

**SWEETWATER AUTHORITY GOVERNING BOARD  
MINUTES OF THE REGULAR MEETING**

**January 13, 2010**

The Governing Board of Sweetwater Authority held a regular meeting on Wednesday, January 13, 2010, at the Sweetwater Authority Administrative Office, 505 Garrett Avenue, Chula Vista, California. Chair Pocklington called the meeting to order at 6:00 p.m.

- **ROLL CALL**

Directors Present: Ted Muehleisen, Bud Pocklington, \*Jose Preciado (6:37 p.m.), Maria Rubalcaba, Terry Thomas, and Margaret Welsh

Directors Absent: Ron Morrison

Others Present: General Manager Rogers, Operations Manager Smyth, Legal Counsel Cowett, Treasurer Farrow, and Board Secretary Schoonderwoerd. Staff members: Jack Adam, Janet Gonzalez, Bill Olson, George Silva, Don Thomson and Dina Yorba. Also present: Andy Sells and Joe Dion representing ACWA/JPIA.

- **PLEDGE OF ALLEGIANCE TO THE FLAG**

Director Rubalcaba conducted the pledge of allegiance to the flag.

- **CHAIR'S PRESENTATION**

There was none.

- **OPPORTUNITY FOR PUBLIC COMMENT (Government Code Section (54954.3))**

Chair Pocklington introduced Mr. Andy Sells, Chief Financial Officer of the Association of California Water Agencies Joint Power Insurance Authority (ACWA/JPIA), who was present from Sacramento to make a presentation to the Board. Mr. Sells introduced Mr. Joe Dion, a board member of the Citrus Heights Water District and member of the ACWA/JPIA Executive Committee. He noted that JPIA is about 292 members large consisting of water districts located all around the state. Mr. Sells stated that Sweetwater Authority's name is well known throughout the state, and that if other agencies in the state did as good a job as Sweetwater Authority, their insurance premiums would be a lot less. Mr. Sells stated that whatever is collected from JPIA's member agencies has to equal what is paid in claims and expenses. Likewise, the interest earnings go back to the member agencies as well. He presented Sweetwater Authority with a check for \$195,278 for this year. Chair Pocklington asked General Manager Rogers to accept the check and stated that it is a pleasure to work with JPIA. Mr. Sells added that JPIA is putting together what they call Best Practices, laying out what things some agencies are doing well so that they can be passed along to other agencies. He noted that Mark Molsberry (Sweetwater Authority Distribution Manager) was recommended to sit on this focus group because of the good practices and efforts of Sweetwater Authority, such as its program on leak detection and some of the standard operating guidelines that JPIA will be sharing with other districts around the state. Mr. Sells also noted that two Sweetwater Authority employees received monetary awards at the last conference for submitting good ideas in the safety field. Sweetwater Authority also received a President's Award in the property program for its low loss ratio program. Chair Pocklington

thanked Messrs. Sells and Dion for taking the time to come from Sacramento to make this presentation. He also noted that the Sweetwater Authority employees recreation group did not ask the Board for the annual \$10,000 contribution this year for the employee holiday party because they knew that funds were tight, and he hoped that maybe this check could help to change that for the upcoming year.

### ACTION CALENDAR ITEMS

#### 1. ITEMS TO BE ADDED, WITHDRAWN, OR REORDERED IN THE AGENDA

There were none.

#### 2. APPROVAL OF MINUTES

**Director Muehleisen made a motion, seconded by Director Welsh, that the Governing Board approve the minutes of the December 16, 2009 meeting. The motion carried with Directors Morrison and Preciado not present.**

#### 3. APPROVAL OF DEMANDS AND WARRANTS

**Director Welsh made a motion, seconded by Director Muehleisen, that the Governing Board approve Warrants 120673 through 120912 including all voided checks. The motion carried with Directors Morrison and Preciado not present.**

### CONSENT CALENDAR ITEMS

#### 4. FINANCE AND PERSONNEL COMMITTEE (Meeting of January 4, 2010)

##### CONSENT ITEMS

**Director Welsh made a motion, seconded by Director Thomas, that the Governing Board approve consent items A, B, C, D, F and G. Item E was pulled from consent for approval and adoption of Resolution 10-01. Item H is a closed session item that will be discussed under Item 15 on the agenda. The motion carried with Directors Morrison and Preciado not present.**

A. Approve the alteration of the Readiness-to-Serve Charge description provided on the back of the water bill by removal of the sentence, "All water agencies collect up to 30% of their annual revenue through this fee (ours is 25%)."

B. Approve the 2010 membership renewal in the Foundation for Cross-Connection Control and Hydraulic Research and the payment of dues in the amount of \$1,000.

C. Approve the 2010 membership renewal in the American Membrane Technology Association and the payment of dues in the amount of \$675.

D. Approve the 2010 membership renewal in the National Water Resources Association and the payment of dues in the amount of \$500.

F. Award an on-call, time-and-materials consultant services contract in an amount not-to-exceed \$20,000 through June 30, 2010, to Rick Alexander, 4235 Arista Street, San Diego, CA 92103, to provide environmental and governmental services as assigned.

G. Award a five-year, on-call geotechnical consultant services contract to Ninyo & Moore, 5719 Ruffin Road, San Diego, CA 92123, to include a provision for annual renewals and discontinuation of service at any time and for any reason.

H. Closed Session. In accordance with Government Code Section 54956.9 (b), the Committee met in closed session to confer with legal counsel concerning anticipated litigation regarding one case. There was no reportable action.

#### **ITEM PULLED FROM CONSENT CALENDAR FOR ADOPTION OF RESOLUTION 10-01**

E. **Director Welsh made a motion, seconded by Director Muehleisen, that the Governing Board approve the modifications to the Rates and Rules and the Supplement to the Rates and Rules, as submitted, by adoption of Resolution 10-01. The motion carried with Directors Morrison and Preciado not present.**

Upon said motion, the following resolution:

#### **RESOLUTION 10-01**

#### **RESOLUTION OF THE GOVERNING BOARD OF SWEETWATER AUTHORITY ADOPTING AMENDED RATES AND RULES AND THE SUPPLEMENT TO THE RATES AND RULES**

was passed and adopted by the following vote to wit:

Ayes:	Directors Muehleisen, Pocklington, Rubalcaba, Thomas, and Welsh
Noes:	None
Absent:	Directors Morrison and Preciado
Abstain:	None

#### **5. OPERATIONS COMMITTEE (Meeting of January 6, 2010)**

##### **CONSENT ITEMS**

**Director Thomas made a motion, seconded by Director Welsh, that the Governing Board approve consent items A, B and C. Item D is information only. The motion carried with Directors Morrison and Preciado not present.**

A. Approve additional funding in the amount of \$18,500 from the Capital Contingency Fund to complete the water facility relocations associated with the Ridgeway Drive Street Improvement Project. Upon completion of the Authority's work, the County will reimburse the Authority 50 percent of the actual cost to relocate/adjust the eight water services installed prior to 1962.

B. Approve funding in the amount of \$38,600 from the Capital Contingency Fund to complete the water main installation for the Briarwood and Bonita View Apartment Interconnect Project.

C. Reaffirm Board approval of the Final Draft Agreement between the Metropolitan Water District of Southern California and the San Diego County Water Authority for a \$250 per acre-foot subsidy for the Poseidon project, and authorize the General Manager to execute

the agreement.

D. Proposed Clearwire Wireless telecommunication facility at the Bonita Highlands Tank site. Chair Pocklington made note of the background on this issue included in the Board packet and stated his belief that the Board members were in agreement that they wanted to be good neighbors. This was an information item, and no action was required by the Governing Board.

## 6. REPORT OF SWEETWATER AUTHORITY DIRECTOR TO THE WATER CONSERVATION GARDEN AUTHORITY

Director Rubalcaba distributed information on upcoming dates and events at the Garden. The WaterSmart Garden Contest will take place on May 8<sup>th</sup>. Mr. Rogers added that this contest was partially funded previously by the County Water Authority (CWA) and the districts. CWA has pulled its funding, so it is funded through the Garden and the water agencies. He said that, in the past, Sweetwater Authority has submitted customers who have drought-tolerant landscaping practices in our service area to the contest; this is overseen by a staff committee. Director Rubalcaba stated that there was an advertisement on the Garden in Sunset Magazine, which generated a lot of publicity. Director Muehleisen noted that he also saw an ad on cable television recently. Mr. Rogers stated that this was an in-kind contribution from Cox Cable; they advertise the Garden on their website in return for advertising their products at the Garden.

## 7. NEW BUSINESS

There was none.

## 8. APPROVAL OF DIRECTORS' ATTENDANCE AT MEETINGS AND FUTURE AGENDA ITEMS

A. **Director Welsh made a motion, seconded by Director Muehleisen, that the Governing Board approve per diem for Chair Pocklington and Vice Chair Morrison to meet with San Diego County Water Authority Board Chair Lewis on January 14, 2010, to discuss water issues and needs. The motion carried with Directors Morrison and Preciado not present.**

B. Council of Water Utilities, San Diego County Meeting, StoneRidge Country Club on Tuesday, January 19, 2010, 7:15 a.m. – Program: "Investments: CalPERS asset allocation policy – new directions; corporate governance activism; risk management; and new managers (CIO and CEO)" presented by George Diehr, Professor of Management Science, CSU San Marcos, and Member, Board of Administration, CalPERS. Directors wishing to attend this preapproved event will contact the secretary. No action was required by the Governing Board.

C. CSDA "How to Be an Effective Board Member" Workshop (three options) – January 26-27, 2010 in Sacramento, CA; February 18-19, 2010 in San Luis Obispo, CA; or March 4-5, 2010 in Woodland Hills, CA. Directors wishing to attend this preapproved event will contact the secretary. Director Welsh noted that the CSDA Leadership Academy Workshop (Item 8.D) will take place in a local setting, and she would like to see a way that this workshop could be offered locally so that some of our Board members could attend. The secretary pointed out that CSDA offers its workshops annually in north, central, and south locations in the state. No action was required by the Governing Board.

D. CSDA Special District Leadership Academy "Setting Direction/Community Leadership" Workshop on February 4, 2010, San Diego County Water Authority. The Board discussed the four workshop modules in the CSDA Leadership Academy and the subject matter covered by them. Directors wishing to attend this preapproved event will contact the secretary. No action was required by the Governing Board.

E. **Director Welsh made a motion, seconded by Director Muehleisen, that the Governing Board approve per diem for directors attending the Local Water Resources Inspection Trip sponsored/hosted by MWD/SDCWA on February 6, 2010.** Chair Pocklington noted that he will be conducting an inspection trip in May that will be similar in nature, but will visit locations further north. **The motion carried with Directors Morrison and Preciado not present.**

## 9. REPORTS BY DIRECTORS ON EVENTS ATTENDED

Director Thomas stated that District Attorney Bonnie Dumanis was the presenter at the First Friday Meeting on January 8<sup>th</sup>. The meeting included a mini celebration of the 50<sup>th</sup> Anniversary of the local YMCA. San Diego Chief of Police David Bejarano and National City Chief of Police Adolfo Gonzales were also present. Statistics were reported on the huge problem in our area with fraud and scams of various types, especially within the Filipino and Hispanic communities. A movement for community outreach has been very successful due to the leadership from people such as Chief Bejarano and Chief Gonzales. Director Thomas was very impressed with statistics on the demographics related to prisons and their costs and what has been achieved. For example, when prisoners leave the prison they used to be on their own and often ended up back in prison. Now, they are focusing on programs to integrate those individuals back into the community and reduce the amount of individuals who return to the prison system.

## 10. REPORT OF TREASURER

Director of Finance Farrow noted that since there was only one Board meeting in December, the agenda packet included the budget report for the month of November 2009 and the treasurer's report and investment portfolio for the month of December 2009. Total water sales through November year-to-date were \$1,569,200 (7.7 percent) under budget, and total units of water sold were also down 8.7 percent. Ms. Farrow noted that the good news is that for the month of December sales were \$67,000 higher than budgeted. Operating expenses for November were \$664,770 under budget. The net total operating budget for November year-to-date sales and other income was approximately \$658,000 under budget. Ms. Farrow noted that the Authority's settlement of \$155,000 from the Armenta v. Jones case and the \$195,000 refund from ACWA/JPIA presented earlier today are not reflected in today's numbers; they will show up in December. Ms. Farrow reported that half-way through the year, interest income was budgeted at \$400,000 and the actual is \$430,000.

## 11. MANAGEMENT REPORT

A. Report of Operations Manager Smyth: Mr. Smyth presented a graph illustrating the production of water into the water system through December 2009. This graph shows that the Authority is below the production forecasted by a little more than 5 percent, so it is on

target to meet the goal as set by CWA. When compared to the base years of 2004 thru 2007, the actual production is nearly 12 percent less. As noted earlier by Director of Finance Farrow, Mr. Smyth stated that the customers are responding to conservation measures.

**\*Note: Director Preciado entered the meeting at 6:37 p.m.**

Mr. Smyth reported that the National Weather Service global statement said that El Niño weather is expected to exert a significant influence on the global weather and climate in the coming months, which includes above average precipitation in the southern tier of the United States. Mr. Smyth reported that, locally, several waves of rain are predicted for next week. The first wave anticipated on Sunday/Monday is expected to bring 3-5 inches of rain in this area and heavier in the back country; by the end of the week, 4-8 inches of rainfall is expected in the coastal area and heavier inland. El Niño activity is predicted through June.

B. Report of General Manager Rogers: Mr. Rogers stated that it was very appropriate that Mr. Sells was here from JPIA to make a presentation and talk about some of the practices that Sweetwater Authority has implemented over the years, one of which relates to unaccounted-for water, and this directly correlates with something that Sweetwater Authority has been doing since 1977. He asked Information Systems Director Silva to give a brief synopsis on how a presentation he and Distribution Manager Molsberry gave at a recent conference was received by the audience. Mr. Silva stated that the conference was for water utilities that use Maximo software. He said that the Authority uses Maximo for its asset and work order management system, and he and Mr. Molsberry gave a presentation on how the Authority uses it in the field to keep track of main leak data. Mr. Silva stated that they told the conference audience that the Authority does not use anything special with Maximo; it is not worth the time because we only have about 20 leaks a year. He stated that when he made that statement, the room broke out in laughter; they could not believe our numbers were that low. He told the group that Sweetwater has had a very aggressive metallic main replacement program for the last 30 years, and that we were down to our last 1,000 feet of cast-iron pipe. Eastern Municipal Water District reported that they had about 300 leaks in the last quarter, Corpus Christi averages between 500 and 1,000 per year, and the same is true for Denver Water. Chair Pocklington stated these leaks will become more and more important to customers as the drought continues; citizens are taking notice of wasted water. He said he is thankful that we have been aggressive with this program, and we can hold our heads up high with the success it is bringing. Mr. Rogers noted that JPIA is looking at sharing Sweetwater's leak program with other agencies. He added that Sweetwater not only has a low per capita usage, but we also have a low unaccounted-for water percentage (four percent); as a system 123 years old with two reservoirs and many miles of pipeline, the American Water Works Association statistics for where we should be for our size is over 10 percent. He stated that, being in a drought situation, one of the easiest ways to reduce the overall consumption of a district is to take care of its pipes. Mr. Rogers also reported that Huell Howser came by the Desal Facility yesterday and shot a couple of videos that will be part of the *California Gold* series, which will be airing very soon. He added that he is a bigger than life, outgoing, good guy, everyone enjoyed meeting him, and staff on duty even got some pictures with him. Chair Pocklington stated that he is very well recognized and well thought of for his *California Gold* series. Mr. Rogers said that Mr. Howser is a former reporter for Channel 5 TV in Los Angeles.

Director Preciado apologized for being late and shared that he will be coming (to the office) this Friday to review the Capital Infrastructure Master Plan document from 2002. He

stated that he continues to have questions about the DAF (Dissolved Air Flotation) project and will continue to ask for information because he is very concerned about that project as we move forward; he realizes that the Board has approved it, at least in concept, and at least to purchase specific aspects of it. But, he said he is very interested in our process, and having served here a year, he still has questions about our capital infrastructure process and how we purchase things, budget things, etc. As such, he said that he wanted to ask the General Manager and the Operations Manager if they could present to (the Board) – he said Chair Pocklington would have to decide if he wanted to schedule this. He stated he is interested in knowing if we have applied for an amendment to our Domestic Water Supply Permit for our pretreatment process. Chair Pocklington stated that staff would check into that. Director Preciado asked again if we had applied for the amendment. Director of Water Quality Thomson clarified that, yes, we have applied for a permit for some of the existing changes, and that is part of the process. He said that staff is meeting with the California Department of Public Health tomorrow to go over the DAF, and there will be a permit application at the end of that. He said DAF is further down, but that is not part of the permit amendments. We got permit amendments for the filter improvements and for the chemical improvements. Mr. Thomson said that DAF will probably be enough that we will have a whole permit renewal, as opposed to a permit amendment. Director Preciado said that was very important to know and he wondered if, at a future meeting, we could have a presentation of how that process goes when we decide to make a change. He stated that, in essence, his question is, “Do we first put everything together and then apply for the permit, or do we start purchasing things? Do we make changes to our infrastructure before we have a permit or an amended permit?” He said he thinks it is a fair question and just in case some of (the Board) does not have the information, he brought copies; he wants the Board to have copies of our Domestic Water Supply Permit that is on file, and he is very interested in the information. He said he went online and saw what is required in an amended permit, the instructions for the amended permit, and there are specific regulations that suggest that we cannot proceed without having the amended permit on hand. He stated again that he is interested in our process as a matter of policy. Chair Pocklington stated he will get together with the manager and work that out. Director Preciado stated that he wants to make sure that the permit he just distributed is put on the record so that people from the public can see it.

## **12. REPORT OF LEGAL COUNSEL**

Legal Counsel Cowett reported that the judge granted a motion to not enforce the biological opinion of the U.S. Fish and Wildlife Service on the Delta Smelt case because an environmental impact statement was not prepared; the judge will be having a hearing and entertaining testimony on the interim pumping regime but has not done that yet. It is probably not going to be very much different from the last one. On the Poseidon case, Mr. Cowett stated that they (Poseidon) have all their permits, they have broken ground, and they are finalizing their financing and the distribution system with all the agencies and CWA; but, he gets stacks of pleadings every day from the plaintiffs seeking to do various things. They still want to keep going back to the Coastal Commission every time there is a change to get the permit revoked; so far they have been unsuccessful. He said the State Lands Commission was also challenged in Superior Court and we won that; they appealed, and then withdrew their appeal. He said this is just going to be a long process. Chair Pocklington asked if there was some way legally to say enough is enough and to challenge them that this is costing literally millions of dollars. Mr. Cowett replied that, no, our justice system is organized in such a way that there is a terminus; you cannot continue to re-litigate the same thing, so you have to find something different to litigate. He said Poseidon is moving ahead as though

these challenges are not substantial enough that they wouldn't prevail; it is not holding up the physical development of the plant or the work that the partners are working on for the distribution system. He said it moves ahead because Poseidon is taking the risk, and it must be costing Poseidon a lot.

### 13. DIRECTORS' COMMENTS

Director Welsh commented that she is very pleased that the Authority has been recognized as the outstanding agency that it is. When you find out that other people recognize what we are doing, we should thank the staff and feel good about the policy direction this Board has. She said this Board has been very supportive through the years, and being positive is the best way to move things forward in the right direction.

Director Preciado stated that in December's meeting the Board approved a motion from the Finance and Personnel Committee to begin a review of our policies and procedures, and he passed out a packet to the Board that he wants examined so that it can be considered in one of our policies. He said he believes the Board received incomplete information on one of their Board items, and he wants a specific policy that prohibits that from happening again. He said that he is very interested in making sure that we have a policy in place requiring, as our Board items are presented, that there is specific reference to policy and specific reference to Board action so that the Board can examine that. He said that he thinks it is important for us to have that information. He passed the information out to the Board and stated that he looks forward to the meeting of the Finance and Personnel Committee so that we can look at this. Chair Pocklington asked if that was the one that we had difficulty with. Director Preciado replied that, no, that was another matter. He stated that, just to be clear, as part of Director's comments he is able to share this information. He stated that he submitted questions in November after Mrs. Martinez (Hernandez) sent her email and he was copied with the email. He said that he submitted questions that are part of the thicker packet and he referenced questions number 1. A, B, and C. He said he specifically requested if the information was available (referencing the information he passed out to the Board). He stated that he was looking at this information and read all of the parts of the memo that suggest there was unclarity in the questions that he was asking. He said he subsequently visited Rita and requested copies of the 1997 and 1999 minutes referred to in the memo, and when he saw that he realized that there was a specific reference made that he believes was omitted from the minutes where Director Waters made a motion, seconded by Director Pocklington, that in fact hired the Willett Company to do all of that work. He said there is an underlined statement that should have been included in the response that says, "Staff will set a goal of completing leases within the next six months. All leases will be referred to the Operations Committee for review and approval." He said that means the Board needs to be involved. He stated that this is a minor thing, but that he did want to bring up that, when we receive and request information, we need to get complete information so that he does not have to go out and dig for the information himself. He said he is interested in policy being undertaken so that we direct the Board clerk that when we request information, we receive complete information. He said he is hoping that is a matter that can be considered, and he looks forward to the committee meeting where we can examine this packet and see if he is mistaken or if he is not reading the documents correctly. Chair Pocklington clarified that basically Director Preciado had questions that he is asking to be responded to. Director Preciado replied that, no, he did not have any questions. He said he was just suggesting as a policy matter that he requested information and this Board received incomplete information. He stated that he wants a Board policy that directs the General Manager, or clerk in this case,

to provide complete information when it is requested. Chair Pocklington stated he would get together with the manager and see what they can come up with.

Director Preciado stated that he had one last comment to make under Directors' Comments. He said that, at the December meeting, he was enjoying the holiday season, so instead of pursuing these matters at that particular meeting, he chose to delay them so that we can look at them now; he thinks it was a good holiday season and he wanted to end the year appropriately. But, he said he does want to react to his colleagues, Mrs. Rubalcaba, Mrs. Welsh, and Mr. Morrison. He stated that, in the minutes of the Finance and Personnel Committee after they discussed the DAF project in early December, staff took the liberty of including this kind of training that he needs to go to so that he can learn to be a better Board member. He said he will be asking Mrs. Schoonderwoerd to provide them with the CSDA trainings and any other trainings that are available, because he will be asking Mr. Morrison, Mrs. Welsh, and Mrs. Rubalcaba to share with him what specific trainings he should go to so that he can learn to be as good a Board member as they are. He said he appreciates their suggestions, but he does not need to be told. He said that he was elected separately; they were all elected and they are great Board members who do their good work as they do it. But, he said, he does not know why it was included in the minutes that he needs to go to training to learn to be a better Board member, but it was. He said that such is the case that he wants to react to them and share with them that he looks forward to seeing which specific trainings will help him be a better Board member that they can suggest. He said specifically as it looks at the matter of the DAF project, because the questions he asks relate to that specific matter. He said that, as an example, the letter that responded to his inquiry said that Board members have the opportunity to look at budgetary matters at the budget workshop on an annual basis. He stated that he went to the budget workshop and to his budget documents and he never read where we were going to buy equipment during this fiscal year, even a part of it – it is not in there; but, he said he may be mistaken and he admits he makes a lot of mistakes. He said he kept asking questions, why are we buying this. He said that the memo, which was a wonderful document, suggests that he has nothing to do with engineering documents, with permits, and that that really is the purview of the staff; but he is being asked to vote to commit \$2 million, and he does not know how he can make such a decision without having the information that he is requesting. He stated that, as such, he continues his examination of these documents because he does not believe he has all the information. He said the Board all voted for it, and he voted against it; but, he thinks he has the responsibility and a right to all the public information that he is requesting, not because he is on some campaign or he needs to understand, but he believes in the next three years we will be voting on a number of other procedures in infrastructure and if he does not have the process or information, he does not know how he is going to be voting for that.

**Note: Director Muehleisen left the meeting at 7:05 pm.**

Director Preciado stated that, again, he wanted to acknowledge his three colleagues who suggested he go to training; he looks forward to their mentorship and guidance because he looks forward to becoming a better Board member.

Director Thomas congratulated staff, stated that they are absolutely wonderful, and that she thought that they should have been a part of the picture for the accolades. She said the Authority would not have that kind of record with JPIA, with our water quality, our distribution, our engineering, our customer service, as well as the secretary and all the people who work together. She stated that she wanted to reiterate that.

Chair Pocklington commented that the holiday season is behind us, and we have a big year ahead of us in 2010. He noted that, being at MWD the last two days, they have very challenging problems also. He said MWD is starting to talk about the new rate increase for 2011. They wanted to have a public hearing in March and the Board said that was too early and that they needed to work through it. There will be workshops later this month and in February, and a public hearing probably in April; they are already looking at an overall average of a 12.6 percent rate increase. Last year was 19.7 percent; he said he believed the raw water rate increase will be higher this year as well, more like 15 percent. He said that there are a lot of things to work on at MWD and that certainly he is going to be scrutinizing them very closely with some challenging comments and questions. Chair Pocklington noted that this will be the third double-digit rate increase, he is not sure he is going to support it, and they will have to explain to him why it is needed. The MWD Board also talked about the state budget which is in a crisis mode already again at \$20 billion dollars in debt. There is talk about trying to get bailed out by the feds, and he does not think the feds are going to come through with that kind of money. He stated that 2010 is going to be a challenging year for all of us, and he is glad that we have our labor negotiations behind us, so we can concentrate on what we have to do.

Director Preciado added that he wanted to share for the record that he was unable to attend the South County Economic Development Council meeting in January. He said that he obviously came late because of traffic, so he was not able to affirm that, and he wanted to announce that before we close the session, so there will be no report.

**Note: Director Muehleisen returned to the meeting at 7:10 p.m.**

#### **14. CLOSED SESSION**

At 7:10 p.m., in compliance with Government Code 54956.9 (b), the Board recessed to convene in closed session to confer with Legal Counsel concerning anticipated litigation regarding one case. All persons left the room with the exception of the Governing Board, the Management Team, Legal Counsel, the Board Secretary, and the Director of Finance. There were no minutes taken, and the session was not tape-recorded.

At 7:22 p.m., Chair Pocklington declared the meeting to be in open session.

**Director Welsh made a motion, seconded by Director Preciado, that the Governing Board approve the change of status of Board members to employees vis-a-vis the federal and state government for tax purposes, as opposed to independent contractors, which they have been up to this point; this change to be effective as of January 1, 2010. The motion carried with Director Morrison not present.**

#### **15. ADJOURNMENT**

With no further business before the Board, Chair Pocklington adjourned the meeting at 7:23 p.m.

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Attest:

W.D. Pocklington, Chair

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Rita Schoonderwoerd, Board Secretary