Act (CEQA) determination and approved amendment of contract for external audit services with KPMG LLP to increase maximum amount payable from \$1,035,250 to \$1,075,250, as set forth in the letter signed by the General Auditor on August 12, 2010.

Director Sanchez requested to be recorded as abstaining.

Director Dick requested to be recorded as voting no.

48403 Adopted the CEQA determination and (a) appropriated \$660,000 (Appropriation No. 15377, No. 32, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized final design of Stage 2 valve structure modifications and procurement of valves for West Valley Feeder No. 1, as set forth in the letter signed by the General Manager on August 30, 2010.

Director Sanchez requested to be recorded as abstaining.

48404 Adopted the CEQA determination and (a) appropriated \$345,000 (Appropriation No. 15440, No. 9, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized final design of the Weymouth Filter Outlet

Chemical Trench System, as set forth in the letter signed by the General Manager on August 30, 2010.

Director Sanchez requested to be recorded as abstaining.

48405 Adopted the CEQA determination and (a) appropriated \$1.2 million (Appropriation No. 15452, No. 10, from the Revenue Bonds, Replacement and Refurbishment or General Funds), and (b) awarded \$550,108 contract to Braughton Construction, Inc. for seismic upgrades to Mills Electrical Buildings Nos. 1 and 2, as set forth in the letter signed by the General Manager on August 31, 2010.

Director Sanchez requested to be recorded as abstaining.

48406 Adopted the CEQA determination and (a) appropriated \$150,000 (Appropriation No. 15376, No. 12, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized preliminary design to replace the data center uninterruptible power supply system at Metropolitan's Headquarters Building at Union Station, as set forth in the letter signed by the General Manager on August 30, 2010.

Director Sanchez requested to be recorded as abstaining.

48407 Adopted the CEQA determination and (a) appropriated \$790,000 (Appropriation No. 15374, No. 10, from the Revenue Bonds, Replacement and Refurbishment or General Funds), and (b) awarded \$358,196 contract to Abhe & Svoboda for repair of the Eagle Mountain Pumping Plant delivery pipe expansion joints, as set forth in the letter signed by the General Manager on August 31, 2010.

Director Sanchez requested to be recorded as abstaining.

48408 Adopted the CEQA determinations and (a) appropriated \$1.67 million (Appropriation No. 15452, No. 9, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and authorized (b) final design of the Mills industrial wastewater handling improvements and new sewer discharge; and (c) final

design and construction of the Mills Modules Nos. 3 and 4 potable water safety stations, as set forth in the letter signed by the General Manager on August 24, 2010.

Director Sanchez requested to be recorded as abstaining.

Director Quiñonez returned to the Meeting at 1:03 p.m.

48409 Engineering and Operations Committee Chairman Record moved, seconded by Director Blake and carried, that the Board adopt the CEQA determination and (a) appropriate \$3 million (Appropriation No. 15377, No. 33, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) award \$1.53 million contract to Steve P. Rados, Inc. for Stages 3 and 4 repairs of the Box Springs Feeder, as set forth in the letter signed by the General Manager on September 1, 2010.

Director Sanchez requested to be recorded as abstaining.

48410 Engineering and Operations Committee Chairman Record moved, seconded by Director Wright and carried, that the Board adopt the CEQA determination and authorize the General Manager to execute both proposed transmission service agreements (TSAs) with Western Area Power Administration (Western), with the proposed TSAs to provide Metropolitan with firm transmission rights on Western's Parker-Davis Project transmission system, and Metropolitan having the ability to determine a Point of Receipt for each of the TSAs prior to executing, as set forth in the letter signed by the General Manager on September 1, 2010.

Director Sanchez requested to be recorded as abstaining.

48411 Water Planning and Stewardship Committee Chair Steiner moved, seconded by Board Vice Chairman Santiago and carried, that the Board adopt the CEQA determination and authorize the General Manager to enter into a Local Resources Program agreement with Los Angeles Department of Water and Power for

150 acre-feet per year of recycled water under terms included in the letter signed by the General Manager on August 30, 2010.

Directors Fleming, Grunfeld, J. Murray, Quiñonez, and Sanchez requested to be recorded as abstaining.

Directors Heidel, Lewinger, and Steiner requested to be recorded as voting no.

48412 Legal and Claims Committee Chairman Quiñonez moved, seconded by Director Edwards and carried the amended recommendation from the committee, that the Board adopt the CEQA determination and authorize an increase of \$400,000 (a greater increase than the \$300,000 requested in the board letter) for a total of \$500,000 in maximum amount payable under contract with Bingham McCutchen LLP to represent Metropolitan in *San Diego County Water Authority v. Metropolitan Water District of Southern California, et al.*, Los Angeles County Superior Court Case No. BS126888, as set forth in the confidential letter signed by the General Counsel on September 1, 2010.

Directors Heidel, Lewinger, Sanchez, and Steiner requested to be recorded as abstaining.

48413 Legal and Claims Committee Chairman Quiñonez moved, seconded by Director Edwards and carried, that the Board adopt the CEQA determination and authorize (a) an increase in maximum amount payable under contracts with Theodora Oringer Miller & Richman PC for legal services in *Foxfire Constructors, Inc. v. W.A. Rasic Construction Company, et al.*, Superior Court of Orange County Case No. 30-2009-00118788, by \$500,000 to a maximum of \$900,000; and for legal services in *Village Retail Center, LLC et al. v. The Metropolitan Water District of Southern California*, Los Angeles County Superior Court Case No. BC439334 by \$500,000 to a maximum of \$600,000; and (b) a settlement offer in the *Foxfire Constructors v. W.A. Rasic* matter, as set forth in the confidential letter signed by the General Counsel on September 7, 2010.

Directors Evans and Sanchez requested to be recorded as abstaining.

48414 Legal and Claims Committee Chairman Quiñonez moved, seconded by Director Edwards and carried, that the Board adopt the CEQA determination and authorize an increase in maximum amount payable under contract with Richard B. Deriso for expert consultant services and litigation support by \$200,000 to a maximum of \$500,000 in *San Luis & Delta-Mendota Water Authority, et al. v. Salazar, et al.*, USDC Case No. 1:09-CV-407 OWW GSA, and consolidated cases; *San Luis & Delta-Mendota Authority, et al. v. Locke, et al.*, USDC Case No. 1:09CV-1053 OWW DLB, and consolidated cases; *Watershed Enforcers v. California Dept. of Water Resources, et al.*, Alameda County Superior Court No. RG06292124; *State Water Contractors v. California Dept. of Fish & Game, et al.*, Sacramento County Superior Court Case No. 34-2009-80000203; *Central Delta Water Agency v. California Dept. of Water Resources, et al.*, Sacramento County Superior Court Case No. 34-2009-80000269, as set forth in the letter signed by the General Counsel on September 1, 2010.

Director Sanchez requested to be recorded as abstaining.

48415 Legal and Claims Committee Chairman Quiñonez moved, seconded by Director Edwards and carried, that the Board adopt the CEQA determination and authorize execution of settlement agreement with RNL Design and Simon Wong & Associates regarding claims arising out of the Diemer Plant Maintenance Facility and Vehicle Maintenance Center projects, as set forth in the confidential letter signed by the General Counsel and the General Manager on September 7, 2010.

Director Sanchez requested to be recorded as abstaining.

48417 Organization and Personnel Committee Chairman J. Murray reported that the committee approved Option #1 as modified to authorize the Chair of the Board of Directors to retain outside counsel for a maximum amount of \$50,000 to provide assistance in the development of employment contracts with Metropolitan's four department heads who report directly to the Board, as set forth in the revised letter signed by the Chairman of the Organization and Personnel Committee on September 8, 2010. Committee Chairman J. Murray then moved Option #1 as modified, seconded by Director Quiñonez.

Board Vice Chair Steiner then offered a friendly amendment to the motion, requesting that the \$50,000 be reduced to \$25,000, which was accepted by the maker of the motion.

Following a discussion on the use of in-house counsel, the existing contracts with the department heads, and severance packages, Director Blake moved to table the motion. Director Barbre seconded the motion to table Agenda Item 8-8, retention of outside counsel for a maximum of \$25,000 to develop employment contracts with department heads who report directly to the Board of Directors.

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

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

Ayes: Beverly Hills (Dir. Wunderlich, 2,102 votes), Burbank (Dir. Brown, 1,818 votes), Calleguas Municipal Water District (Dir. Grandsen, 7,870 votes), Central Basin Municipal Water District (Aye: Dir. Hawkins. Absent: Dir. Montalvo. 10,798 votes), Eastern Municipal Water District (Dir. Record, 5,341 votes), Foothill Municipal Water District (Dir. Edwards, 1,278 votes), Fullerton (Dir. Blake, 1,450 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,918 votes), Los Angeles (Dir. Fleming, 9,873 votes), Municipal Water District of Orange County (Dirs. Ackerman, Barbre, Dick, and Foley, 34,418 votes), Santa Ana (Dir. Griset, 1,966 votes), Three Valleys Municipal Water District (Dir. De Jesus, 4,896 votes), Torrance (Dir. Wright, 2,211 votes), West Basin Municipal Water District (Aye: Dir. Little. Absent: Dir. Gray. 13,723 votes), Western Municipal Water District of Riverside County (Dir. Evans, 7,409 votes). Total 107,071 votes.

Noes: Inland Empire Utilities Agency (Dir. Santiago, 7,988 votes), Los Angeles (Dirs. Grunfeld, J. Murray, and Quiñonez, 29,619 votes), San Diego County Water Authority (Noes: Dirs. Heidel, Lewinger, and Steiner. Absent: Dir. Pocklington. 36,545 votes), Santa Monica (Dir. Abdo, 2,371 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 7,263 votes). Total 83,786 votes.

Abstain: Compton (Dir. Sanchez, 316 votes). Total 316 votes.

Not Participating: Pasadena (Dir. Brick, 2,058 votes). Total 2,058 votes.

Absent: Anaheim (Dir. K. Murray, 3,405 votes), Glendale (Dir. Friedman, 2,256 votes), Long Beach (Dir. Lowenthal, 3,731 votes), San Fernando (Dir. Ballin, 144 votes), San Marino (Dir. Morris, 422 votes). Total 9,958 votes).

The Chair declared the motion to table Agenda Item 8-8 adopted by a vote of 107,071 ayes, 83,786 noes, 316 abstain, 2,058 not participating, and 9,958 absent.

48418 Organization and Personnel Committee Chairman J. Murray reported that the committee approved an amended Option #1 to approve amendments to the Administrative Code as set forth in the letter signed by the General Counsel and the General Manager on September 8, 2010, regarding the updating of Division VI, Chapter 1, "Employee Relations", of the Metropolitan Water District Administrative Code, with the removal of proposed Section 6109(e).

Committee Chairman J. Murray then moved, seconded by Board Vice Chair Steiner, that the Board adopt the CEQA determination and approve amendments to the Administrative Code set forth in Attachment 2 of the foregoing letter to reflect the changes recommended in the letter, including the removal of Section 6109(e).

Director Edwards commented on the discussion at the Organization and Personnel Committee wherein he expressed his concern on Section 6113(b) regarding appeals to the committee.

Director Edwards therefore offered an amendment to the motion to add to the last sentence of Section 6113(b) to read "Any decision of the Organization and Personnel Committee on the use of such procedures, and/or any decision of the Organization and Personnel Committee determining the substance of the dispute shall be forwarded to the Board to take action as needed and shall be final and binding." Director Blake seconded the motion.

The Chair called for a vote on the motion as amended by Director Edwards.

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

Ayes: Beverly Hills (Dir. Wunderlich, 2,102 votes), Burbank (Dir. Brown, 1,818 votes), Calleguas Municipal Water District (Dir. Grandsen, 7,870 votes), Central Basin Municipal Water District (Aye: Dir. Hawkins. Absent: Dir. Montalvo. 10,798 votes), Eastern Municipal Water District (Dir. Record, 5,341 votes), Foothill Municipal Water District (Dir. Edwards, 1,278 votes), Fullerton (Dir. Blake, 1,450 votes), Municipal Water District of Orange County (Dirs. Ackerman, Barbre, Dick, and Foley, 34,418 votes), Santa Ana (Dir. Griset, 1,966 votes), Three Valleys Municipal Water District (Dir. De Jesus, 4,896 votes), Torrance (Dir. Wright, 2,211 votes), West Basin Municipal Water District (Aye: Dir. Little. Absent: Dir. Gray. 13,723 votes), Western Municipal Water District of Riverside County (Dir. Evans, 7,409 votes). Total 95,280 votes.

Noes: Inland Empire Utilities Agency (Dir. Santiago, 7,988 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,918 votes), Los Angeles (Dirs. Fleming, Grunfeld, J. Murray, and Quiñonez, 39,492 votes), San Diego County Water Authority (Noes: Dirs. Heidel, Lewinger, and Steiner. Absent: Dir. Pocklington. 36,545 votes), Santa Monica (Dir. Abdo, 2,371 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 7,263 votes). Total 95,577 votes.

Abstain: Compton (Dir. Sanchez, 316 votes). Total 316 votes.

Not Participating: Pasadena (Dir. Brick, 2,058 votes). Total 2,058 votes.

Absent: Anaheim (Dir. K. Murray, 3,405 votes), Glendale (Dir. Friedman, 2,256 votes), Long Beach (Dir. Lowenthal, 3,731 votes), San Fernando (Dir. Ballin, 144 votes), San Marino (Dir. Morris, 422 votes). Total 9,958 votes).

The Chair declared the motion failed by a vote of 95,280 ayes, 95,577 noes, 316 abstain, 2,058 not participating, and 9,958 absent.

The Chair called for a vote on the main motion offered by Organization and Personnel Committee Chairman J. Murray, which carried.

48419 The following communications were submitted to the Board for information:

- a. Review budget for Bay Delta Conservation Plan and Delta Habitat Conservation and Conveyance Program, signed by the General Manager on September 1, 2010.
- b. Preliminary analysis of the State Water Project calendar year 2011 charges, signed by the General Manager on September 8, 2010.

Directors Dick, Evans, and Quiñonez withdrew from the Meeting at 1:28 p.m.

Director Hawkins withdrew from the Meeting at 1:35 p.m.

48420 Audit and Ethics Committee Chairman Wunderlich stated that under AB 1234, ethics training is required for all California public officials every two years. Earlier within this two-year cycle the first session covered the Brown Act and other ethics issues; and after today's session the requirements for the two-year training would be completed. Committee Chairman Wunderlich then introduced Elizabeth Martyn who would be conducting the training session on laws relating to fair processes including due process, incompatibility of offices, and competitive bidding requirements for public contracts.

Elisabeth Martyn, J.D. of Lewis Brisbois Bisgaard & Smith, gave the final presentation of the AB 1234 requirement for this year regarding (1) Due Process, (2) Public Contracting, and (3) Incompatibility of Office.

48421 There being no objection, the Chairman adjourned the Meeting at 2:25 p.m.

JUDY ABDO

SECRETARY

TIMOTHY F. BRICK

CHAIRMAN