

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MINUTES

LEGAL AND CLAIMS COMMITTEE

February 13, 2023

Chair Sutley called the hybrid teleconference meeting to order at 8:04 a.m.

Members present: Chair Sutley, Directors Camacho, Cordero, Dick, Kurtz, McCoy, Miller, Peterson, Ramos, and Repenning

Members absent: None

Other Directors present: Chairman Ortega, Directors Abdo, Ackerman, Alvarez, Armstrong, Atwater, De Jesus, Dennstedt, Faessel, Fellow, Fong-Sakai, Garza, Goldberg, Gray, Lefevre, Luna, Morris, Petersen, Pressman, Quinn, Seckel, and Smith

Committee Staff present: Beatty, Hagekhalil, Miyashiro, Scully, Torres, and Upadhyay

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

None

2. MANAGEMENT REPORTS

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

General Counsel Scully had nothing to add to her written report.

CONSENT CALENDAR ITEMS – ACTION

3. CONSENT CALENDAR OTHER ITEMS – ACTION

None

Chair Sutley announced a reordering of the agenda items taking Committee Item 7a first.

7. COMMITTEE ITEMS

7a Subject Update on the current status of Colorado River Negotiations. [Conference with legal counsel – anticipated litigation; based on existing facts and circumstances, including that requiring significant water use reductions in relation to the Supplemental

Environmental Impact Statement for the 2007 Guidelines could lead to litigation among the United States and one or more Colorado River water users; there is a significant exposure to litigation against Metropolitan: unknown number of potential cases; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(2)].

Presented by: Bill Hasencamp, Meena Westford, Shanti Rosset, and Laura Lamdin

Staff gave a presentation in open session. No action was taken.

The following Directors asked questions or made comments:

1. Dick
2. Miller
3. Lefevre
4. Peterson
5. Smith
6. Petersen
7. Repenning
8. Gray (presence only)
9. Armstrong
10. Chair Ortega

Staff responded to the Directors' comments and questions.

Director Phan recused herself on Item 8-1 as the City of Torrance is a client of her employer Rutan and Tucker and would leave to room when that discussion takes place.

Director Smith recused the SDCWA delegation on Item 8-1.

4. CONSENT CALENDAR ITEMS – ACTION

- 7-4** Subject: Report on Baker Electric, Inc. v. Metropolitan Water District of Southern California, et al., (Los Angeles Superior Court Case No. 21STCV15612) regarding Metropolitan's CRA 6.9 kV Power Cables Replacement Project, Contract No. 1915; authorize an increase in the maximum amount payable under contract with Musick, Peeler & Garrett LLP, for legal services by \$800,000 to an amount not-to-exceed \$1,700,000; and authorize an increase in the maximum amount payable under contract with HKA Global, Inc., for consulting services by \$300,000 to an amount not-to-exceed \$400,000; the General Manager has determined 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: No presentation was given.

Motion: Authorize an increase in the maximum amount payable under contract with Musick, Peeler & Garrett LLP, for legal services by \$800,000 to an amount not to exceed \$1,700,000; and authorize an increase in the maximum payable under contract with HKA Global, Inc. for consultant services by \$300,000 to an amount not to exceed \$400,000.

7-5 Subject: Report on American Federation of State, County & Municipal Employees Local 1902 v. Metropolitan Water District of Southern California pending Administrative Hearing Officer Appeal and authorize an increase in the maximum amount payable under contract for legal services with Renne Public Law Group by \$100,000 to an amount not to exceed \$200,000; 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: No presentation was given.

Motion: Authorize the General Counsel to increase the maximum amount payable under a contract with Renne Public Law Group for legal services by \$100,000, to an amount not to exceed \$200,000.

7-6 Subject: Update on Sierra Club et al. v. California Department of Water 21-1916 Resources, Sacramento County Superior Court Case No. 34-2020-80003517 (consolidated with 34-2020-00283112) and request for authorization to increase maximum amount payable under a contract with Atkinson, Andelson, Loya, Ruud & Romo, PLC by \$150,000 to an amount not to exceed \$250,000; 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: No presentation was given.

Motion: Authorize the General Counsel to amend the agreement with Atkinson, Andelson, Loya, Ruud & Romo, PLC to increase the maximum amount payable by Metropolitan by \$150,000 to an amount not to exceed \$250,000.

END OF CONSENT CALENDAR ITEMS

5. OTHER BOARD ITEMS – ACTION

8-1 Subject: Report on litigation in San Diego County Water Authority v. 21-1933 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 appeals of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. A146901, A148266, A161144, and A162168, 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; 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 the Metropolitan Water District of Southern California v. San Diego County Water Authority cross-complaints in the 2014, 2016, and 2018 actions; and consider San Diego County Water Authority’s proposal: (1) to stipulate to stay proceedings in the 2014, 2016, and 2018 actions; and (2) to engage in settlement negotiations prior to issuance of the court’s statement of decision in those actions; 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: General Counsel Marcia Scully and Barry Lee (Manatt, Phelps & Phillips)

General Counsel Marcia Scully and outside counsel Barry Lee gave a presentation in closed session. There were no reportable actions taken.

Director Phan recused herself on Item 7-6 as Atkinson, Andelson is a client of her employer Rutan and Tucker and she will leave to room during the vote.

In open session, Director Kurtz made a motion, seconded by Director Ramos, to approve the consent calendar consisting of items 7-4, 7-5 and 7-6:

The vote was:

Ayes: Chair Sutley, Directors Camacho, Cordero, Dick, Kurtz, McCoy, Peterson, Ramos, and Repenning

Noes: None

Abstentions: None

Absent: Director Miller

All items passed by a vote of 9 ayes, 0 noes, 0 recusals, 0 abstention, and 1 absent.

6. BOARD INFORMATION ITEMS

None

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

None

Next meeting will be held on March 13, 2023.

Meeting adjourned at 10:42 a.m.

Nancy Sutley
Chair