

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MINUTES

ADJOURNED AUDIT AND ETHICS COMMITTEE

November 4, 2019

Chair Ramos called the meeting to order at 4:00 p.m. in Committee Room 2-145 at Metropolitan Headquarters.

Members present: Chair Ramos, Directors Butkiewicz, Hogan, Kurtz (entered at 4:02 p.m.), McKenney, Quiñonez and Smith.

Members absent: Vice Chair Paskett, Directors Ackerman, Ballin and Barbre.

Other Board Members present: Chairwoman Gray, Directors Goldberg, Peterson and Record.

Staff present: Beatty, Kightlinger, Riss, Rodriguez, Salinas, Scully, Tonsick and Von Haam

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

None

2. APPROVAL OF THE MINUTES OF THE AUDIT AND ETHICS COMMITTEE MEETING HELD ON OCTOBER 7, 2019

Motion: Carried

Moved: Director McKenney Seconded: Director Hogan

Ayes: Directors Butkiewicz, Hogan, McKenney, Quiñonez, Ramos and Smith

Noes: None

Abstentions: None

Absent: Directors Ackerman, Ballin, Barbre, Kurtz and Paskett

The motion passed by a vote of 6 ayes, 0 noes, 0 abstain, and 5 absent

3. MANAGEMENT REPORTS

- a. Subject: Ethics Officer's report

Presented by: Ethics Officer Abel Salinas

Mr. Salinas reported he attended the opening of the Regional Recycled Water Purification Center.

- b. Subject: General Auditor's report

Presented by: General Auditor Gerald Riss

Mr. Riss reported that there were three reports issued during the month. He noted that two of these were audit reports that were issued with Generally Satisfactory Audit Opinions. Further, he noted that the audit report response to the Quigley Simpson Hepplewhite audit was received the same day the report was issued. He added that the Bard Water District's Land Management and Seasonal Fallowing Pilot Program audit report also received a clean rating. Finally, he noted that the Quarterly Consulting and Service Contracts Review for the period ending June 30, 2019 was issued.

4. COMMITTEE ITEMS

- a. Subject: Discussion of Independent Auditor's Report from KPMG, LLP for fiscal year 2018/19

Presented by: Chris Ray, KPMG, LLP

Mr. Ray discussed the results of the audit of the basic financial statements of Metropolitan Water District of Southern California as of and for the year ended June 30, 2019. He noted that the audit was conducted in accordance with the terms established in the agreement number 177666 dated February 13, 2018. He added that this document should be read in conjunction with their audit plan, presented on July 23, 2019. Topics discussed:

- KMPG issued an unmodified opinion.
- There have been no significant changes to our planned risk assessment and audit strategy.
- Discussed significant accounting policies within the financial statements, including effects of recent GASB pronouncements such as accounting for operating leases:
 - Principles of Presentation
 - Revenue Policies
 - Taxing Authority

- Participation Right
- Pension Accounting
- OPEB Accounting
- Description of significant accounting estimates, audit considerations, significant financial statement disclosures, qualitative and other aspects:
 - Net Pension Liability
 - Other post-employment benefits
- Discussed required communications and other matters

5. CONSENT CALENDAR ITEMS – ACTION

None

6. OTHER BOARD ITEMS – ACTION

- A. Subject: Recommend that the Board, after applicable staff communication with the bargaining units, approve proposed ethics-related amendments to the Administrative Code; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Presented by: Lance H. Olson, Olson, Hagel & Fishburn LLP

Mr. Olson and Mr. Salinas provided an overview and summary of the proposals contained in Board Letter 6A. Discussion by the Committee focused on four aspects of the amendments.

- Limiting gifts from contractors to employees
- Process for investigating discrimination, harassment, or retaliation claims involving directors
- Lobbyist registration and reporting
- Language on misleading associations and prohibited abuse of authority

1) Gifts to employees

On this issue, page 3 of Board Letter 6A proposes two alternatives. Alternative 1 applies new gift limits to all employees; Alternative 2 applies new gift limits only to employees who must file Form 700 disclosures. As stated in the Board Letter, Mr. Salinas recommends that any gift limit apply to all employees. Staff modified Alternative 1 to address certain Committee members' concern that it could be unfair to enforce a gift ban if employees did not know the identity of the donor or if the donor was a restricted source

(such as a Metropolitan contractor). To address this concern, staff modified Alternative 1 to apply only when the employee has knowledge that the donor is a restricted source.

Motion: Approve Alternative 1 as stated in the Board Letter; this language would replace the language for Section 7122 in the proposed amendments. The limit would apply to all employees and would apply only if an employee knew that the donor was a contractor or other type of restricted source.

Moved: Director McKenney

Seconded: Director Quinonez

Ayes: all Committee members present by show of hands.

The motion passed by unanimous consent.

2) Investigating discrimination, harassment, or retaliation involving directors

On this issue, Board Letter 6A (pages 5 and 6) contains a suggestion by staff that the Committee modify proposed Section 2416(f)(5) to give the ad hoc subcommittee the option of consulting with the Ethics Office or Legal Department on issues that might arise in investigations involving directors.

By memorandum addressed to the Committee, the San Diego County Water Authority delegation requested that the Ethics Officer retain primary responsibility for handling discrimination or harassment investigations concerning directors.

First Motion: Remove Section 2416(f)(5) from today's vote and reconsider it at a later date.

Moved: Director Smith

Seconded: Director Butkiewicz

The motion failed by show of hands.

Second Motion: Approve Section 2416(f)(5) as modified by the consultation option in staff's suggestion. In addition, extend this process to include investigations of alleged discrimination or harassment involving the General Manager.

Moved: Director McKenney

Seconded: Director Quinonez

Ayes: all Committee members present by show of hands.

The motion passed by unanimous consent.

3) Lobbyist registration and reporting

In its memorandum addressed to the Committee, the San Diego County Water Authority delegation requested changes to the definition of “lobbyist” in Section 7105(l) of the proposed amendments.

Motion: Modify section 7105(l) by adding that individuals employed by, retained by, or holding office with a governmental entity are not deemed lobbyists subject to these regulations.

Moved: Director Smith

Seconded: Director Hogan

Ayes: all Committee members present by show of hands.

The motion passed by unanimous consent.

4) Language on misleading associations and prohibited abuse of authority

In its memorandum addressed to the Committee, the San Diego County Water Authority delegation requested changes in language for misleading associations (Section 7102) and misuse of authority (Section 7121).

As discussed further during the meeting, the delegation requested that the language on misleading associations not be limited to public disclosure; and that it retain a general prohibition applicable to Metropolitan officials, consistent with individuals’ First Amendment rights.

On misleading associations, the delegation requested deleting the final clause of Section 7121: “... other than one naturally arising from proper performance of their governmental duties.” Mr. Olson explained that this language exists to ensure a government official cannot be found in violation simply because an action benefited or harmed the official or a third party. Proper performance of official duties can and does provide benefits to the officials carrying out those duties, such as receiving a promotion or raise for doing a good job. Abuse of authority occurs when the benefit gained is not normally associated with proper performance; for example, a bribe or kickback. Staff believes the language can be modified for clarity while maintaining the substance of this limitation.

Without a vote, the Committee members directed Mr. Olson to consider the input of the Committee and General Counsel regarding misleading associations and misuse of authority, and prepare refined language for later consideration.

The Committee then voted on Item 6A in totality.

Motion: Approve Option #1 in the Board Letter, modified to incorporate all votes and amendments of the Committee at this meeting, and with further language on misleading associations and misuse of authority to be considered at a later date.

Motion: Carried
Moved: Director Quiñonez Seconded: Director McKenney
Ayes: Directors, Hogan, Kurtz, McKenney, Quiñonez, Ramos and Smith
Noes: Butkiewicz
Abstentions: None
Absent: Directors Ackerman, Ballin, Barbre, and Paskett
The motion passed by a vote of 6 ayes, 1 noes, 0 abstain, and 4 absent

Along with Chair Ramos, the following Directors asked questions or provided comments:

1. McKenney
2. Quinonez
3. Hogan
4. Goldberg
5. Smith
6. Kurtz
7. Butkiewicz

7. BOARD INFORMATION ITEMS

None

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

None

Meeting adjourned at 5:31 p.m.

Marsha Ramos
Chair