

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**LEGAL AND CLAIMS COMMITTEE**

**July 10, 2018**

Vice Chair McKenney called the meeting to order at 9:01 a.m. in Committee Room 2-145 at Metropolitan's Headquarters.

Members present: Chair Quiñonez (entered at 9:02 a.m.), Vice Chair McKenney, Directors Camacho, Cordero, Paskett (entered at 9:03 a.m.), and Steiner.

Members absent: Directors Atwater, Dick, Murray, and Sinanyan.

Other Board members present: Board Chairman Record, Directors Ackerman, Ballin, Barbre, Beard, Blois, Dake, Faessel, Kurtz, Lefevre, Morris, Peterson, Saxod and Treviño.

Staff present: Scully, Beatty, Kear, Kightlinger, Miyashiro, and Upadhyay.

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

No members responded.

Chair Quiñonez entered the meeting at 9:02 a.m.

Due to lack of quorum, items were taken out of order.

**3. MANAGEMENT REPORTS**

- a.           Subject:           General Counsel's report of monthly activities
- Presented by:       General Counsel Marcia Scully

General Counsel Marcia Scully gave a report on a federal lawsuit brought against the United States, the State of California, the State of Arizona, and Metropolitan by an individual lessee of property on Yuma Island. The court dismissed the two states leaving the United States and Metropolitan in the case and allowed the plaintiff to file a new complaint.

Ms. Scully also reported on an AFSCME grievance that Metropolitan prevailed at both trial court and the California Appellate Court. AFSCME has petitioned the California Supreme

Court for review and also requested that the court depublish the case.

Lastly, Ms. Scully mentioned two newly released books regarding the City of Flint water crisis called, “What the Eyes Don’t See” and “The Poisoned City.”

The following Directors provided comments or asked questions:

1. Director Steiner asked if the federal case referenced in the General Counsel’s written report was filed in federal court in Arizona.

Director Paskett entered the meeting at 9:03 a.m.

## **2. APPROVAL OF THE MINUTES OF THE LEGAL AND CLAIMS COMMITTEE MEETING HELD JUNE 12, 2018.**

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

The motion passed by a vote of 5 ayes, 0 no, 1 abstain, and 4 absent.

## **4. CONSENT CALENDAR ITEMS – ACTION**

None

## **7. COMMITTEE ITEMS**

- a. Subject: General Counsel’s Business Plan for fiscal year 2018/19  
Presented by: General Counsel Marcia Scully

General Counsel Marcia Scully gave a report on this item. No action was taken.

## 5. OTHER BOARD ITEMS – ACTION

**8-7** Subject: Report on May 7, 2018 Notice of Brown Act Violation, adopt CEQA determination and authorize an increase in maximum amount payable under contract for legal services with Miller Barondess, LLP by \$250,000 to an amount not to exceed \$350,000.

Presented by: General Counsel Marcia Scully

Motion: Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to the provisions of CEQA, and  
Authorize an increase in the maximum amount payable under the contract with Miller Barondess, LLP by \$250,000 to an amount not to exceed \$350,000.

Moved: Director Camacho                      Seconded: Director Steiner

Ayes: Chair Quiñonez, Vice Chair McKenney, Directors Camacho, Cordero, Paskett, and Steiner

Noes: None

Abstentions: None

Absent: Directors Atwater, Dick, Murray, and Sinanyan

The motion passed by a vote of 6 ayes, 0 noes, 0 abstain, and 4 absent.

The following Directors provided comments or asked questions:

1. Board Chairman Record responded to comments relating to the alleged Brown Act violation and the process for the California WaterFix vote.
2. Chair Quiñonez stated that at a future meeting the committee would hear an additional report regarding the alleged Brown Act violation as requested by Director Paskett.
3. Director Paskett raised concerns regarding how Metropolitan will address individual actions by Directors as opposed to the cure of any alleged Brown Act violation by Metropolitan as an entity. She submitted documents into the record regarding the issue and requested that an independent entity evaluate the actions by individual Directors relative to compliance with the Brown Act.
4. Director Paskett also requested a future agenda item to consider more formal procedural rules for conduct of Metropolitan Board and committee meetings, such as Robert's Rules.
5. Director Peterson commented on general compliance with the Brown Act over time.
6. Director Steiner requested assurance that if the funds are not required for this matter, they will not be used for other matters. The General

Counsel confirmed that is correct.

7. Director Steiner requested that the larger Brown Act item be put on the agenda for a future meeting.
8. General Manager Kightlinger noted that the requests for future agenda items will be referred to the Executive Committee.

## 6. BOARD INFORMATION ITEMS

None

## 7. COMMITTEE ITEMS

- b. Subject: Report on existing litigation regarding Metropolitan Water District of Southern California v. Desert Milling, Inc., John Frederick Benson, et al., Case No. BC687102 (LASC, Central District, filed December 15, 2017)

Presented by: Senior Deputy General Counsel Karen Donovan

Senior Deputy General Counsel Karen Donovan gave a report on this item. No action was taken.

- c. Subject: Report on 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, CPF-16-515282, CPF-16-515391 and CGC-17-563350; 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; the petition for extraordinary writ in the second 2016 action, Court of Appeal for the First Appellate District Case No. A154325; and Los Angeles County Superior Court Case No. BS173868.

Presented by: Assistant General Counsel Heather Beatty

Directors Saxod and Steiner, 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 presentation on this item. No action was taken.

## 8. FOLLOW-UP ITEMS

None

## **9. FUTURE AGENDA ITEMS**

During discussion of Item 8-7, Directors Paskett and Steiner requested that a full review and investigation regarding the alleged Brown Act violation be placed on a future agenda. Director Paskett submitted documents to be included in the record.

Director Paskett asked that consideration of the use of more formal procedural rules, such as Robert's Rules of Order, rather than the existing Chairman's Rules at Metropolitan be added to a future agenda.

Next meeting will be held on August 21, 2018.

Meeting adjourned at 9:58 a.m.

Jesús Quiñonez  
Chair