

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MINUTES

LEGAL AND CLAIMS COMMITTEE

June 11, 2013

Chair Fleming called the meeting to order at 8:30 a.m. in Committee Room 2-145 at Metropolitan's Headquarters.

Members present: Chair Fleming, Vice Chair Wunderlich, Directors Ackerman, Ballin, Camacho, Dick, Edwards, Griset, Mudd, Record, and Steiner.

Members absent: Directors Quiñonez and Vasquez.

Other Board members present: Directors Babcock, Barbre, Brown, Lewinger, Little, Morris, Peterson, Pringle, Touhey, and Wright.

Staff present: Scully, Bennion, Beatty, Breaux, Burman, Byrge, Cole, Dunn, Gagar-Downing, Hasencamp, Horton, Hughes, Ivey, Kear, Kightlinger, Man, Miyashiro, Patterson, Pellegrini, Purkiss, Riss, Schlotterbeck, Skillman, Torres, Upadhyay, Vanderhorst, Waade, and Zinke.

1. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION

No members responded.

2. APPROVAL OF THE MINUTES OF THE LEGAL AND CLAIMS COMMITTEE MEETING HELD MAY 14, 2013.

Motion Carried Moved: Director Edwards Seconded: Director Camacho

Votes: Unanimous

3. CONSENT CALENDAR ITEMS – ACTION

None

4. OTHER BOARD ITEMS – ACTION

8-8 Subject: **Discussion of potential claims and legal actions regarding the Delta Stewardship Council’s certification of the Program Environmental Impact Report for the Delta Plan, and its adoption of the Delta Plan and associated regulations. (Closed session)**

Presented by: Senior Deputy General Counsel Robert Horton

Closed Session: In closed session, Senior Deputy General Counsel Robert Horton gave a report on this item and the committee voted to authorize the General Counsel to file or participate in the litigation.

8-9 Subject: **Report on *John Del Toro v. Metropolitan Water District of Southern California*, Los Angeles Superior Court Case No. BC482264; and authorize an increase in the maximum amount payable under contract with Atkinson, Andelson, Loya, Ruud & Romo for legal services by \$25,000 to an amount not to exceed \$125,000. (Closed session)**

Presented by: Chief Deputy General Counsel Henry Torres

Closed Session: In closed session, Chief Deputy General Counsel Henry Torres gave a report on this item.

Motion: Adopt the CEQA determination that the proposed action is not defined as a project under CEQA, and authorize the General Counsel to amend the agreement with Atkinson, Andelson, Loya, Ruud & Romo to increase by \$25,000 the maximum amount payable under the contract to a total of \$125,000.

Motion Carried Moved: Director Steiner Seconded: Director Ballin

Votes: Unanimous

5. BOARD INFORMATION ITEMS

None

6. COMMITTEE ITEMS

- a. Subject: **General Counsel's report of monthly activities**

Presented by: General Counsel Marcia Scully

General Counsel Marcia Scully informed the committee of a change in the Board agenda, which now includes references to the specific CEQA determinations being made on each action item because of a recent court case ruling interpreting the Brown Act to require such on agendas. Beginning next month, all committee and board agendas will include the language.

Ms. Scully also informed the committee that in the Santa Ana sucker case, an amicus brief was prepared by ACWA and Metropolitan joined in.

- b. Subject: **General Counsel's Business Plan**

Presented by: General Counsel Marcia Scully

General Counsel Marcia Scully presented her business plan for fiscal year 2013/2014. The role of the Legal Department is to support the Board and the General Manager, represent the District and provide legal advice. Ms. Scully presented key priorities for the coming fiscal year.

Motion: Approve General Counsel's Business Plan.

Motion Carried: Moved: Director Steiner Seconded: Director Edwards

Votes: Unanimous

- c. Subject: **Report on Consolidated Delta Smelt Cases, USDC Case No. 1:09-CV-407 LJO-DLB; and Consolidated Salmonid Cases, USDV Case No. 1:09-CV-1053 LJO-DLB**

Presented by: General Counsel Marcia Scully

No report was given on this item.

- d. Subject: **Report on existing litigation, *In re QSA Cases*, Sacramento County Superior Court JCCP Proceeding No. 4353.**

Presented by: Senior Deputy General Counsel John Schlotterbeck

In closed session, Senior Deputy General Counsel John Schlotterbeck gave a report on this item. No action was taken.

- e. Subject: **Report on *San Diego County Water Authority v. Metropolitan Water District of Southern California, et al.*, San Francisco County Superior Court Case No. CPF-10-510830 and No. CPF-12-512466**

Presented by: Assistant General Counsel Heather Beatty

No report was given on this item.

7. FOLLOW-UP ITEMS

None

8. FUTURE AGENDA ITEMS

None

Next meeting will be held on July 9, 2013.

Meeting adjourned at 10:20 a.m.

David Fleming
Chair