

SAN JUAN WATER DISTRICT

Board of Director's Special Board Meeting Minutes

May 31, 2023 – 6:00 p.m.

BOARD OF DIRECTORS

Dan Rich	President
Manuel Zamorano	Vice President
Ted Costa	Director
Ken Miller	Director
Pam Tobin	Director (absent)

SAN JUAN WATER DISTRICT MANAGEMENT AND STAFF

Paul Helliker	General Manager
Tony Barela	Director of Operations
Andrew Pierson	Director of Engineering
Adam Larsen	Field Services Manager
Greg Zlotnick	Water Resources Manager
Teri Grant	Board Secretary/Administrative Assistant
Ryan Jones	General Counsel

OTHER ATTENDEES

Attendee	
Caller 01	
Daisy Nailor	
Stacy	
Craig Locke	Sacramento Suburban Water District

AGENDA ITEMS

- I. Roll Call**
- II. New Business**
- III. Adjourn**

President Rich called the meeting to order at 6:00 p.m.

I. ROLL CALL

The Board Secretary took a roll call of the Board. The following directors were present: Ted Costa, Ken Miller, Dan Rich and Manuel Zamorano. The following director was absent: Pam Tobin.

II. NEW BUSINESS

1. Proposed ACWA Board Policy GO-2.9 Revision (W)

GM Helliker reviewed his written staff report which will be attached to the meeting minutes. He explained that the proposed revisions in the ACWA Board Policy GO-2.9 will be reviewed by the ACWA Board on June 2nd. In addition, he explained that some of the revisions are vague and unacceptably broad and suffers from a lack of

due process. The Board voiced concern that the revisions pose unnecessary restrictions on communications (possibly violating the 1st Amendment Freedom of Speech) and may jeopardize a member agency's employee's position with regard to prohibiting the employee from representing their agency at a meeting which may be a requirement of their job. The Board discussed the revisions and agreed with the staff recommendation. The Board recommends that the General Manager add additional language to the resolution which covers the Board's direction.

Director Zamorano moved to adopt Resolution 23-07, with amendments, opposing certain revisions to ACWA Policy GO-2.9 and direct staff to distribute Resolution 23-07 to the ACWA Region 4 Board and the ACWA Board of Directors. Director Costa seconded the motion and it carried with 4 Aye votes (Director Tobin absent).

III. ADJOURN

The meeting was adjourned at 6:29 p.m.

ATTEST:

DAN RICH, President
Board of Directors
San Juan Water District

TERI GRANT, Board Secretary

STAFF REPORT

To: Board of Directors
From: Paul Helliker, General Manager
Date: May 31, 2023
Subject: Proposed amendments to ACWA Policy GO-2.9

RECOMMENDED ACTION

Staff request that the Board of Directors approve Resolution 23-07, opposing certain revisions to ACWA Policy GO-2.9 and direct staff to distribute Resolution 23-07 to the ACWA Region 4 Board and the ACWA Board of Directors.

BACKGROUND

The Association of California Water Agencies (ACWA) currently has a “code of conduct” policy, to define expected behavior by attendees in ACWA events (conferences and other meetings organized by ACWA). That policy currently defines unacceptable behavior to be the following:

- Verbal abuse, such as the use of derogatory remarks, insults, and epithets or
- Verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating.

This policy was used recently to sanction an ACWA Board member and a participant in one of ACWA’s committee meetings, for comments that could reasonably be construed as potentially constituting “sexual harassment” within the meaning of the law. Because that terminology was not explicitly used in the ACWA policy, there were some questions raised about whether or not the sanctions were supported by the ACWA policy. Some of the proposed revisions appear to be intended to address this lack of clarity, e.g., the revisions and additions to the definitions of disrespectful or abusive conduct, contained on p. 2 of the policy – specifically items 1-4. Such prohibitions against behavior that may reasonably be construed as constituting “sexual harassment” are typical of anti-harassment policies, and are included in San Juan’s personnel manual.

Other proposed revisions to this policy are problematic, however. For example, the reference to the code of conduct relating to “guiding everyone who participates in communications, or interactions related to the work of ACWA” is vague, unnecessarily broad and could apply to any communication by anyone that happens to reference a topic “related to the work of ACWA”. Such language would be tantamount to censorship by ACWA of any communication that the Executive Director might deem objectionable for any reason. Similar problems plague items 5 and 6 in the definitions of disrespectful or abusive conduct. In item 5, “sharing materials without authorization from the presenters”, “or other misuse of ACWA member resources” are similarly vague and potentially illegal, if the proposal is intended to limit the distribution of public documents

(as a presentation made at an ACWA event would likely be). Item 6 is a catch-all prohibition of “any other conduct not covered above deemed inappropriate”, including conduct that might “jeopardize...ACWA’s reputation and goodwill”. This would open to sanction any behavior that the ACWA Executive Director decided was somehow inappropriate for any reason whatsoever, or which could be construed to jeopardize ACWA’s “reputation” – a rather nebulous term. Such vague language could allow the Executive Director to sanction anyone who made any comment or sent any email that he/she did not appreciate or concur with, and then deemed to be inappropriate or potentially damaging to ACWA’s reputation. Such language in an ACWA policy is unacceptably broad and subjective and could lead to attempts to censor communications by anyone. Items 5 and 6 should be deleted in their entirety from the policy.

The policy also suffers from a lack of due process – the Executive Director would be allowed to make decisions to bar people permanently from ACWA events without any oversight or possibility of appeal. At a minimum, an appeals process needs to be included in the policy.

For all of these reasons, these revisions need to be tabled. If they are to be reconsidered, it must be with significantly more input from the ACWA Board and membership. Staff recommend that the San Juan Board adopt Resolution 23-07, to articulate its opposition to the proposed revisions and convey that position to the Region 4 Board and the entire ACWA Board of Directors.

RESOLUTION NO. 23-07

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE SAN JUAN WATER DISTRICT
OPPOSING REVISIONS TO POLICY GO-2.9 OF THE ASSOCIATION OF
CALIFORNIA WATER AGENCIES**

WHEREAS, the San Juan Water District is a member district of the Association of California Water Agencies (ACWA);

WHEREAS, the ACWA board of Directors adopted Policy GO-2.9 on February 3, 2023, to establish a code of conduct for participants in ACWA events;

WHEREAS, ACWA staff have proposed revising this policy via a draft set of revisions to Policy GO-2.9, to be considered by the ACWA Board of Directors at its June 2, 2023 meeting;

WHEREAS, the proposed revisions include references to their being applicable to “communications, and any other interactions related to the work of ACWA”, and

WHEREAS, the proposed revisions include restrictions on sharing public documents, such as presentations from ACWA conferences and other “member resources”;

WHEREAS, the proposed revisions include a reference to constraints on “any other conduct not covered above deemed inappropriate” and any conduct that may “jeopardize... ACWA reputation and goodwill” (sic);

WHEREAS, the policy allows the ACWA Executive Director to unilaterally decide what conduct is unallowable pursuant to the policy, and provides no mechanism for review or appeal of the decision; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Juan Water District finds that the proposed revisions to Policy GO-2.9 are vague, arbitrary and apply inappropriately to behavior or communications beyond those occurring at ACWA events; and

BE IT FURTHER RESOLVED that, for the reasons stated above, the San Juan Board of Directors opposes the proposed revisions in Policy GO-2.9.

PASSED AND ADOPTED by the Board of Directors of the San Juan Water District on the 31st day of May 2023, by the following vote:

AYES:	DIRECTORS:
NOES:	DIRECTORS:
ABSENT:	DIRECTORS:

DAN RICH
President, Board of Directors

ATTEST

TERI GRANT
Secretary, Board of Directors