



**MINUTES OF THE SPECIAL BOARD OF DIRECTORS' MEETING
INCLUDING JOINT MEETINGS WITH ADMINISTRATIVE AND FINANCE
IMPORTED WATER AND WATER PLANNING COMMITTEES**

JUNE 10, 2010

1. **Call to order**
Chair Lewis called the Administrative and Finance Committee meeting to order at 1:30 p.m.
2. **Roll call – determination of quorum**
Secretary Wornham called the roll. Board members present were Arant, Blackburn, Bond, Bowersox, Croucher, Dailey, Dion, Ferguson, Heidel, Hilliker, Hogan, Jungreis, Lewinger, Lewis, Linden, McMillan, Morrison, Mudd, Muir, Petty, Pocklington, Price, Saunders, Saxod, Smith, Steiner, Tu, Watton, Wight, H. Williams, K. Williams and Wornham. Directors absent were Knutson, Martin, McIntosh, and Representative Slater-Price. There was a quorum of the Board. Chair Lewis was the proxy for Director Martin and Director Bowersox was the proxy for Director McIntosh. Staff present was General Manager Stapleton, General Counsel Hentschke, Deputy General Managers Belock and Kerl, Assistant General Manager Cushman, Director of Water Resources Weinberg.
3. **Public comment**
At that time there were no members of the public that wished to speak. There were public speakers later in the meeting who are listed by the item in which they spoke.
4. **Joint meeting with Administrative and Finance Committee**
CLOSED SESSION:
Conference with Labor Negotiator, Government Code §54957.6
Agency Designated Representatives: Frank Belock, Susan Leone
Employee Organization: California Teamsters Public, Professional and Medical Employees Union Local 911

Mr. Hentschke took the Administrative and Finance Committee and Board into Closed Session at 1:35 p.m. Mr. Hentschke brought the Administrative and Finance Committee and Board out of Closed Session at 2:15 p.m. and stated the Board gave directions, the directions were not reportable, and no action was taken.

5. **Joint meeting with Imported Water Committee**

CLOSED SESSION:

Conference with Legal Counsel – Initiation of Litigation
Government Code §54956.9(c) – One Case

Ms. Stapleton presented on Metropolitan Water District's rate structure. She stated MWD's rate structure misallocated significant water supply costs to transportation. Approximately 80% of MWD's State Water Project supply costs were misallocated through the System Access rate and System Power rate onto transportation. She reviewed the efforts to resolve the rate dispute, the consequences of misallocated MWD rates, and the net long-term range of impacts on the Water Authority.

Following the presentation Mr. Hentschke took the Imported Water Committee and Board into Closed Session at 2:45 p.m. Mr. Hentschke brought the Committee and Board out of Closed Session at 3:55 p.m. He reported the action taken:

Authorize General Counsel and Special Counsel to file suit challenging Metropolitan's allocation of State Water Project costs and Water Stewardship costs under its current rate structure. Confirm the Chair's appointment of a negotiating team and authorize continued negotiations with Metropolitan pursuant to the Exchange Agreement. Direct the General Manager to:

- Return at the June 24th Board meeting with a recommendation to initiate a rate structure analysis/cost of service study of the Water Authority's rate structure.
- Include in the recommended FY 2011 budget the anticipated costs of these actions to be taken from the Authority's reserves.

Mr. Hentschke stated Director Wornham made the motion, Director Mudd seconded and the motion passed unanimously.

6. **Joint meeting with Water Planning Committee**

6-A Presentation and consideration of Carlsbad Desalination Project implementation and related agreements.

Chair Lewis stated he had read the opinion of Mr. Hentschke regarding the participation by representatives of the nine member agencies who had water purchase contracts with Poseidon in the decisions relating to Water Authority incentive payments and guarantee or "backstopping" of MWD incentive payments and that he did not agree with Mr. Hentschke's opinion. Chair Lewis invited the other

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eight agencies that were involved to recuse themselves if they wished. No Board members chose to recuse themselves.

Directors Watton and Lewinger expressed concerns. Director Lewinger requested Mr. Hentschke take the Water Planning Committee and the Board into Closed Session. Mr. Hentschke advised a Closed Session be added to the agenda for the potential litigation related to the issue of a potential conflict of interest pertaining to participation by certain Water Authority directors. The basis for the closed session was the threat of litigation contained in the public testimony of a lawyer from the Coastal Law Group during the May Board meeting relating to potential conflicts of interest.

Director Lewinger made a motion to add the Closed Session, Director Ferguson seconded, and the motion passed. Directors Muir and Howard Williams voted no.

At 4:10 p.m. Mr. Hentschke announced pursuant to Government Code §54956.9 the Water Planning Committee and Board would go into Closed Session.

At 4:40 p.m. Mr. Hentschke brought the Water Planning Committee and Board out of Closed Session. He reported the Board did confer with legal counsel and no action was taken. He stated he wanted to clarify that there were two items on the agenda related to the Carlsbad Desalination Project, the open session presentation and a closed session relating to certain real property matters. However, no action was being recommended, and there would be no motion made or vote taken on either item. Because this was merely an information session, the board members who had a potential conflict may participate during the meeting. Further, because the Closed Session involved solely a potential real property transaction between the Water Authority and Poseidon with respect to certain aspects of the project, the members who might potentially be disqualified may participate in the Closed Session.

Chair Lewis introduced two Public Speakers: Ms. Livia Borak from the Coast Law Group/Coastal Environmental Right Foundation spoke of her concern regarding potential conflict of interest pertaining to the nine member agencies involved in the desalination partnership. Mr. Jim Donnell from Poseidon stated he was available to answer questions if needed during open session.

Ms. Stapleton began the presentation stating the project was part of the Water Authority's 2002 Regional Water Facilities Master Plan and was part of the recommended "Supply from the West". Mr. Weinberg reviewed the status of the project and the agreements needed for implementation. In addition he reviewed the potential rate impacts and Ms. Stapleton reviewed the options.

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- 6-B CLOSED SESSION:
Conference with Real Property Negotiator
Government Code §54956.8
Property: Real property interests for Carlsbad Desalination
Facility, Conveyance and Distribution Pipelines, and Aqueduct
connection
Agency Negotiators: Daniel Hentschke, Maureen Stapleton,
Sandra Kerl, Ken Weinberg, Eric Sandler, William Busch
Negotiating Parties: Poseidon Channelside, LLC
Under Negotiation: Price and terms of acquisition

Mr. Hentschke took the Water Planning Committee and Board into Closed Session at 5:40 p.m. He reminded the Board there would no discussion regarding incentive payments. Mr. Hentschke brought the Water Planning Committee and Board out of Closed Session at 6:45 p.m. and stated no action or direction was taken or given.

7. Adjournment

There being no additional business to come before the Board, Chair Lewis adjourned the meeting at 6:45 p.m.

Claude A. Lewis, Chair