



**SAWPA COMMISSION  
REGULAR MEETING MINUTES  
SEPTEMBER 4, 2018**

**COMMISSIONERS PRESENT**

Mark Bulot, Chair, San Bernardino Valley Municipal Water District  
Ronald W. Sullivan, Vice Chair, Eastern Municipal Water District  
Kati Parker, Alternate, Inland Empire Utilities Agency  
Bruce Whitaker, Orange County Water District  
Thomas P. Evans, Western Municipal Water District

**COMMISSIONERS ABSENT**

Jasmin A. Hall, Secretary-Treasurer, Inland Empire Utilities Agency

**ALTERNATE COMMISSIONERS  
PRESENT; NON-VOTING**

Brenda Dennstedt, Alternate, Western Municipal Water District (9:41 a.m.)

**STAFF PRESENT**

Rich Haller, Larry McKenney, Karen Williams, Mark Norton, Dean Unger, David Ruhl, Carlos Quintero, Mark Antos, Kelly Berry

The Regular Commission Meeting of the Santa Ana Watershed Project Authority was called to order at 9:30 a.m. by Chair Bulot at the Santa Ana Watershed Project Authority, 11615 Sterling Avenue, Riverside, California.

**1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

Roll call was duly noted and recorded by the Clerk of the Board.

**3. PUBLIC COMMENTS**

There were no public comments.

**4. CONSENT CALENDAR**

**A. APPROVAL OF MEETING MINUTES: AUGUST 21, 2018**

Recommendation: Approve as posted.

**MOVED**, approve the August 21, 2018 meeting minutes.

Result:	<b>Adopted (Unanimously)</b>
Motion/Second:	Whitaker/Sullivan
Ayes:	Bulot, Evans, Parker, Sullivan, Whitaker
Nays:	None
Abstentions:	None
Absent:	None

**5. NEW BUSINESS**

**A. OWOW GOVERNANCE (CM#2018.90)**

Larry McKenney reviewed materials from agenda packet. Chair Bulot noted the OWOW process has become much more complex since his original involvement in 2009; even though some process changes are the result of state mandates, perhaps there is a way to streamline this process in the future

which was his intent in bringing this before the Commission. McKenney noted the original governance document was adopted in 2009 and amended in 2013; he provided a brief review of the process evolution to become more inclusive of a broader group of stakeholders with interests not limited to the SAWPA member agencies.

Rich Haller noted that the process undergoes a lessons-learned evaluation at the conclusion of each funding round; the same will be the case at the conclusion of the Proposition 1 process. Two key goals were transparency and inclusion of a broader group of stakeholders. Chair Bulot shared his concern that the current process requires a tremendous amount of effort and overhead, and insulates the responsible entity, the SAWPA Commission.

Commissioner Sullivan noted this is an evolving process to address the overall health of the watershed and how we move that forward; through Integrated Regional Water Management (IRWM), we consider what is in the best interest of the entire watershed utilizing a competitive grant program. The process will never be perfect; but we still need to examine the process from the aspect of what is in the best interest of the watershed. Commissioner Sullivan agreed that the process is much more complicated than previous rounds; now there are so many avenues of input that we have lost perspective of who is in charge and ultimately approves the projects and funding. The Commission was limited in its involvement during the last funding round regarding what was presented to the OWOW Steering Committee; the Commission should be part of the process in determining what goes before that body for its review and input. Commissioner Sullivan recommended the Commission revisit the OWOW governance process.

This item was for informational and discussion purposes; no action was taken on Agenda Item No. 5.A.

**B. ORANGE COUNTY STAKEHOLDERS – (OWOW) | OC PLAN PRESENTATION  
(CM#2018.89)**

Larry McKenney referred to the agenda packet materials and introduced Amanda Carr, OC Public Works, Deputy Director of Environmental Resources, who provided a PowerPoint presentation, copies of which were provided to the Commission, staff and the public. Also present was Jenna Voss, Senior Environmental Resource Specialist with the County of Orange who is the South Orange County IRWM manager.

Commissioner Sullivan expressed difficulty with a guaranteed 38%, no matter what; this doesn't take into consideration where most of the water comes from in making its way to Orange County – the upper watershed. Adoption of the July 13, 2018 letter would incorporate into the OWOW Plan Update 2018 38% of total available future grant funds allocated to priority projects identified in The OC Plan; this removes the competitive process and doesn't necessarily reflect what is the value to the overall health of the watershed. Commissioner Sullivan voiced his support of a fair, competitive process. Amanda Carr noted their proposal is based on how the San Diego region allocates its funding and is how Proposition 84 funding was allocated statewide; the population size of Orange County has determined the amount of funding directed toward the Santa Ana region. Orange County has several unique water quality and water supply issues that are not fully reflected in the OWOW Plan, which is why OC developed its own IRWM plan. While the Santa Ana River does cross boundaries into Orange County, it is not necessarily hydrologically connected due to Prado Dam; this is an attempt is to address those differing needs. It is difficult for a project addressing issues in Newport Bay to compete on equal footing with a project in the upper watershed.

Commissioner Evans encouraged Orange County provide an example to the OWOW Steering Committee of what has been or would be done which would provide a greater benefit than might not have otherwise been the case. Commissioner Evans suggested Orange County explain how they would

envision taking a regional approach within the Santa Ana watershed region.

Commissioner Sullivan noted we would continue to seek a balance, but a guaranteed percentage does not represent a regional approach. Chair Bulot expressed supporting the concept of the most water for the least dollar amount.

This item was for informational and discussion purposes; no action was taken on Agenda Item No. 5.B.

**C. REQUEST FOR PROPOSALS (RFP) FOR STATE ADVOCACY AND LOBBYING SERVICES (CM#2018.91)**

Larry McKenney provided an oral presentation on the materials contained in the agenda packet, noting that staff was seeking approval of the recommendation as set forth in the Commission memo contained on page 23 of the agenda packet, which is for a two-year term with an option for two additional years. The Commission concurred with this revised recommendation, and Commissioner Evans moved the item.

**MOVED**, authorize the issuance of a Request for Proposals (RFP) for advocacy and lobbying services in Sacramento for the next two (2) years with an option for an additional two (2) years.

Result:	<b>Adopted (Unanimously)</b>
Motion/Second:	Evans/Sullivan
Ayes:	Bulot, Evans, Parker, Sullivan, Whitaker
Nays:	None
Abstentions:	None
Absent:	None

**D. PROPOSED JPA AMENDMENTS AND NEW PROJECT AGREEMENT 24 (CM#2018.92)**

Rich Haller provided the PowerPoint presentation contained in the agenda packet (pages 41-59) and information on the proposed Joint Powers Authority (JPA) Amendments, the Project Agreement 24, with comments from the recent Western Municipal Water District (WMWD) Board workshop, as well as a status update on staff preparation of two additional Project Agreements concerning OWOW and Task Forces. PA 24 Agreement as presented will expand/redefine the description of an operating decision and allow for the provision of exceeding the budget by unanimous vote of the committee; this is a change from what has occurred historically and what is currently written in the JPA, which requires unanimous approval of the agencies. The budget can be approved by a majority vote on each agency board, but approval by all agencies must be unanimous.

Larry McKenney noted that the JPA as it is currently written does not require a unanimous vote of this Commission or of any member agency board when considering the budget; it requires approval of this Commission, by majority vote, and approval of every member agency board, by majority vote. This proposed change both within the PA 24 Agreement and the proposed amendment to Section 18 of the JPA would require a unanimous vote of the PA 24 Committee for budget and operating decisions of the committee, not of the members. Also, the PA 24 Agreement would require a unanimous vote of the PA 24 Committee on adopting the budget before it goes to the members agencies for consideration. Those are new requirements.

Commissioner Evans stated the WMWD Board unanimously believes that a Joint Powers Authority is created by elected officials for a specific purpose; the Commission is comprised of elected officials. Because the Brine Line is a utility, the WMWD Board believes that only elected officials should be responsible for governing a public utility and therefore the governing body should be comprised exclusively of elected officials – Commissioners or Alternate Commissioners of the member agencies. There should be a linkage between the voter and the people who are governing. Regarding the requirement of unanimous decisions relating to Brine Line operations, the WMWD Board views this as

potentially trouble-making. The process currently in place requires all member agencies to approve the budget. There may be a situation when there is no unanimous agreement regarding Brine Line operations within the budget; under the proposed PA 24, one vote can essentially veto a decision. There should be no trouble-making provisions; WMWD does not believe that is an appropriate provision for the PA 24 or any future project agreements. Finally, regarding the other two proposed project agreements, OWOW and Task Forces, once those are in place they will have effectively transferred governance from the Commission to the committees created by those agreements. It appears to be an additional layer of bureaucracy which will provide no value in terms of the outcome.

Commissioner Sullivan noted the Commissioners may not always have a similar level of technical expertise, and there are times when it is best for someone with technical knowledge of Brine Line operations to sit on the committee. Commissioner Sullivan voiced his support of expanding committee membership beyond just the Commissioners and Alternate Commissioners, noting if EMWD wanted to appoint a technically qualified person or the General Manager, it should be able to do so. Relating the unanimous vote provision, generally you can find a way to come to an agreement; he stated if there is an impasse in the future it should be dealt with at that time.

Alternate Commissioner Parker expressed concern regarding the unanimous vote provision in that it could prohibit decision making; given this, she was not supportive of putting the Brine Line into a project committee. Commissioner Evans noted we already have a Technical Committee, General Managers meet weekly with the SAWPA General Manager and staff, and we have a professional staff – that is where the technical decisions need to be made. The Commission should make policy decisions; there needs to be a connection between the voter and the policy maker, and only elected officials should be in that category.

Chair Bulot noted that in light of this discussion, perhaps everyone is not yet ready to consider the Project Agreement 24; he noted that while this has been considered by the member agency General Managers, each Board has not yet reviewed this in detail. Chair Bulot suggested the next step would be the presentation of this to each Board, receive comments, then bring them back to this Commission for future deliberation.

General Manager Paul Jones, EMWD, noted that presently when a project committee establishes a budget it has to go back to the respective member agencies for unanimous consent. Haller clarified that all the project committee budgets are rolled up into a single SAWPA budget which goes to the individual member agencies for unanimous consent of the members. Jones continued the only difference is that this would allow the project committee members to actually vote on behalf of their agencies.

Larry McKenney noted that currently there is a strong emphasis on all five member agencies approving the SAWPA budget, or all committee members approving a project committee budget, and the JPA states specifically that within-budget decisions are made by majority vote of the governing body – either the Commission or the committee.

A discussion ensued as to the meaning of unanimous consent of the members are set forth in the JPA. Larry McKenney stated unanimous consent of the members (or the project committee) or of the agencies means all member agencies unanimously approve; the JPA doesn't dictate how the member agencies approve it – unanimously or by majority vote. That is for the individual member agencies to determine if a unanimous or majority vote would be required. The JPA requires the member agencies to approve the budget; the JPA states that expenditures that are within the budget are by majority vote. Commissioner Sullivan disagreed stating the literal interpretation of the JPA has been unanimous consent of all member agencies, not a majority vote of all member agencies. When the respective member agencies consider the SAWPA (or committee) budget, every Board member has to agree on

the budget – it cannot be a majority vote of a member agency body but must be unanimous.

McKenney noted that the proposed change here is that the project committee budget would have to be approved by unanimous vote of the project committee. In his opinion, this is appropriate and not a significant issue. What is also proposed is to clarify the definition and scope of operating decisions. Section 18 of the JPA contains a statement that budget and operating decisions require unanimous consent of the members. The term “operating decisions” is not defined in the JPA. When drafting PA 24 we had to decide if we should try to define operating decisions so we could have some direction of what requires unanimous vote/unanimous consent of the members, or it could be removed entirely. Regarding budget decisions, how those proceed now is clear. The concern or trouble-making aspect that has been mentioned is when do operating decisions require unanimous vote or unanimous approval of the member agencies. PA 24 tries to address this in Section 5 by describing what operating decisions are for the Brine Line; it’s the budget and operating decisions aspect which creates the difficulty.

Rich Haller noted this discussion has been helpful and emphasized the importance of everyone understanding what is proposed. He will pursue holding individual workshops with each member agency board so everyone clearly understands what is being proposed and the impact to operating decisions. This will impact customers of each member agency and we take very seriously the need and importance of coordinating with the member agencies regarding coordination of high-level Brine Line operations. The intent of the proposed language is that the high-level Brine Line operating decisions would be brought to the PA 24 committee for approval.

Commissioner Sullivan encouraged Rich Haller seek input from OCWD relative to Brine Line rates, even though OCWD is not a member of PA 24. Haller noted he would work with each member agency to schedule a workshop during October, then come back before the Commission in November.

No action was taken on Agenda Item No. 5.D.

## 6. INFORMATIONAL REPORTS

The following oral/written reports/updates were received and filed.

### A. CHAIR’S COMMENTS/REPORT

There were no further Chair comments or reports.

### B. COMMISSIONERS’ COMMENTS

There were no further Commissioners’ comments.

### C. COMMISSIONERS’ REQUEST FOR FUTURE AGENDA ITEMS

There were no further requests for future agenda items.

## 7. CLOSED SESSION

Chair Bulot recessed the meeting to Closed Session at 10:56 a.m. Designated personnel essential to the discussion of Agenda Item No. 7.A. were present during Closed Session.

### A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1)

Name of Case: Spiniello Companies v. Charles King Company, Inc., Santa Ana Watershed Project Authority, The Ohio Casualty Insurance Company (Superior Court of Los Angeles BC616589)

Chair Bulot resumed Open Session at 11:43 a.m. There was no reportable action.

8. **ADJOURNMENT**

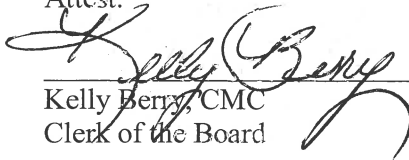
There being no further business for review, Chair Bulot adjourned the meeting at 11:43 a.m.

**Approved at a Regular Meeting of the Santa Ana Watershed Project Authority Commission on Tuesday, September 18, 2018.**



\_\_\_\_\_  
Mark Bulot, Chair

Attest:



\_\_\_\_\_  
Kelly Berry, CMC  
Clerk of the Board