

# **INDIAN WELLS VALLEY GROUNDWATER AUTHORITY**

## **SPECIAL MEETING - WORKSHOP MINUTES**

**Springhill Suites**

**113 E. Sydnor**

**Ridgecrest, CA 93555**

**Wednesday, April 26, 2017, 5:30 p.m.**

### **CALL TO ORDER:**

The meeting was called to order by Chairperson Gleason at 5:31 p.m.

### **ROLL CALL:**

Commander Brian Longbottom, Department of the Navy

Peter Brown, Indian Wells Valley Water District

Chairperson Mick Gleason, Kern County

Mayor Peggy Breeden, City of Ridgecrest

Bob Harrington, Inyo County

Bob Page, San Bernardino County

Also Present:

Lauren Duffy, IWVGA Clerk

Alan Christensen, IWVGA Acting General Manager, Kern County

Phill Hall, IWVGA Counsel

Keith Lemieux, IWVGA Counsel

Dale Schafer, DWR Facilitator

### **PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Carol Wilson followed by a moment of silence.

Chairperson Gleason thanked the elected officials who attended including: Chuck Griffin and Ron Kicinski of IWVWD, City Council members Wallace Martin and Lindsey Stephens, Supervisor Gleason's Field Representative Denny Kline, and all other elected officials present.

### **PUBLIC COMMENTS:**

Don Decker commented that at the last IWVGA meeting in March he made the observation that a Preamble to the GSA Bylaws under development could offer improvement to the combined document. In the spirit of public involvement and contribution, the Administrative Committee of the IWV Domestic Well Owners has written a draft Preamble for the Board's consideration, which has been attached to these minutes. Mr. Decker continued that this is a "classic" Preamble and contains a brief background together with a summary of the measures to be taken to address the issues. It ends with the likely positive outcome of the initiative. "That is what we have given

you, and all-in-one compact page.” It emphasizes the importance of citizen involvement and of cooperation and trust between the GSA and the IWV public. It summarizes the positive elements in this critical endeavor. Mr. Decker stated that he does not have time in his three minutes to read the entire Preamble to the Board and public tonight, but he did read the first sentence stating, “The Bylaws of the Indian Wells Valley Groundwater Sustainability Agency provide the legal details of the structure and function of the GSA Board and public Advisory Committees. This Preamble outlines the background and motivation for this critical endeavor and most importantly, the spirit of GSA and community cooperation, sense of common purpose and commitment to urgent action reflecting the realities of the IWV groundwater status.” Mr. Decker concluded that they spent substantial effort in designing, writing and editing this document and sincerely hope the Board finds it to be of value. He respectfully requests that this draft Preamble be part of the record for this meeting. Also, he requests that this document be placed on the May GSA Board agenda for formal consideration.

Lindsey Stephens commented that the agenda item #8, should not be on the agenda for approval. Ms. Stephens commented that for future reference, if the Board is seeking public opinion on a specific item then the Board should not also have that item on the agenda for approval. It gives the feeling as if the Board is not actually including and taking into consideration the public comments. Alan Christensen clarified listing this agenda item as such allows flexibility for the Board to approve the item if they so desire, but there is no requirement that they do so. Chairperson Gleason stated that he didn’t feel that this Board would have an opportunity to approve anything tonight.

Mike Neel stated that the public should not be limited to three minutes to comment.

Judie Decker commented that on April 13<sup>th</sup> there was a Tribal Workshop held and the Tribes expressed intent of sitting on this GSA Board. Ms. Decker suggested that the GSA Board hire an attorney who is well versed to deal with Tribes.

Gene Schneider commented that her Indian Wells Valley water bill is 85% Ready to Serve charge and the rest is 15% usage. One month Ms. Schneider had a leak and used 5 times more water than she usually does and her bill only went up 3%. Ms. Schneider feels that in an attempt to encourage conservation that the water bills should be 85% usage and 15% Ready to Serve charge.

Carol Wilson thanked the Board for having this meeting on behalf of the Board of Realtors.

#### **SPECIAL PRESENTATIONS:**

None.

#### **CONSENT CALENDAR:**

##### **a) Approve Meeting Minutes of March 16, 2017**

Motion was made by Peter Brown and seconded by Peggy Breeden to approve the March 16, 2017 Minutes. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Page Nays: None.)

## **PRILIMINARY APPOINTMENT OF MEMBERS TO THE POLICY ADVISORY COMMITTEE:**

Alan Christensen stated that Meadowbrook and Mojave Pistachio have been appointed to the Policy Advisory Committee. Specifically, Ed Imsand for Meadowbrook and Rod Stiefvater for Mojave Pistachio. Searles Valley Minerals intends to submit an application. The two preliminary appointments, Mojave Pistachio and Meadowbrook, are recommended. But more appointments will be made at a future date. Other applications have been received, however, no dateline has been set until today, and staff recommends that the Board approve an action that will put a deadline on the applications as May 11<sup>th</sup>, so that the applications may be presented at the next IWVGA meeting on May 18<sup>th</sup>.

### **Public comments:**

Mike Neel is opposed to the Board approving this item tonight, on general principal. Mr. Neel fails to see the point in putting two members on the PAC when the Board hasn't even designed the composition of the PAC yet.

Lindsey Stephens asked if the Board was only approving two members this evening. Other applications have been filed.

Alan Christensen stated that back in November the Board approved Meadowbrook and Mojave Pistachio to be members of the PAC. That action has already occurred. This is finally identifying those individuals.

Lorelei Oviatt asked if Meadowbrook and Mojave Pistachio are representing large agriculture or are they representing those entities. Phillip Hall answered Meadowbrook and Mojave Pistachio will be representing the interest of large agriculture.

Joshua Nugent thanked the Board for appointing Meadowbrook and Mojave Pistachio and Mr. Nugent hopes that the other members are appointed as quickly as possible.

Ed Imsand thanked the Board for the opportunity to participate on this Board. Mr. Imsand has over 40 years of experience with agriculture.

Paul Nugent clarified that he does share office space with Mojave Pistachio, however he is a separate farmer for Nugent Ranch. Paul Nugent's son, Joshua Nugent, works for Mojave Pistachio.

Steve Godard, with Searles Valley Minerals, did confirm that Searles will be applying to become a member of the PAC. Mr. Godard is here to better understand the details of Article 5.

### **Board comments:**

Bob Page asked for a point of clarification, the staff recommendation includes the appointment of two agencies as well as a deadline. Mr. Page hopes that the Board will table a decision on the deadline until after the workshop is completed, which will provide insight into whether the proposed deadline will provide sufficient time people to complete and submit their applications

under the provisions of an adopted Article 5 of the Authority Bylaws, which could be revised tonight and not adopted until the next IWVGA meeting.

Peter Brown suggested that the Board automatically accepted Searles Valley as a member, seeing as how the Board has already stated those three agencies. However, Mr. Brown understands that information needs to be looked over. Mr. Brown doesn't feel the May 11<sup>th</sup> deadline is necessary. He suggested that the PAC start holding meetings already.

Peggy Breeden is concerned about the PAC holding meetings with only two members on it.

Bob Harrington asked for clarification on "preliminary appointment." Would the Board be reconsidering this appointment later down the road?

Phillip Hall answered that as a preliminary appointment is a motion and not a resolution. When the rest of the PAC members are appointed, then it would be attached to a resolution and then patched to a roster. That roster will be the members of the PAC. The May 11<sup>th</sup> deadline was picked in hopes that by the next meeting there would be a full roster. Alan Christensen stated that in essence there will be no PAC forming, this is merely preliminary appointments.

Chair Gleason does not understand what functions the PAC would be doing with just two members. Mr. Gleason does agree with getting the ball rolling on the PAC and appointing members. Mr. Gleason suggests that the deadline does not get voted on.

Motion was made by Bob Page and seconded by Peter Brown to appoint the individuals from Meadowbrook and Mojave Pistachio to the PAC and hold off on the May 11<sup>th</sup> deadline to accept PAC applications. Motion carried unanimously. (Ayes: Breeden, Brown, Gleason, Harrington, Page Nays: None.)

## **COMMUNITY WORKSHOP ON "ARTICLE 5 COMMITTEES" FOR INCLUSION TO THE IWVGA BYLAWS:**

Dale Schafer facilitated this portion of the workshop.

Public asked that each portion of Article 5 be reviewed, starting at 5.1.

### **Section 5.1 public comments:**

Earl Wilson asked that the last line of 5.1, "the Board may dissolve a committee at any time through a vote of the Board," be expanded and amended by the Board under the Brown Act.

### **Section 5.2 public comments:**

Earl Wilson commented on the last sentence of the first paragraph, "A designated representative of the committee member may make any inspection under this Section and the right of inspection includes the right to copy." Mr. Wilson feels it is confusing. Also, Article 5.2, second paragraph, line 4, the word "ordinances." Mr. Wilson commented that he didn't think standing committee members could make decisions on ordinances.

Stan Rajtora asked if public could send comments in at any time. The answer was yes. Mr. Rajtora commented that the committee members are the most qualified individuals to select their leadership. Mr. Rajtora suggested that the committee members should be able to appoint their own chairperson and the Board should not have anything to do with the appointment of the committee chairpersons.

Lindsey Stephens commented on the second paragraph, first sentence, “The affirmative vote of a majority of the quorum of standing committee members present at a standing committee meeting is necessary for the passage of any motion.” Ms. Stephens believes this sentence is rambling and there should be clarification on what a quorum is by a certain number. Keith Lemieux commented that there are two possibilities; 1) could read “majority of the committee,” but if it reads that and a majority doesn’t show up then it prevents an item to be moved on. 2) It could read “majority of the quorum” which means if three members show up for a meeting and two of the three members vote in one way then the majority rules. The Board agreed to reword and simplify the first sentence of the second paragraph of section 5.2.

### **Section 5.3 public comments:**

Stan Rajtora commented that this section sends the wrong message and that members of the committees should be the only ones allowed to remove members under concurrence of the Board. Keith Lemieux pointed out that if there are disputes on the Board and you are in the minority group then the majority can get rid of you.

### **Section 5.4 public comments:**

Lindsey Stephens commented that in the first sentence it reads “directions” and should possibly read “tasking” instead. It is important that the committees be allowed to decide the direction and not be told the direction to go. Suggested edit to the sentence so that the sentence instead read: *“The Board shall provide tasking to its standing committees, the expected duration for completion of a particular task, and a summary of the resources, including staff or consultant support available to the standing committee.”*

### **Section 5.5 public comments:**

Mike Neel commented that a sentence be added to the end of *“The PAC shall continue to meet regularly as provided by the Board and, where legally appropriate, advise the Board concerning the policy matter pertaining to the implementation of the GSP. **The PAC shall have the same role as stated above in all GSP updates.**”* Mr. Neel also suggests that the PAC meet monthly, if not more frequently.

Stan Rajtora commented on the statement, “The PAC shall not discuss or influence any enforcement aspects of the GSP implementation.” in the Bylaws, stating that enforcement aspects of the Board are a policy issue and therefore must be discussed within the PAC. Mr. Rajtora had conversations about this issue with Keith Lemieux and where they differ is in the definition of “enforcement.” Mr. Rajtora was speaking about establishing enforcement policy. Mr. Lemieux described this section was intended for the enforcement implementation. Mr. Rajtora would like the words to reflect the intent. Mr. Lemieux directed public to refer to the previous sentence that states “where legally appropriate, advise the Board concerning policy

matter pertaining to the implementation of the GSP.” Mr. Lemieux clarified that the PAC is involved in the implementation, however not the enforcement of the implementation.

Lindsey Stephens asked again that the word “direction” be replaced with “tasking”.

Judie Decker commented that there are multiple copies of the Bylaws floating around. She asks that it be narrowed down to one set of Bylaws.

**Section 5.6 public comments:**

Joshua Nugent asked that in the provided diagram of relationships between the Board of Directors, Water Resource Manager, and the Standing Committees, there be an arrow connecting the PAC and the TAC so that if the PAC has a technical question they can send it directly over to the TAC. Phillip Hall commented that if you are on the PAC you have representation on the TAC. All questions will go through the Water Resource Manager and added to the committee agenda for comment.

Chairperson Gleason agreed with Joshua Nugent’s comment and likes the diagram that was presented. Mr. Gleason feels that the thing missing from the chart is somewhere in the middle of the three bubbles must be coordination. There has to be a way to move information. It has to be visually shown on the chart.

**Section 5.7 public comments:**

Chuck Griffin asked why the Board did not vote in the Eastern Kern Conservation Resource District. Had the application not been completed yet? Mr. Griffin also stated that the large and small agriculture should be defined by acreage. Peter Brown added that anything over 500 acres is large agriculture.

Lorelei Oviatt clarified that she took every single parcel in the valley that was designated A or A1, which is agriculture, and only 25 parcels are over 50 acres. Ms. Oviatt stated that she didn’t think there were any single parcels over 500 acres. Ms. Oviatt stated she would send out the study again.

Stan Rajtora commented that a couple of constituent groups should be added to the list including: Medium Agricultural, Single-family Resident Owner, and a Mutual Water Group or Co-op. Both the TAC and PAC applications need refinement, the draft Article 5 lists no real qualifications for PAC members. The stakeholders have a right to understand the qualifications of the people giving advice to the Board.

Peggy Breeden commented that most of the single dwellings will be de-minimis users who are not part of this.

Phillip Hall commented that a de-minimis user, as defined under Sustainable Groundwater Management Agency (SGMA), is a person who extracts, for domestic purposes, two acre-feet or less per year.

Stan Rajtora commented that a de-minimis user is not a “single family resident”. A single family resident lives within the two or three miles around this area and is a Ridgecrest, non-well-owning resident.

Harold Manos suggested that large agriculture be defined by how much water is used, not by how many acres they own.

Commander Longbottom asked everyone to be mindful of finger pointing. The Board and the public are one team and need to work together.

Doreen Conaway Baker stated, with regards to agriculture, that one person may own 25 parcels and only have one well that feeds those 25 parcels. Is that considered in the process?

Raymond Kelso is concerned who represents the individuals. Mr. Kelso commented that he sees representatives for large and small agriculture. Mr. Kelso added that the last two water bills he received were less than \$2 in usage charges, he is very conscious of conservation efforts. Chuck Griffin commented that the Indian Wells Valley Water District will represent those individuals of this Valley. Bob Harrington commented that Mr. Kelso is a groundwater user of this basin and he obtains his water from the IWVWD, thus the Water District represents him. The reason the IWVWD is a non-voting member on the PAC is because the Water District is a Board member.

Renee Westa-Lusk asked what type of businesses would be allowed to be represented on the PAC. Phillip Hall answered that the qualifications are vague in an attempt to look at the applications prior and find suitable members.

Lorelei Oviatt clarified that she is a non-voting advisor on the PAC for Planning. The Groundwater Sustainability Plan (GSP) has to take into account land use and economic development. So, besides agriculture and having people having houses out there, what are the other businesses that property owners may want to have? The idea was to have business interests on the PAC to also help integrate the GSP into an economic future plan.

#### **Section 5.8 public comments:**

Mike Neel commented that he felt the workshop was making progress. Mr. Neel added that this sentence should be added to clarify removals. Suggested sentence addition: “PAC members may be removed from their positions with a four-fifths vote of the PAC and concurrence of the Board.” Mr. Neel turned in a comment sheet to the Board.

#### **Section 5.9 public comments:**

West Katzenstein stated that it needs to be made clear that the members do not perceive that they are going to write the plan. Instead, they would be providing alternatives. Changes in wording to include the concept of alternative PAC proposals as well as PAC proposals. Keith Lemieux stated that staff intended to have that concept included, however maybe it is not clear enough. The “PAC Meeting Summaries” is supposed to include agreements and disagreements.

Donna Hocker asked what liability exposure PAC members have. Phillip Hall stated that the actual liabilities of this GSA lie with each agency represented. The way it is set up now, the PAC is not making any final affirmations. The PAC is not writing policy. Instead, they are making recommendations to the Board to adopt a policy. PAC members should be filing form 700s.

Mike Neel commented on the last paragraph of section 5.8, suggesting the following change to read, “The Board shall consider all PAC Proposals and PAC Meeting Summaries, as well as any technical information and reports provided by *the TAC and* the Water Resources Manager that are requested by the Board”.

Phillip Hall commented that there cannot be self-interested individuals having an undue influence or control over the science that is going to occur here. This is one of the reasons that they had an independent Water Resource Manager acting as the quarterback between all of these entities, the committees and the Board. If the Water Resource Manager goes senile halfway through, the TAC needs to be able to go directly to the Board and inform them. This is in part why PAC Summaries don’t go directly to the Board, but instead through the Water Resource Manager.

**Section 5.10 public comments:**

None.

**Section 5.11 public comments:**

Stan Rajtora commented that the TAC needs to have leadership independent of the Water Resource Manager. The purpose of the TAC is to provide the Board with high quality technical advice. There needs to be significant collaboration between the TAC and the Water Resource Manager, however the TAC needs to be independent.

Mike Neel commented the Water Resource Manager should be administrative advisor for the TAC and provide technical assistance as needed. The Water Resource Manager would be the integrated advisor for the TAC and not the chairperson.

**Section 5.12 public comments:**

Lindsey Stephens commented on the word “may” in the following sentence, “Each member of the PAC *may* nominate one member of the TAC for consideration and possible appointment to the TAC by the Board.” As previously mentioned, each member would be able to nominate someone. This sentence seems flexible on that interpretation. Mr. Lemieux clarified that the PAC member MAY choose not to.

West Katzenstein is concerned about the PAC being able to recommend TAC members when everyone wants independent technical assessment from TAC members. The TAC members should not be perceived as the “hired gun” of someone on the PAC.

Judie Decker comments that the TAC needs scientists and not a representative of some group.

Stan Rajtora commented that the TAC members need to be the best people we can possibly get. The TAC application needs to show the applicant’s qualifications.



Derek Hoffman thanked the Board for appointing Ed Imsand to the PAC. Mr. Hoffman asked the Board to approve Article 5 as presented. The Board needs to ask themselves if the changes suggested make the article better or just different.

**Section 5.13 public comments:**

Elaine Mead commented on the first sentence of the section. The SGMA law 10727.8 says that “The groundwater sustainability agency may appoint and consult with an advisory committee consisting of interested parties for the purposes of developing and implementing a groundwater sustainability plan.” Ms. Mead asked if there was another statute of law that the Board was quoting that says that a Water Resource Manager is responsible for the preparation of each technical element of the GSP. Phillip Hall explained that from his understanding, the public is saying that they want independent technical advice. However, when the TAC has someone who is not independent on it, then the TAC does not have independent technical advice, the TAC has somebody who is self-interested providing advice to the GSA. The problem here is due process. The Water Resource Manager is there to provide independence, but the Water Resource Manager will take into account the technical expertise, advice, and comments from everyone. Ms. Mead clarified that her question was to the statement of “as required by law.” The only place in the law that mentions we must develop a GSP is the aforementioned SGMA law 10727.8 and it does not state that a Water Resource Manager must be used. Phillip Hall stated the “as required by law” statement is in reference to due process, which is a constitutional aspect of law. Mr. Hall stated that Ms. Mead was referring to a statute requirement. The concept here is to ensure that we are taking care of the due process, constitutionally, that is created by this agency. Mr. Hall explained due process and to ensure that the person writing the plan as a recommendation to the Board is completely independent.

Lindsey Stephens stated that it seems there should be a conflict of interest section which is finalized immediately. Phillip Hall commented that if a public agency takes into evidence that the other side doesn’t get to speak, then due process doesn’t happen. Conflict of interest resolution has been adopted. The Water Resource Manager and the PAC will file form 700s.

Board comment:

Chairperson Gleason thanked Dale Schafer for facilitating this portion of the workshop. Chair Gleason suggested that somewhere in the Bylaws it mentions that it is subject to an annual review.

**APPROVE “ARTICLE 5 COMMITTEES” FOR INCLUSION TO THE IWVGA BYLAWS:**

Chair Gleason expects changes to be made to the Bylaws prior to approving them and wants to allow staff and the Board time to digest all edits and changes mentioned by the public.

Peter Brown commented that there were some points and issues about the Water Resource Manager which he felt were addressed by IWVGA staff already. It would help to have a definition for agriculture groups. Mr. Brown feels staff should focus on committee composition and the rest of the edits can be easily modified.

Bob Page asked, with regards to section 5.7, under the initial list of voting members, “Individuals seeking appointment to a voting position on the PAC must be.... a registered voter, landowner, or the authorized representative of a landowner in the Indian Wells Valley Groundwater Basin.” SGMA requires that the Board consider the interests of all beneficial uses and users of groundwater. One of those uses is outside the land jurisdiction of the basin. Mr. Page asked what if there were a business in Trona that wanted to participate in the PAC. What would happen? Phillip Hall answered that that scenario was not considered, however how the Bylaws are drafted right now the water provider in Trona is the wholesaler and no other scenario was considered. Mr. Page commented that he expected a comment from public about Disadvantaged Communities. While looking at all the beneficial users of water in this basin, the Water District represents its customers on the IWVGA Board, but its customers would not be represented on the PAC as its membership is currently proposed. Mr. Page feels that the groundwater customers in the basin should have more than one seat on the PAC. He suggested two additional constituent group seats that could be for residential customers of a public water system. One seat would be for a Disadvantaged Community representative, as defined by California Public Resource Code, section 75005(g).

Chair Gleason commented that flexibility as far as the structure that’s developed is key and suggested periodic reviews of section 5.7. Phillip Hall suggested formalizing categories prior to receiving applications.

Bob Harrington commented that this workshop proved to be very useful. Mr. Harrington is concerned about the PAC being able to remove its own members. Mr. Harrington concluded that Bob Page’s suggestions for additional representation on the PAC should be considered by the Board.

Chair Gleason asked if every Board member would be allowed to appoint someone to be on the PAC. Mr. Hall clarified that if Mr. Gleason were to appoint someone to the PAC whom he had no direct contact with, did not influence the members choices on the PAC at all, then yes, under the Brown Act it is okay for Mr. Gleason, or any Board member to appoint a member to the PAC, if the Board members wished to do so.

Chair Gleason suggests an annual review of the composition of the PAC and the TAC in three or four months.

Keith Lemieux stated changes he had listed as the following:

- Subject to annual review
- PAC appoints its own chair
- Wait for applications to define large and small agriculture
- Additional representatives including Disadvantaged Communities
- Revisit wordsmithing
- Arrows added to diagram

Commander Longbottom confirmed that the wordsmithing, which the public pointed out, would be reviewed.

Mr. Page commented that the IWVGA Board appointed Chair Gleason and Peter Brown as a subcommittee to work on the Bylaws.

Chuck Griffin commented that what is important is everyone working together to make this GSA work.

The Board unanimously decided to not take action on this agenda item until after revisions were made to the draft Bylaws and presented at the next IWVGA Meeting.

**GENERAL MANAGER REPORT:**

Alan Christensen reported that they have been receiving applications for the Water Resource Manager. A total of 6 applications have been received thus far.

Mr. Hall suggested a deadline be set for the PAC applications to start filling the PAC seats. The Board agreed to a “soft deadline” for the first round of applications.

**CLOSING COMMENTS:**

Bob Harrington commented that Matt Kingsley regrets not being able to attend this workshop and does plan to attend future meetings.

**CLOSED SESSION:**

None.

**DATE AND TIME OF NEXT MEETING:**

The next IWVGA meeting will be held Thursday, May 18, 2017, at 10:00 a.m., in the Council Chambers at Ridgecrest City Hall, 100 W. California Avenue.

**ADJOURN:**

Chairperson Gleason announced the meeting adjourned at 8:33 p.m.

Respectfully submitted,



Lauren Duffy  
Clerk of the Board of Directors  
Indian Wells Valley Groundwater Authority