

MINUTES

REGULAR MEETING OF THE

BOARD OF DIRECTORS

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

February 8, 2011

48541 The Board of Directors of The Metropolitan Water District of Southern California met in Regular Meeting in the Board Room located in the building at 700 North Alameda Street in the City of Los Angeles, State of California, on Tuesday, February 8, 2011.

Chairman Foley called the Meeting to order at 12:30 p.m.

48542 The Meeting was opened with an invocation by Gilbert F. Ivey, Assistant General Manager/Chief Administrative Officer.

48543 The Pledge of Allegiance to the Flag was given by Bobby McDonald, President of the Black Chamber of Commerce of Orange County, and a Buffalo Soldier.

48544 Board Secretary Morris called the roll. Those answering present were: Directors Abdo, Ackerman, Ballin, Barbre, Blake, Brick, Brown, De Jesus, Dick, Edwards, Evans, Fellow, Fleming, Foley, Friedman, Grandsen, Gray, Griset, Grunfeld, Hawkins, Heidel, Lewinger, Little, Lowenthal, Montalvo, Morris, J. Murray, K. Murray, Peterson, Quiñonez, Record, Steiner, Wright, and Wunderlich.

Those not answering were: Directors Bowersox, Camacho, and Sanchez.

Chairman Foley declared a quorum present.

48545 Chairman Foley invited members of the public to address the Board on matters within the Board's jurisdiction.

David Thornton, Catherine Rips, and Dr. Walt Johnson of Angel View Crippled Children's Foundation requested that the Board execute a quitclaim deed relinquishing Metropolitan's easement rights that traverse its property located north of the I-10 Highway near the Colorado River Aqueduct in Desert Hot Springs.

Paul Curran, Chief Development Officer of Axio Power, provided background information on Axio Power with regard to Agenda Item 8-1, option agreements for renewable energy development on Metropolitan's Diamond Valley Lake (DVL) property.

Deanna Elliano, Community Development Director, City of Hemet, and Linda Krupa, Councilmember from the City of Hemet, addressed the Board regarding the city's support of Option #2 in the board letter regarding the proposed DVL land use plan (Agenda Item 8-8) given that the city is currently updating its General Plan.

48546 There being no objection, Chairman Foley ordered the reading of the Minutes of the Meeting for January 11, 2011, dispensed with, a copy having been mailed to each Director.

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

48547 A written report of meetings attended by Directors at Metropolitan expense during the month of January was distributed, which was received and filed.

48548 Chairman Foley presented to Director Quiñonez a pin for his five years of service on Metropolitan's Board, representing the City of Los Angeles.

48549 General Counsel Tachiki reported that the credentials received from Inland Empire Utilities Agency on its appointment of Michael Camacho for an indefinite term to Metropolitan's Board of Directors were examined and found to be in compliance with the Metropolitan Water District Act, and that Mr. Camacho was sworn in on February 3, 2011.

Chairman Foley stated that due to a previous commitment, Director Camacho was not at today's Meeting but would be present for the March Meeting.

48550 The General Counsel's letter signed January 28, 2011, was presented, transmitting the credentials evidencing the reappointment by the City of Fullerton of James H. Blake as its representative on Metropolitan's Board for an indefinite term.

General Counsel Tachiki reported the credentials had been examined and found legally sufficient, and that the Oath of Office had been administered to Director Blake on February 7, 2011.

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

48551 Vice Chairman J. Murray moved, seconded by Director Peterson and carried, that the Board approve the following committee assignments as recommended by Chairman Foley:

Director Morris to Legislation Committee
Director Peterson off Communications and Education Committee
Directors Ackerman, Camacho, Griset, and Record to the Legal and Claims Committee

Chairman Foley announced that he has renamed the Organization and Personnel Committee to Organization, Personnel and Technology Committee.

48552 Chairman Foley reported on events in which he participated, as follows:

- January 19 - At the invitation of Director Fleming, attended the Southern California Leadership Council, an impressive group of individuals including two past governors, at the California Club in Los Angeles.
- January 26 - Attended the Association of California Engineering Consultants event at the Wyndham Hotel in Costa Mesa.
- February 2 - Along with General Manager Kightlinger and Deputy General Manager Waade, met with the editorial board of the Orange County Register.

48553 Regarding Colorado River, Bay-Delta, and CALFED matters, General Manager Kightlinger referred to the activity report for January dated January 31, 2011, which was posted to the Directors' website.

General Manager Kightlinger announced the sudden death of Roscoe Lynn Wilson, one of Metropolitan's long-term employees who worked in the desert. Mr. Wilson spent his 37-year career at Metropolitan, and he was involved in the repairs and rehab of the machine that was used to clean the tunnels and the design of the scrubbing machine in the desert. General Manager Kightlinger stated that Roscoe Wilson would certainly be missed.

General Manager Kightlinger reported that there is currently a shutdown of the Colorado River Aqueduct for its cleaning and rehabbing.

General Manager Kightlinger stated that February is Black History month and invited the Directors to view the exhibits in the rotunda and, if they wished, to participate in the various events to be held throughout the month.

48554 Regarding Legal Department activities, General Counsel Tachiki referred to the General Counsel's activity report for January dated February 1, 2011, which was posted to the Directors' website.

General Counsel Tachiki reminded those Directors who have not submitted their Fair Political Practices Commission (FPPC) Form 700 that they are due shortly and requested that the forms be submitted in order to meet the deadline.

48555 General Auditor Riss referred to the Audit Department's activity report for the month of January, dated January 31, 2011, which was posted to the Directors' website.

General Auditor Riss stated that three reports were issued: (1) Diemer Plant Improvements Program Audit Report; (2) Business Continuity Program Audit Report; and (3) Remarketing Statement for the Water Revenue Refunding Bonds, 2009 Series A-1.

General Auditor Riss stated that reports (1) and (2) received an opinion of a generally satisfactory internal control

structure; and that report (3) was a "comfort" letter that consisted of specific procedures required by the Official Statement, and that no exceptions were noted.

48556 On behalf of Ethics Officer Elliott, Executive Strategist M. Wheeler referred to the activity report for January dated January 31, 2011, which was posted to the Directors' website.

Ms. Wheeler reported that the Ethics Office is currently reviewing policy revisions with the Legal Department and the General Manager's office. The Ethics Office is also working with Human Resources on the reasonable suspicion training that will begin later this month.

Director K. Murray commented on the matter of the easement on the Angel View Crippled Children Foundation's property being reported to the Ethics Office. Director K. Murray requested that this matter be agendized at a future committee meeting.

48557 Chairman Foley stated that Agenda Item 7-1, the contract for external audit services with KPMG LLP, has been taken off the Consent Calendar.

Director Peterson moved seconded by Board Vice Chairman J. Murray and carried, and the Board approved the Consent Calendar Item, **M.I. 48558** as follows:

48558 Adopted the California Environmental Quality Act (CEQA) determination and (a) appropriated \$285,000 (Appropriation No. 15438, No. 12, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and authorized (b) final design to rehabilitate Service Connection DW-CV-2T; and (c) preliminary design to rehabilitate the Colorado River Aqueduct pumping plant sump systems, as set forth in the letter signed by the General Manager on January 24, 2011.

48559 Audit and Ethics Committee Chair Friedman requested that Director Wunderlich give the report on Agenda Item 7-1, the contract for external audit services with KPMG LLP, since he was the chairman of the committee at the time of the committee's approval.

Director Wunderlich reported that the Audit and Ethics Committee considered this item at length after the committee designated a panel of four Directors to conduct interviews. The panel reviewed the three proposals and interviewed each firm, evaluating the team proposed, the firm's overall resources and knowledge, fees, and whether the firm recommended periodically rotating auditors. The panel recommended awarding the contract for external audit services to KPMG LLP.

Director Wunderlich then moved that the Board adopt the CEQA determination and authorize the General Auditor to enter into a contract for external audit services with the firm KPMG LLP for annual and quarterly audits covering the fiscal years ending June 30, 2011 through June 30, 2013, with the amount payable under this three-year contract not to exceed \$1,132,800, as set forth in the letter signed by the General Auditor on January 18, 2011. Board Vice Chairman Record seconded the motion.

Director De Jesus commented on again giving the external audit services contract to KPMG, especially with another firm submitting a lower fee. Director De Jesus recommended giving the contract to Macias Gini O'Connell LLP (MGO).

Director Barbre then moved a substitute motion to award the three-year contract to MGO for an amount not to exceed \$898,080.

A discussion ensued among the Board on Metropolitan occasionally changing outside firms; how long KPMG has provided external audit services to Metropolitan; the contract awarded to Price Waterhouse in 2006/07, which withdrew before the contract was complete; and considering a policy for changing auditors.

Director Steiner referred to the letter from the San Diego County Water Authority's delegates on Metropolitan's Board sent to Board Chairman Foley and Members of the Board of Directors, dated February 7, 2011, regarding their opposition to Agenda Item 7-1, the awarding of a contract to KPMG for independent audit services.

Following further discussion on the motions, Director Wunderlich again moved that the Board adopt the CEQA

determination and authorize the General Auditor to enter into a contract for external audit services with the firm KPMG LLP for annual and quarterly audits covering the fiscal years ending June 30, 2011 through June 30, 2013, with the amount payable under this three-year contract not to exceed \$1,132,800, as set forth in the letter signed by the General Auditor on January 18, 2011. Board Vice Chairman Record seconded the motion.

Director De Jesus then moved the substitute motion, seconded by Director Barbre, that the three-year contract be awarded to MGO for an amount not to exceed \$898,080.

Chairman Foley called for a vote on the substitute motion.

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

Ayes: Calleguas Municipal Water District (Dir. Grandsen, 7,870 votes), Central Basin Municipal Water District (Drs Hawkins and Montalvo, 10,798 votes), Long Beach (Dir. Lowenthal, 3,731 votes), Municipal Water District of Orange County (Dir. Barbre, 11,472.66 votes), San Diego County Water Authority (Ayes: Dirs. Heidel, Lewinger, and Steiner. Absent: Dir. Bowersox. 36,545 votes), Three Valleys Municipal Water District (Dir. De Jesus, 4,896 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 7,263 votes), West Basin Municipal Water District (Drs. Gray and Little, 13,723 votes). Total 96,298.66 votes.

Noes: Anaheim (Dir. K. Murray, 3,405 votes), Beverly Hills (Dir. Wunderlich, 2,102 votes), Burbank (Dir. Brown, 1,818 votes), Eastern Municipal Water District (Dir. Record, 5,341 votes), Fullerton (Dir. Blake, 1,450 votes), Glendale (Dir. Friedman, 2,256 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,918 votes), Los Angeles (Drs. Fleming, Grunfeld, J. Murray, and Quiñonez, 39,492 votes), Municipal Water District of Orange County (Drs. Ackerman and Dick, 22,945.34 votes), Pasadena (Dir. Brick, 2,058 votes), San Fernando (Dir. Ballin, 144 votes), San Marino (Dir. Morris, 422 votes), Santa Ana (Dir. Griset, 1,966 votes), Santa Monica (Dir. Abdo, 2,371 votes), Torrance (Dir. Wright, 2,211 votes), Western Municipal Water District of Riverside County (Dir. Evans, 7,409 votes). Total 97,308.34 votes.

Abstain: Foothill Municipal Water District (Dir. Edwards, 1,278 votes). Total 1,278 votes.

Absent: Compton (Dir. Sanchez, 316 votes, Inland Empire Utilities Agency (Dir. Camacho, 7,988 votes). Total 8,304 votes.

Not Participating: Municipal Water District of Orange County (Dir. Foley, zero votes). Total zero votes.

Chairman Foley declared the substitute motion failed by a vote of 96,298.66 ayes, 97,308.34 noes, 1,278 abstain, 8,304 absent, and zero not participating.

Chairman Foley called for a vote on the original motion to award the external audit services contract to KPMG LLP for three years for a total not to exceed \$1,132,800.

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

Ayes: Anaheim (Dir. K. Murray, 3,405 votes), Beverly Hills (Dir. Wunderlich, 2,102 votes), Calleguas Municipal Water District (Dir. Grandsen, 7,870 votes), Central Basin Municipal Water District (Dirs Hawkins and Montalvo, 10,798 votes), Eastern Municipal Water District (Dir. Record, 5,341 votes), Fullerton (Dir. Blake, 1,450 votes), Glendale (Dir. Friedman, 2,256 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,918 votes), Los Angeles (Dirs. Fleming, Grunfeld, J. Murray, and Quiñonez, 39,492 votes), Municipal Water District of Orange County (Dirs. Ackerman and Dick, 22,945.34 votes), Pasadena (Dir. Brick, 2,058 votes), San Fernando (Dir. Ballin, 144 votes), San Marino (Dir. Morris, 422 votes), Santa Ana (Dir. Griset, 1,966 votes), Santa Monica (Dir. Abdo, 2,371 votes), Torrance (Dir. Wright, 2,211 votes), Western Municipal Water District of Riverside County (Dir. Evans, 7,409 votes). Total 114,158.34 votes.

Noes: Burbank (Dir. Brown, 1,818 votes), Long Beach (Dir. Lowenthal, 3,731 votes), Municipal Water District of Orange County (Dir. Barbre, 11,472.66 votes), San Diego County Water Authority (Noes: Dirs. Heidel, Lewinger, and Steiner. Absent: Dir. Bowersox. 36,545 votes), Three Valleys Municipal Water District (Dir. De Jesus, 4,896 votes), Upper San Gabriel

Valley Municipal Water District (Dir. Fellow, 7,263 votes), West Basin Municipal Water District (Dirs. Gray and Little, 13,723 votes). Total 79,448.66 votes.

Abstains: Foothill Municipal Water District (Dir. Edwards, 1,278 votes). Total 1,278 votes.

Absent: Compton (Dir. Sanchez, 316 votes, Inland Empire Utilities Agency (Dir. Camacho, 7,988 votes). Total 8,304 votes.

Not Participating: Municipal Water District of Orange County (Dir. Foley, zero votes). Total zero votes.

Chairman Foley declared the original motion passed by a vote of 114,158.34 ayes, 79,448.66 noes, 1,278 abstain, 8,304 absent, and zero not participating.

48560 Real Property and Asset Management Committee Chairman Hawkins moved, seconded by Director Wright, that the Board adopt the CEQA determination and authorize (a) staff to initiate CEQA compliance and entitlement activities related to the proposed Diamond Valley Lake (DVL) solar projects; and (b) expenditures not to exceed \$1.5 million to fund those activities, as set forth in the letter signed by the General Manager on February 1, 2011.

There was a discussion on land use entitlements; whether Metropolitan or the project proponent should pay for entitlements and CEQA compliance; and the city of Hemet's update to the General Plan.

Director Peterson made a substitute motion to adopt the CEQA determination and authorize (a) staff to initiate CEQA compliance and entitlement activities for all affected properties as described in the letter signed by the General Manager on February 1, 2011; and (b) expenditures not to exceed \$3 million to fund those activities enabling Metropolitan to accommodate the city of Hemet's request to coordinate with their planned General Plan update (Appropriation No. 15334). Director Brick seconded the substitute motion.

Further discussion followed on the future development of the properties, general plans, specific plans, the spending of money to move the properties through a development process,

and the process that is currently in existence for Metropolitan to sell the properties.

Director Evans moved, seconded by Director Blake, to table the item and return it to the committee.

Director K. Murray withdrew from the Meeting at 1:50 p.m.

Committee Chairman Hawkins reported on the history of the properties, and the merits of proceeding with this work to attract outside developers and obtain income from long term leases. Committee Chairman Hawkins encouraged the Board to take immediate action on this matter.

General Manager Kightlinger informed the Board that Agenda Item 8-1 (option agreements for lease of 627 acres of Metropolitan's Diamond Valley Lake property for a renewable energy project) could not proceed if the item under discussion was tabled since proposals for solar leases are brought up yearly in March.

Director Quiñonez withdrew from the Meeting at 1:51 p.m.

After further discussion, Director Peterson withdrew his substitute motion. By withdrawing the substitute motion, the General Counsel indicated there was no need to vote on the motion to table. Director Peterson moved the original motion with an amendment, as follows:

That the Board adopt the CEQA determination and authorize (a) staff to initiate CEQA compliance and entitlement activities related to the proposed Diamond Valley Lake (DVL) solar projects; and (b) expenditures not to exceed \$1.5 million to fund those activities, as set forth in the letter signed by the General Manager on February 1, 2011, with the staff coming back in two or three months with a report to consider the whole land use plan.

The above motion was seconded by Director Brick.

Chairman Foley called for a vote on the motion as amended, which carried.

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

48561 Real Property and Asset Management Committee Chairman Hawkins moved, seconded by Director Wright and carried, that the Board adopt the CEQA determination and authorize entering into option agreements for lease of 627 acres of Metropolitan's Diamond Valley Lake property for a renewable energy project, subject to project approvals, as set forth in the revised confidential letter signed by the General Manager on February 1, 2011.

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

48562 Legislation Committee Chair Ackerman moved, seconded by Director Blake and carried, that the Board approve Option #2 as set forth in the letter signed by the General Manager on January 27, 2011, which is to adopt the CEQA determination and express opposition to AB 134 (Dickinson, D-Sacramento and Steinberg, D-Sacramento) - Sacramento Regional County Sanitation District.

48563 Legislation Committee Chair Ackerman moved, seconded by Director Edwards and carried, that the Board take a "watch" position on SB 52 (Steinberg, D-Sacramento) - Water Quality: Sacramento Regional County Sanitation District, as described in the letter signed by the General Manager on January 27, 2011, and continue to monitor the legislation.

48564 Engineering and Operations Committee Chairman Evans moved, seconded by Board Vice Chairman J. Murray and carried, that the Board adopt the CEQA determinations and (a) appropriate \$2.18 million (Appropriation No. 15369, No. 34, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and authorize (b) Metropolitan force construction to rehabilitate the Weymouth washwater reclamation facilities; and (c) construction of the Weymouth North Perimeter Security Wall, as set forth in the letter signed by the General Manager on January 26, 2011.

48565 Engineering and Operations Committee Chairman Evans moved, seconded by Director Blake and carried, that the Board adopt the CEQA determination and (a) appropriate \$3.1 million; and (b) authorize final design of the Chemical Unloading Facility Chlorine Containment Facility, as set forth in the letter signed by the General Manager on January 25, 2011.

Secretary Morris requested to be recorded as abstaining.

48566 Water Planning and Stewardship Committee Chairman De Jesus moved, seconded by Director Fleming and carried, that the Board adopt the CEQA determination and approve the proposed adjustments of 9,148 acre-feet to Central Basin Municipal Water District's 2004/06 Base Period Local Supplies in Metropolitan's Water Supply Allocation Plan, as set forth in the letter signed by the General Manager on January 24, 2011.

Director Edwards requested to be recorded as abstaining.

48567 Legal and Claims Committee Chairman Wunderlich moved, seconded by Director Fleming and carried, that the Board adopt the CEQA determination and authorize an increase of \$900,000 for a total of \$5,725,000 in maximum amount payable under contract with Morrison & Foerster for legal services in the *San Luis & Delta-Mendota Water Authority, et al. v. Salazar, et al.*, USDC Case No. 1:09-CV-407 OWW GSA, and consolidated cases; and *San Luis & Delta-Mendota Water Authority et al. v. Locke, et al.*, USDC Case No. 1:09-CV-1053 OWW DLB, and consolidated cases, as set forth in the confidential letter signed by the General Counsel on January 25, 2011.

48568 Legal and Claims Committee Chairman Wunderlich moved, seconded by Director Fleming and carried, that the Board authorize settlement in *Andrew James Ellsworth, Jr. v. Metropolitan Water District of Southern California, et al.*, LASC Case No. BC421320.

48569 The following communications were submitted to the Board for information:

- a. Report on a Draft Long-Term Conservation Plan, signed by the General Manager on January 27, 2011.

- b. Review of limits on Forward Energy Purchases for Colorado River Aqueduct pumping, signed by the General Manager on January 24, 2011.
- c. Conference with Labor Negotiators.

Chairman Foley stated that the Organization and Personnel Committee had no report on this item.

48570 Director Brick commented on the request from the representatives of the Angel View Crippled Children's Foundation and requested that this item be added to a future agenda of the Real Property and Asset Management Committee.

Director Fellow stated that he and Director Brick attended the water technology seminar at the University of La Verne on January 27. Director Fellow expressed his congratulations to the scientists at the Weymouth plant (Rick De Leon, Sun Liang, Carrie Guo) and others who did an outstanding job.

Director Fellow requested that the Meeting be adjourned in memory of Tim Jochem, former General Manager of Upper San Gabriel Valley Municipal Water District, who passed away suddenly.

48571 There being no objection, at 2:13 p.m., the Chairman adjourned the Meeting in memory of Tim Jochem.

JOHN T. MORRIS

SECRETARY

JOHN V. FOLEY

CHAIRMAN