

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MINUTES

LEGAL AND CLAIMS COMMITTEE

November 14, 2017

Chair Quiñonez called the meeting to order at 8:31 a.m. in Committee Room 2-145 at Metropolitan's Headquarters.

Members present: Chair Quiñonez, Vice Chair McKenney, Directors Atwater, Camacho, Dear, Dick, and Murray.

Members absent: Directors Cordero, Paskett, Sinanyan, and Steiner.

Other Board members present: Board Chairman Record, Directors Beard, Blois, Dake, De Jesus, Faessel, Gedney, Hogan, Kurtz, Lefevre, Lewinger, Morris, Peterson, and Saxod.

Staff present: Scully, Beatty, Kear, Atkins, Breaux, Horton, Hudson, Jankovic, G. Johnson, Kightlinger, Kuo Brinton, Mares, Miyashiro, Parsons, Pitman, Shraibati, Sims, Stites, Upadhyay, 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 OCTOBER 10, 2017

Motion: Carried
Moved: Director Murray Seconded: Camacho
Ayes: Chair Quiñonez, Vice Chair McKenney, Directors Atwater, Camacho, Dear, Dick, and Murray
Noes: None
Abstentions: None
Absent: Directors Cordero, Paskett, Sinanyan, and Steiner

The motion passed by a vote of 7 ayes, 0 no, 0 abstain, and 4 absent.

3. MANAGEMENT REPORTS

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

Presented by: General Counsel Marcia Scully

General Counsel Marcia Scully highlighted the addition of a California WaterFix Litigation Summary to her Monthly Activity Report. She also reported on Metropolitan's filing of initial documents in the California WaterFix validation action litigation.

Ms. Scully further reported on two new federal lawsuits; one that asserts the Colorado River ecosystem should have a status as a person and be able to sue for protections, and the other a challenge to the EPA regarding fluoridation of water.

4. CONSENT CALENDAR ITEMS – ACTION

None

5. OTHER BOARD ITEMS – ACTION

8-4 Subject Adopt CEQA determination and report on existing litigation: *Shimmick Construction Company, Inc./Obayashi Corporation, a Joint Venture v. The Metropolitan Water District of Southern California*, LASC Case No. BC559603; and authorize increase of maximum amount payable under contract with Hunt Ortmann Palffy Darling & Mah, Inc. for legal services by \$1.1 million to an amount not to exceed \$2.1 million (Approp. 15389).

Presented by: Senior Deputy General Counsel Mark Parsons

Motion: Adopt CEQA determination that the proposed action is not defined as a project; and
Authorize amendment of the contract for legal services with Hunt Ortmann Palffy Darling & Mah, Inc. for legal services by \$1,100,000 for an amount not to exceed \$2,100,000.

In closed session, Senior Deputy General Counsel Mark Parsons gave a report on item 8-4.

In open session, the committee voted.

Moved: Director Murray Seconded: Director Camacho
Ayes: Chair Quiñonez, Vice Chair McKenney, Directors Atwater, Camacho,
Dear, Dick, and Murray
Noes: None
Abstentions: None
Absent: Directors Cordero, Paskett, Sinanyan, and Steiner

Chair Quiñonez declared the motion passed by a vote of 7 ayes, 0 noes, 0 abstain,
and 4 absent.

8-5 Subject Adopt CEQA determination and report on existing litigation
challenging the purchase of property from Delta Wetlands
Properties in Contra Costa and San Joaquin Counties, including
*County of San Joaquin v. Metropolitan Water District of Southern
California, et al.*, San Joaquin County Superior Court Case No.
STK-CV-UWM-2016-3597; and *Central Delta Water Agency, et
al. v. Delta Wetlands Properties, et al.*, Contra Costa County
Superior Court Case No. C16-01022; and authorize an increase in
the maximum amount payable under contract with Best, Best &
Krieger LLP for legal services by \$400,000 to a maximum amount
payable of \$800,000.

Presented by: Chief Deputy General Counsel Robert Horton and Senior Deputy
General Counsel Catherine Stites

Motion: Adopt CEQA determination that the proposed action is not defined
as a project; and
 Authorize an increase in the maximum amount payable under
contract with Best, Best & Krieger LLP for legal services by
\$400,000 to a maximum amount payable of \$800,000.

In closed session, Chief Deputy General Counsel Robert Horton and Senior Deputy
General Counsel Catherine Stites gave a report on item 8-5.

In open session, the committee voted.

Moved: Director Camacho Seconded: Director Murray
Ayes: Chair Quiñonez, Vice Chair McKenney, Directors Atwater, Camacho,
Dear, Dick, and Murray
Noes: None
Abstentions: None
Absent: Directors Cordero, Paskett, Sinanyan, and Steiner

Chair Quiñonez declared the motion passed by a vote of 7 ayes, 0 noes, 0 abstain,
and 4 absent.

8-6 Subject Adopt CEQA determination and report on existing litigation: *San Diego County Water Authority v. Metropolitan Water District of Southern California, et al.*, San Francisco County Superior Court Case Nos. CPF-10-510830, CPF-12-512466, CPF-14-514004 and CPF-16-515282; the appeal of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. A146901 and A148266 and California Supreme Court Case No. S243500; and Los Angeles County Superior Court Case No. BS169881; and authorize an increase in maximum amount payable under contract for legal services with Manatt, Phelps & Phillips, LLP in the amount of \$2,500,000 for a total amount not to exceed \$2,900,000.

Presented by: Assistant General Counsel Heather Beatty

Motion: Adopt CEQA determination that the proposed action is not defined as a project; and
 Authorize an increase in the maximum amount payable under the contract for legal services with Manatt, Phelps & Phillips, LLP in the *SDCWA v. Metropolitan, et al.* litigation in the amount of \$2,500,000 for a total amount not to exceed \$2,900,000.

Moved: Director Murray Seconded: Director Dick
Ayes: Chair Quiñonez, Vice Chair McKenney, Directors Atwater, Camacho, Dear, Dick, and Murray
Noes: None
Abstentions: None
Absent: Directors Cordero, Paskett, Sinanyan, and Steiner

Directors Hogan, Lewinger, and Saxod, representing the San Diego County Water Authority, withdrew from the meeting for the report on this item.

In closed session, Assistant General Counsel Heather Beatty gave a report on item 8-6.

In open session, the committee voted.

Chair Quiñonez declared the motion passed by a vote of 7 ayes, 0 noes, 0 abstain, and 4 absent.

6. BOARD INFORMATION ITEMS

None

7. COMMITTEE ITEMS

a. Subject: Discussion of Department Head Performance and Goal Setting

Presented by: Human Resources Group Manager Diane Pitman

In closed session, Diane Pitman introduced this item. General Counsel Marcia Scully gave a presentation for discussion by the committee. No action was taken.

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

None

Next meeting will be held on December 12, 2017.

Meeting adjourned at 9:38 a.m.

Jesus Quiñonez
Chair