

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**ADJOURNED LEGAL AND CLAIMS COMMITTEE**

**August 20, 2019**

Acting Chair Dick called the meeting to order at 9:02 a.m. in Committee Room 2-145 at Metropolitan's Headquarters.

Members present: Directors Atwater, Dick, Hall, Murray (entered 9:15 a.m.), Paskett (entered 9:21 a.m.), Record, and Smith.

Members absent: Chair McKenney, Vice Chair Quiñonez, Director Goldberg.

Other Board members present: Chairwoman Gray, Directors Ackerman, Barbre, Blois, Butkiewicz, Faessel, Hogan, Kurtz, Lefevre, Morris, Peterson, Pressman, and Treviño.

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

**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 JULY 9, 2019.**

Motion: Carried  
Moved: Director Atwater                      Seconded: Director Hall  
Ayes: Directors Atwater, Dick, Hall, Record, and Smith  
Noes: None  
Abstentions: None  
Absent: Directors Goldberg, McKenney, Murray, Paskett, and Quiñonez

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

**3. MANAGEMENT REPORT**

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

General Counsel Marcia Scully introduced two new staff attorneys, Juan Redin and Anthony Zepeda, to the committee. She also gave a brief update on the Navajo Nation lawsuit.

#### 4. CONSENT CALENDAR ITEMS – ACTION

None

Acting Chair Dick announced that there would be a reordering of the meeting agenda. Item 7a would be heard first.

#### 5. COMMITTEE ITEMS

a. Subject: Social Media, Public Officials and the First Amendment

Presented by: Deputy General Counsel Betty Kuo Brinton

Deputy General Counsel Betty Brinton gave a report on this item. No action was taken.

The following Directors provided comments or asked questions:

1. Smith

Director Murray entered the meeting at 9:15 a.m.

Director Paskett entered the meeting at 9:21 a.m.

Acting Chair Dick announced that due to time constraints, item 7b would be deferred.

b. Subject: General Counsel's Business Plan for Fiscal Year 2019/20

This item was deferred.

#### 6. OTHER BOARD ITEMS – ACTION

**8-7** 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, CGC-17-563350, and CPF-18-516389; 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 2010 and 2012 actions, Court of Appeal for the First Appellate District Case No. A155310; and the petition for extraordinary writ in the second 2016 action, Court of Appeal for the First Appellate District Case No. A154325 and California Supreme Court Case No. S251025; and authorize increase in maximum amount payable under contract for legal services with Horvitz & Levy, LLP in the amount of \$150,000 for a total amount not to exceed \$600,000; the General Manager has

determined that the proposed action is exempt or otherwise not subject to CEQA.

**[Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]**

Presented by: Assistant General Counsel Heather Beatty

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

In closed session, General Counsel Marcia Scully gave a report on this item. In open session, the committee voted.

Motion: Authorize an increase in the maximum amount payable under contract for legal services with Horvitz & Levy, LLP in the *SDCWA v. Metropolitan, et al.* rate litigation in the amount of \$150,000 for a total amount not to exceed \$600,000

Moved: Director Atwater                      Seconded: Director Hall  
Ayes: Directors Atwater, Dick, Hall, Murray, Paskett, and Record  
Noes: None  
Abstentions: None  
Absent: Chair McKenney and Vice Chair Quiñonez

The motion passed by a vote of 6 ayes, 0 noes, 0 abstain, and 2 absent.

## 7. BOARD INFORMATION ITEMS

None

## 5. COMMITTEE ITEMS (CONT'D)

- c.            Subject:            Review Settlement Proposal received from SDCWA and 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, CGC-17-563350, and CPF-18-516389; 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 2010 and 2012 actions, Court of Appeal for the First Appellate District Case No. A155310; and the petition

for extraordinary writ in the second 2016 action, Court of Appeal for the First Appellate District Case No. A154325 and California Supreme Court Case No. S251025

**[Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]**

Presented by: General Counsel Marcia Scully

Directors Butkiewicz, Hogan, and Smith, representing the San Diego County Water Authority, remained absent from the meeting for the report on this item.

In closed session, General Counsel Marcia Scully gave a report on this item. No action was taken.

## **8. FOLLOW-UP ITEMS**

None

## **9. FUTURE AGENDA ITEMS**

None

Next meeting will be held on September 10, 2019.

Meeting adjourned at 10:26 a.m.

Larry Dick  
Chair