

ACWA/JOINT POWERS INSURANCE AUTHORITY

Unapproved 1/22/10
Approved 3/30/10

EXECUTIVE COMMITTEE MEETING

ACWA/Joint Powers Insurance Authority
5620 Birdcage Street, Suite 110
Citrus Heights, CA 95610
(800) 231-5742

January 22, 2010

MEMBERS PRESENT

Vice Chair: Joan C. Finnegan, Municipal Water District of Orange County
Merle Aleshire, Valley Center Municipal Water District
Tom Cuquet, South Sutter Water District
Joseph Dion, Citrus Heights Water District
Melody McDonald, San Bernardino Water Conservation District
E. G. "Jerry" Gladbach, Castaic Lake Water Agency
Randy Record, ACWA Vice President
Lou Reinkens, Tahoe City Public Utility District

MEMBERS ABSENT

W. D. "Bill" Knutson, Yuima Municipal Water District

STAFF PRESENT

Chief Executive Officer/Secretary: Daniel N. Klaff
Chief Financial & Operations Officer: Walter "Andy" Sells
David deBernardi, Director of Finance
John Gilstrap, Director of Member Services
Dianne Salvador, Workers' Compensation Claims Manager (Arrived 8:45 a.m./Departed 10 a.m.)
Nancy Stangel, Director of Administration
Jeanette Waterstradt, Executive Assistant to the CEO

OTHERS PRESENT

Barbara Duggen, ACWA Benefits Administrator
Rick Gilmore, Byron Bethany Irrigation District
Bill Malone, President, WGM & Associates, JPIA Insurance Broker
Robin Stewart, Kronick, Moskovitz, Tiedemann & Girard, JPIA Legal Counsel

PUBLIC COMMENT

Vice Chair Finnegan announced that she will be running for the Office of President at the JPIA Spring Conference. Mr. Gladbach announced that he would also be running for the Office of President.

WELCOME

Vice Chair Finnegan called the meeting to order at 8:30 a.m. and welcomed everyone. She noted that, as the agenda stated, members of the public would be allowed to address the Executive Committee on any agenda item prior to the Committee's decision on that item. Comments on any issues which may or may not be on the agenda were

also welcome. She then introduced Randy Record, the Vice President of ACWA and welcomed Barbara Duggen, ACWA Benefits Administrator, and Rick Gilmore of Byron Bethany Irrigation District. She noted that Mr. Gilmore also serves on the JPIA Workers' Compensation Program Subcommittee.

ADDITIONS TO OR DELETIONS FROM THE AGENDA

Vice Chair Finnegan asked for any additions to, or deletions from, the agenda. Mr. Klaff requested the addition of a closed session item under Government Code section 54956.95 to discuss the liability claim of Bella Art Gallery et al vs. Helix Water District. The need for Executive Committee action on this item came to the Executive Committee's attention subsequent to the posting of the agenda for this meeting.

M/S/C (Gladbach/Cuquet) (Yes – 7, No – 0): That the Executive Committee finds and determines that the need for Executive Committee action on the matter of Bella Art Gallery et al vs. Helix Water District came to the attention of the Executive Committee subsequent to posting of the agenda for this meeting, and therefore adds it to the Closed Session agenda for today's meeting.

EVACUATION PROCEDURES

Mr. Klaff noted that this was Mr. Record's first meeting. Accordingly, Mr. Klaff reviewed the procedures for evacuation from the building in case of an emergency.

CONSENT CALENDAR

Approval of Consent Calendar

Vice Chair Finnegan called for approval of the Consent Calendar, excluding item I. B., "Review procedure for approval of warrants," which will be addressed separately.

M/S/C (Gladbach/Cuquet) (Yes – 6, No – 0, Abstain – 1, Record): That the Executive Committee approve the Consent Calendar, excluding item I.B., "Review procedure for approval of warrants," which will be addressed separately; approve the minutes of the November 30, 2009, Executive Committee meeting as presented; approve the claims warrants of November 10 – 23, November 23 – December 8, December 8 – 21, and December 20, 2009 – January 6, 2010; approve the ACH & Wire Disbursements of November 8 – 24, November 20 – December 8, December 9 – 22, and December 21, 2009 – January 6, 2010; approve the payroll warrants of November 20, November 24, December 4, December 19, 2009, January 2, and January 16, 2010; approve the regular warrants of November 30, December 15, December 31, 2009, and January 16, 2010; approve the Workers' Comp Safety Awards of December 14, 2009; and approve an excused absence for Bill Knutson.

Procedure for Approval of Warrants

Mr. Sells stated that during the November 2009 Executive Committee meeting, it was requested that staff review the warrant process with the Executive Committee at its next scheduled meeting. Staff had emailed a recap of the process and authority levels to the Executive Committee members in December. Mr. Sells briefly reviewed the process. He

noted that when referring to the warrant batch, it included check runs and any wires or ACH (Automated Clearing House) transfers. Wires or ACH transfers refer to direct electronic transfers of monies. Regular checks and wires are processed twice a month, on the 15th and last day of the month. Regular checks and wires include all expenses except claims payments, which are processed daily as needed.

The JPIA Governing Documents state that all warrants, i.e., checks and wires, shall be approved by the President of the Board and the Chief Executive Officer/Secretary. A large packet of checks which includes all related backup is sent to the President, Vice President, and the Auditor/Controller approximately one week before the 15th and one week before the end of the month for approval. Additionally, twice each month a copy of the check register is emailed or sent to the remaining Executive Committee members. A list of the total for all claims payments for the period is included; however, the check register for claims payments is not included.

The Warrant Book was also made available for members to review if they so chose. Mr. Reinkens stated that the Warrant Book presented at the meeting included more backup than he receives. Mr. Sells stated that in the future the backup information would be included with the check register information. It was also suggested that the check runs, etc. be included with the Executive Committee packet for Conference so Board members have the opportunity to see where the money is going. Staff took that under advisement.

In the discussion that followed, the term “warrants” as referenced in the Bylaws and Agreement was seen as outdated and the Committee requested that it be changed to “checks”. Ms. Stewart, JPIA Legal Counsel, is in the process of reviewing the JPIA Bylaws and Agreement for possible revisions, and she took note of the request.

Approval limits for claims settlements were also reviewed. Another item addressed was a request by Mr. Aleshire that the subject of signature authority limits of management staff and CEO be added as a future agenda item. It was so noted.

M/S/C (Cuquet/McDonald) (Yes – 7, No – 0): That the Executive Committee approve the procedure for approval of warrants.

ADMINISTRATION

Availability for Upcoming Meetings

Vice Chair Finnegan announced that the next Executive Committee meeting is scheduled for Tuesday, March 30, 2010; Mr. Reinkens noted a conflict.

The members were also reminded of the scheduled Executive Committee Workshop set for February 8, 2010, 10:30 a.m. to 2 p.m. with a working lunch. The Committee will discuss reserves and how they are set; calculation of premiums; uses of CAT Fund; etc. Mr. Klaff added that this is just for educational purposes, no action will be taken.

With the amount that needs to be discussed, consideration will be given to starting the Workshop earlier than 10:30 a.m. and Committee members will be notified. Mr. Record noted a conflict.

Report on Meetings Attended on Behalf of the JPIA

Vice Chair Finnegan reported that she and a number of members had attended Wes Bannister's memorial service. Representatives were there from Municipal Water District of Southern California, ACWA, etc. It was a great celebration in memory of Wes.

Mr. Dion announced that he had traveled with Mr. Sells on several occasions to present refund checks to select districts; he felt that they were well received. Vice Chair Finnegan stated that she would be going to Mesa Consolidated District. Mr. Aleshire noted that he had accompanied Mr. Gilstrap to a district in Southern California. Mr. Gilstrap added that during that presentation, he reinforced the value of the JPIA's Training Program. Ms. McDonald noted that she went to Western Municipal Water District with a check for \$153,000. She added that she will also be going to other districts in Southern California.

In the discussion that followed, Mr. Reinkens pointed out that there was no quorum for the Property Program Subcommittee meeting of January 21, 2010, because of the bad weather and subsequent flight cancellations. Therefore, he was requesting that an item be added to the next Executive Committee agenda to discuss paying the travel expenses of Subcommittee members who choose to come to Sacramento the night before a scheduled meeting, in order to avoid the lack of quorum problem. It was so noted.

Per Diem for Executive Committee Members

At the January 29, 2007, Executive Committee meeting, it was determined that the matter of per diem would be addressed each year in the January meeting with a 5 percent increase unless action is taken otherwise.

M/S/C (Aleshire/Dion) (Yes – 6, No – 1, Reinkens): That the per diem for Executive Committee members remain at \$220.50.

JPIA Email for Executive Committee Members

Mr. Sells noted that one of the on-going goals of the JPIA has been to reduce the amount of paper produced. Much of the information disseminated by the JPIA is in electronic format and a great deal of communication is done through email. In order to help the Executive Committee members more easily communicate and stay in touch with the JPIA and its staff, the JPIA has created an email box inside the JPIA network for each Executive Committee member.

A handout from Ms. Stewart, JPIA legal counsel, had been given to each member specific to Executive Committee member email communications and potential violations of the Ralph M. Brown Act. Particular caution was given in regard to serial meetings which are explicitly prohibited in the Brown Act. She stressed caution in response to an email in hitting the "forward" and/or "reply all" buttons available in the email software. Ms. Stewart added that this advice is actually stricter than the Law requires, but it is best to err on the side of caution.

A brief discussion followed Mr. Sells' PowerPoint presentation on "how to use and access the JPIA email". Questions can be directed to Mr. Sells.

Executive Committee Communications

At the fall Conference in San Diego, some JPIA members expressed interest regarding Executive Committee communications with the Board of Directors. The idea of periodic communications throughout the year in the form of letters and emails to the JPIA Directors may be a good place to start the communication process. Mr. Sells noted that the staff is currently working on a "Value-Added letter" that would list some of the resources used by the member during the past year, including any refunds and President's Awards. The letter would be sent during the first quarter and could come from the Executive Committee. This form of communication could also be used as other items come up during the year. The Committee approved of the idea and made several suggestions; i.e. keep Board updated on building status; add something about coverages (Are You Aware); and give it a name as a Newsletter.

Significant Claims Activity

Ms. Salvador stated that the Executive Committee has requested to be kept abreast of settlements on those claims that had been previously presented for authority. The following cases have been settled since this Committee's last meeting:

Pellegrini vs. Orange County Water District

Mr. Pellegrini was working as a field biologist for the Orange County Water District when he was found dead at his work site on June 24, 2006. Death benefit claims were filed by decedent's sister and also by the California Department of Industrial Relations, Death Without Dependents Unit. The claim settled and the file is closed.

Kay vs. Orange County Water District

Mr. Kay filed three claims alleging cumulative trauma to his back as a result of operating heavy equipment. These claims were later amended to include psyche and urological complaints. The claims have been settled with Mr. Kay, but the file remains open while the JPIA negotiates resolution of several liens.

POOLED PROGRAMS

Recommendations of the Workers' Compensation Program Subcommittee

Mr. Reinkens, Vice Chair of the Workers' Compensation Program Subcommittee, reported on actions taken at its meeting on January 21, 2010. The Subcommittee had reviewed new members approved or in the pipeline, regulatory and market changes, and options for the July 1, 2010, renewal pricing. The cost of excess insurance remains unchanged as the JPIA was able to secure a two year rate guarantee with ARCH Insurance, with last year's renewal. The Program maintains the current retention of \$2 million. Mr. Reinkens noted that pricing in the Workers' Compensation market appears to be tightening as prices are increasing. The increase in the actuary projected loss rate is impacted by uncertainty in changes in the law and unknown administrative requirement changes. Projections for the 7/1/2010-2011 policy year include contributions to the Catastrophic reserve Fund (10%) and the Self Insured Excess Fund (3%).

It was the Subcommittee's recommendation to support the staff recommendation to fund the 7/1/2010-2011 policy year with contributions to the Catastrophic Reserve and Self Insured Excess Funds, without any change to the existing rates.

M/S/C (Reinkens/Gladbach) (Yes – 7, No – 0): That the Executive Committee approve the staff recommendation to fund the 7/1/2010-2011 policy year with contributions to the Catastrophic Reserve Fund (10%) and Self Insured Excess Fund (3%), without any change to the existing rates.

Recommendations of the Property Program Subcommittee

Mr. Cuquet, Chair of the Property Program Subcommittee, reported on actions taken at its meeting of January 21, 2010. Unfortunately, because of the weather, there were only three members present. Those present reviewed the Program membership, letters to withdraw/rescind, and loss reports. The action items addressed included the excess/reinsurance coverage proposals for the Property Program renewal of 4/1/10 and the renewal pricing for the Property Program.

The Property Program renews on April 1, 2010; the current reinsurer is Federal Insurance Company, a Chubb & Son subsidiary. It was the Subcommittee's recommendation to approve staff's proposal to renew with Chubb, with no change in the reinsurance rates, terms, or conditions.

M/S/C (Aleshire/McDonald) (Yes – 7, No – 0): That the Executive Committee approve the renewal with Federal Insurance Company, a Chubb & Son subsidiary.

Mr. Cuquet continued his review. In regard to the renewal pricing, currently the rates paid by Property Program members are:

\$.10 per \$100 of Real and Personal Property
\$.15 per \$100 of Mobile Equipment
\$.85 per \$100 of Licensed Vehicles

The expected revenues and expenses for the 4/1/10-11 policy year are approximately \$4.0 million based on \$3.7 billion in TIVs. Premium is based on an estimated excess insurance cost of \$2.6 million (includes an allocation for brokers expense) and claims expense of approximately \$1 million. The 2009 actuary report projects a \$.027, per \$100 value, loss rate for the 4/1/10-11 policy year. It was the consensus of the Subcommittee to recommend approval of the staff recommendation with no change in rates.

M/S/C (Aleshire/McDonald) (Yes – 7, No – 0): That the Executive Committee approve the staff recommendation for no change in rates.

At approximately 10:10 a.m. the Executive Committee, upon advice of counsel adjourned to closed session pursuant to Government Code Section 54956.95 to discuss liability claims in *Tumbling vs. Merced Irrigation District*; *City of Laguna Niguel, et al vs. Moulton Niguel Water District*; *California Department of Fish and Game vs. Redwood Valley Water District*; and *Bella Art Gallery et al vs. Helix Water District*.

M/S/C (McDonald/Gladbach) (Yes – 7, No – 0): That the Executive Committee return to Open Session.

The Committee returned to open session at approximately 11:05 a.m. with no reportable action from closed session.

Broker Agreement

At the fall Conference in San Diego there was some discussion regarding the current Broker agreement. Mr. Sells noted that John Gilstrap did most of the work on the revised Broker Agreement which was distributed to the Executive Committee members.

A lengthy discussion ensued and the following motion was made:

M/S/C (Gladbach/Record) (Yes – 6, No – 1, Aleshire): That the Executive Committee approve the Broker Agreement as presented.

FINANCE

Recommendations of the Finance & Audit Committee

Mr. Sells reviewed the actions taken at the Finance & Audit Committee meeting of January 21, 2010. Each year the JPIA provides for an independent audit of the JPIA's financial statements. For the first year, Maze & Associates performed the annual audit for the fiscal year of October 1, 2008 through September 30, 2009. The JPIA is receiving an unqualified opinion which states that the financial statements present fairly, in all material respects, the financial position of the JPIA as of September 30, 2009, and the results of its operations and cash flows for the year then ended in conformity with accounting principles generally accepted in the United State of America. The Committee had reviewed the 2008/09 audited Financial Statements and it recommended approval as presented.

M/S/C (Aleshire/Dion) (Yes – 7, No – 0): That the Executive Committee approve the Finance & Audit Committee's recommendation to accept the 2008/09 audited financial statements as presented.

Mr. Sells briefly noted that the Rate Stabilization Fund (RSF) is used to help stabilize retrospective premium adjustments (RPAs) for prior policy years. It is funded with RPAs and refunds of the Catastrophic Reserve Funds of each of the pooled programs. Each member's "account" is maintained separately from other members and each "account" is allowed to grow to 60 percent of one year's basic liability premium. The amount over that point is refunded to the members on an annual basis. The RSF has been very successful and has refunded in excess of \$15 million over the last five years. Last year 180 members received refund checks.

JPIA staff has been hand-delivering roughly a dozen of the largest refunds directly to the District' Executive Boards. Approximately 224 members received refund checks totaling slightly over \$7.4 million. No current member owed money back to the Fund and the current balance of the Fund is now approximately \$9.5 million.

MISCELLANEOUS

JPIA Office Facilities Update

Mr. Gladbach, Chair of the Building and Property Ad Hoc Committee, reported that at its last meeting the Committee had met with a project manager who will be working with an

architect who will also work with the staff. At its next Committee meeting, it will meet with staff to discuss floor layout, exterior design, and costs.

Mr. Gladbach and Ms. McDonald left the meeting at 12:35 p.m.

JPIA's Joint Powers Agreement and Bylaws

Robin Stewart, JPIA's legal counsel, noted that the last revision of the JPIA Bylaws was in May 2006, the last revision of the Joint Powers Agreement was in November 2007, and several areas had been identified for discussion and possible revision. She has been working on it and will present at the March 30, 2010, Executive Committee meeting. At that time she will provide recommendations for the Executive Committee to recommend for Board approval at its May 3, 2010, meeting.

Future Agenda Items

Vice Chair Finnegan noted that the Committee members had requested the following be added to the agenda for the March 30, 2010, meeting.

- Discuss possibility of Subcommittee members coming to Sacramento the night before a scheduled meeting, and having those travel expenses paid by ACWA/JPIA, in order to avoid lack of quorum.
- Review and take action on possible changes to the JPIA Joint Powers Agreement and/or Bylaws proposed by Robin Stewart, JPIA's legal counsel, following her review.
- Discuss the subject of signature authority limits of management staff and CEO.

M/S/C (Aleshire/Cuquet) (Yes – 6, No – 0): That the Executive Committee meeting be adjourned.

The Executive Committee meeting adjourned at 12:45 p.m.

JOAN C. FINNEGAN, VICE CHAIR

ATTEST:

DANIEL N. KLAFF, SECRETARY