

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**FINANCE AND INSURANCE COMMITTEE**

**March 7, 2022**

Vice Chair Record called the teleconference meeting to order at 2:16 p.m.

Members present: Vice Chair Record, Directors Blois, Dick, Faessel, Goldberg, Hawkins, Jung, Ramos, Smith, and Tamaribuchi.

Members absent: Directors Dennstedt, Ortega, and Quinn.

Other Board Members present: Chairwoman Gray, Directors Abdo, Ackerman, Atwater, Cordero, De Jesus, Erdman, Fellow, Fong-Sakai, Kurtz, Lefevre, Luna, Miller, Peterson, and Pressman.

Committee Staff present: Beatty, Hagekhalil, Kasaine, Ros, Scully, Upadhyay

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

Charles Gibson, Director of Santa Margarita Water District, commented in support of Colorado Basin salinity control program.

<b>CONSENT CALENDAR ITEMS — ACTION</b>
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**2. CONSENT CALENDAR OTHER ITEMS – ACTION**

- A. Subject: Approval of the Minutes of the Finance and Insurance Committee held February 7, 2022

**3. CONSENT CALENDAR ITEMS – ACTION**

No presentation was given; Director Blois made a motion, seconded by Director Jung, to approve the consent calendar consisting of item 2A.

The vote was:

Ayes: Directors Blois, Dick, Faessel, Goldberg, Hawkins, Jung, Ramos, Record, Smith, and Tamaribuchi

Noes: None

Abstentions: None

Absent: Directors Dennstedt, Ortega, and Quinn

The motion passed by a vote of 10 ayes, 0 noes, 0 abstain, and 3 absent.

<b>END OF CONSENT CALENDAR ITEMS</b>
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**4. OTHER BOARD ITEMS – ACTION**

None

**5. BOARD INFORMATION ITEMS**

9-2	Subject:	Review of the applicability of the Metropolitan Water District Act Section 124.5 ad valorem property tax limitation for fiscal years 2022/23 through 2025/26
	Presented by:	Samuel Smalls, Manager of Treasury and Debt Management
<p>Ms. Kasaine introduced the item and Mr. Smalls presented the committee with an overview of Metropolitan Water District (MWD) Act Section 124.5 ad valorem property tax for fiscal years 2022/23 and 2025/26. He presented an overview of property taxes, revenue sources, outstanding debt service, State Water Contract costs, and a comparison of fixed versus variable expenditures to fixed versus variable revenues. Next, he provided an overview of credit rating assessment, Metropolitan’s fiscal integrity, and next steps.</p> <p>The following Directors provided comments or asked questions:</p> <ol style="list-style-type: none"><li>1. Goldberg</li><li>2. Smith</li><li>3. Erdman</li></ol> <p>Staff responded to Directors’ comments and questions.</p> <p>Director Goldberg noted that on February 3, 2022, the San Diego County Water Authority submitted a letter commenting on Item 7-1, and requested that the letter be made part of the record.</p> <p>Patty Quilizapa noted that on February 11, 2022, Metropolitan Water District submitted a letter responding to San Diego County Water Authority’s letter dated February 3, 2022.</p>		

## **6. WORKSHOP/COMMITTEE ITEMS**

- a. Subject: Proposed biennial budget, which includes the Capital Investment Plan and revenue requirements for fiscal years 2022/23 and 2023/24; proposed water rates and charges for calendar years 2023 and 2024 to meet revenue requirements for fiscal years 2022/23 and 2023/24; ten-year forecast; and Cost of Service Report (Workshop #3)
- Presented by: Katano Kasaine, Assistant General Manager/Chief Financial Officer  
Arnout Van den Berg, Section Manager- Revenue & Budget

Ms. Kasaine introduced the item and noted that a letter, dated February 19, 2022, was received from the San Diego County Water Authority commenting on Item 6a. She also noted Metropolitan Water District submitted a letter, dated March 4, 2022, responding to San Diego County Water Authority's letter. These items will be made part of the record.

Mr. Van den Berg presented the committee with the follow-up items from workshop 2. His presentation included historical and projected expenditures, and new revenue sources being pursued. He also discussed the difference between Water Resource Management (WRM) and the Office of Sustainability, Resilience and Innovation (SRI), what the reduction in rate increases would be for a reduction of CIP expenditures of \$20 million over the biennium and what the reduction of rate increases would be if \$20 million in reserves were used. Finally, he discussed the details for the increase in the Delta capital charge, OPEB and CalPERS liability, CalPERS Prepayment and a rate scenario with the hypothetical Delta conveyance project.

Ms. Kasaine concluded the presentation with next steps.

The following Directors provided comments or asked questions:

1. Smith
2. Faessel
3. Lefevre
4. Fong-Sakai
5. Dennstedt
6. DeJesus
7. Miller
8. Peterson
9. Erdman
10. Blois
11. Dick
12. Record
13. Tamaribuchi

Staff responded to Directors' comments and questions.

**7. MANAGEMENT REPORT**

- a. Subject: Chief Financial Officer's report  
No report was given.

**8. FOLLOW-UP ITEMS**

None

**9. FUTURE AGENDA ITEM**

None

**10. ADJOURNMENT**

The next workshop will be held on March 22, 2022.

Meeting adjourned at 4:48 p.m.

Randy Record  
Vice Chair



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

*Office of the General Counsel*

February 11, 2022

**VIA EMAIL**

Mark J. Hattam  
General Counsel  
San Diego County Water Authority  
4677 Overland Avenue  
San Diego, California 92123

Re: Response to your letter dated February 3, 2022

Dear Mr. Hattam:

I received your February 3, 2022 letter regarding Agenda Item 7-1 to set a combined public hearing regarding the proposed rates and charges for calendar years 2023 and 2024 and the review of the applicability of MWD Act Section 124.5 ad valorem property tax limitation for fiscal years 2022/23 through 2025/26. You raised three concerns, to which I provide responses in this letter.

First, you questioned whether the words, "review of applicability" of Section 124.5, provides "legally sufficient notice" about the matter the Board considered at its February Finance & Insurance Committee and Board meetings. However, you did not identify any legal provision that causes you to question the legal sufficiency of that language. You suggest we use "suspend," as you have suggested in the past and as was used in prior budget processes for shorter-term considerations. As stated in my February 10, 2020 letter on the same issue, both terms are proper for the actions taken by the Board. Additionally, as I also explained in my February 10, 2020 letter, the text of Section 124.5 uses the words, "do not apply" and not the words, "are suspended," for the Board determination. Thus, it is within the Board's discretion to determine whether the provision applies. Please see below for the text, with an emphasis on the text relied upon for Metropolitan's agenda item wording:

The restrictions contained in this section do not apply if the board of directors of the district, following a hearing held to consider that issue [whether the section applies], finds that a tax in excess of these restrictions is essential to the fiscal integrity of the district, and written notice of the hearing is filed with the offices of the Assembly and the President pro Tempore of the Senate at least 10 days prior to that date of the hearing." (MWD Act, §124.5 [emphasis added].)

Mark J. Hattam  
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February 11, 2022

You also stated that San Diego County Water Authority does not believe that it will be possible for the Board to make the requisite evidentiary finding for a four-year period or for the public and Board to have sufficient time to make the Section 124.5 determination prior to the public hearing on March 8, 2022. However, you provided no basis—legal or otherwise—for your assertion. Agenda item 7-1 was an action for the Board to set a hearing date. The action to make the determination will not be considered by the Board until April 11, 2022. Prior to that date, the Board will hold several workshops and a public hearing, and staff provides its recommendation, analysis, and supporting material in connection with the process. The budget material, including the complete proposed budget that was provided to directors, member agencies and the public before workshop #1, is posted on Metropolitan's website and accessible to the public. This was also done for prior determinations, as exemplified by the voluminous amount of information and material available for the Board's last Section 124.5 determination, available at: <https://www.mwdh2o.com/who-we-are/budget-finance/property-tax-rate-for-fy-202021/>.

I hope this information helps the San Diego County Water Authority in evaluating the relevant material and participating in the process. Should you have any further questions or concerns, please feel free to contact me.

Sincerely,



Marcia Scully  
General Counsel

cc: Metropolitan Board of Directors  
SDCWA Board of Directors  
Adel Hagekhalil, Metropolitan General Manager  
Sandra L. Kerl, SDCWA General Manager



Our Region's Trusted Water Leader  
**San Diego County Water Authority**

February 3, 2022

MEMBER AGENCIES

Carlsbad  
Municipal Water District  
City of Del Mar  
City of Escondido  
City of National City  
City of Oceanside  
City of Poway  
City of San Diego  
Fallbrook  
Public Utility District  
Helix Water District  
Lakeside Water District  
Olivenhain  
Municipal Water District  
Olay Water District  
Padre Dam  
Municipal Water District  
Camp Pendleton  
Marine Corps Base  
Rainbow  
Municipal Water District  
Ramona  
Municipal Water District  
Rincon del Diablo  
Municipal Water District  
San Dieguito Water District  
Santa Fe Irrigation District  
South Bay Irrigation District  
Vallecitos Water District  
Valley Center  
Municipal Water District  
Vista Irrigation District  
Yuima  
Municipal Water District  
OTHER  
REPRESENTATIVE  
County of San Diego

**VIA E-MAIL**

Marcia Scully, General Counsel  
Metropolitan Water District of Southern California  
700 N. Alameda Street  
Los Angeles, CA 90012  
(mscully@mwdh2o.com)

RE: Board memo 7-1: Set combined public hearing regarding: (1) the proposed water rates and charges for calendar years 2023 and 2024 necessary to meet the revenue requirements for fiscal years 2022/23 and 2023/24, and (2) review of the applicability of the MWD Act Section 124.5 ad valorem property tax limitation for fiscal years 2022/23 through 2025/26; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Dear Ms. Scully:

Under the above-referenced Board Memo 7-1, the MWD Board of Directors next week will consider setting a public hearing on suspension of MWD Act Section 124.5 tax rate limitations for a four-year period for fiscal years 2022/23 through 2025/26. Section 124.5 has a required finding that the collection of property taxes in excess of the statutory limitation is "essential to the fiscal integrity of the district." This determination must be made by the Board of Directors based on evidence in the record. We have the following concerns and objections.

First, we question whether MWD's public notice regarding "review of the applicability" of Section 124.5 provides legally sufficient notice about the real issue at hand, which is whether the statutory property tax limitation – which would otherwise reduce the amount of property taxes assessed and paid in the MWD service area – should be suspended. We reiterate this concern but will not debate the merits again since we have previously exchanged correspondence<sup>1</sup> on this point.

The second concern we have is with the new recommendation by staff to suspend the tax rate limitation for a *four-year period*. When MWD first began suspending the statutory tax reduction in 2014, it provided for an annual public hearing. Beginning in 2016, staff began to conduct a public hearing only once every two-years, as part of the biennial budget process. Now, staff is recommending that the board action cover a four-year period, for fiscal years 2022/23 through 2025/26. We do not believe that it will be possible for the Board to make the requisite evidentiary finding that suspension of the

<sup>1</sup> [Water Authority letter dated February 8, 2020](#) and [MWD letter dated February 10, 2020](#).

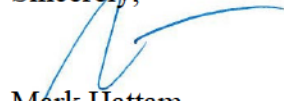
Ms. Scully  
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tax rate limitation is essential to the fiscal integrity of the district so far into the future, or for a period longer than the biennial budget under consideration.

Finally, we are concerned that the schedule presented in Board Memo 7-1 will not provide the public, MWD's member agencies, or even the Board itself with the requisite information in time for the public hearing. Board Memo 7-1 references February 8, 2022 Board Information Item 9-2, but that Memo is not yet posted on the website. Are we correct to assume that the complete budget proposal will at least be presented before next week's workshop #1? We are concerned because the February 22 workshop is only two weeks prior to the public hearing and the third workshop on March 7 is one day before the public hearing. If any new information is presented at or in connection with the second and third workshops, there is no practical ability or opportunity for member agencies or the public at large to engage or even for the board itself to review all of the information and make the requisite determination under Section 124.5.

Thank you for your consideration of these matters.

Sincerely,



Mark Hattam  
General Counsel

cc: Sandy Kerl, Water Authority GM  
Adel Hagekhalil, MWD GM  
Water Authority Board of Directors  
MWD Board of Directors