

FOX CANYON GROUNDWATER MANAGEMENT AGENCY

A STATE OF CALIFORNIA WATER AGENCY



BOARD OF DIRECTORS

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Tony Trembley, *Mayor, City of Camarillo*

INTERIM EXECUTIVE OFFICER

Arne Anselm

September 13, 2024

Board of Directors
Fox Canyon Groundwater Management Agency
800 South Victoria Avenue
Ventura, CA 93009-1600

SUBJECT: Reimbursement of Legal Expenses Incurred by the Agency for Las Posas Valley Watermaster Rules Appeal – (New Item)

RECOMMENDATIONS: (1) Receive a presentation from Agency staff on the reimbursement of the Las Posas Valley (LPV) Watermaster Rules Appeal, as recommended by the Fiscal Committee; and (2) Provide direction to staff.

BACKGROUND:

The Judgment for the LPV Adjudication (Judgment) appointed the Agency as Watermaster to implement the Judgment in the Las Posas Valley Groundwater Basin (Basin). The Judgment authorizes and requires the Watermaster to take Management Actions to ensure the optimization and sustainability of the Basin and requires the Watermaster to set, levy, and collect Basin Assessments and fees from Water Rights Holders to fund Management Actions, Basin Optimization Projects, and the Watermaster's general administration of the Judgment. (Judgment § 7.1.) Your Board adopted an LPV Watermaster Budget and established an initial Basin Assessment of \$64 per acre foot on December 15, 2023. No funds were available for LPV Watermaster activities until the first Basin Assessments were paid and received.

The Fiscal Committee met on May 14, 2024, to discuss policy issues related to the Initial LPV Watermaster Budget adopted by your Board on December 15, 2023, and made recommendations for your Board's direction. Representatives of the Las Posas Valley Policy Advisory Committee (PAC) attended the Fiscal Committee meeting and discussed the meeting's content during its May 16, 2024, meeting. The PAC provided a response letter dated May 17, 2024, attached as Exhibit 11A.

On May 22, 2024, your Board discussed the potential reimbursement of FCGMA funds expended on the LPV Watermaster Rules Appeal. Direction was given to return the item to the Fiscal Committee to discuss options for funding the LPV Watermaster Rules Appeal. The Fiscal Committee held a follow-up meeting on Monday, June 10, 2024.

DISCUSSION:

Until a separate LPV Watermaster Fund was created and the initial Basin Assessments received, the Agency was implementing Basin Management Actions without a specific source for funding Watermaster activities and work. The separate LPV Watermaster Fund was created April 2024 for the deposit of Basin

Assessments and funding of ongoing LPV Watermaster activities. Funds expended prior to April 2024 were paid from the Agency's operating fund, including legal expenses.

Legal expenses incurred since the Judgment include Agency counsel time advising staff and your Board on interpretation and implementation of the Judgment and defending the Watermaster's implementation of the Judgment against various parties. In addition, both Agency and outside counsel expenses were incurred for representing the Agency in the LPV Watermaster Rules Appeal, estimated at \$400,000. An exact accounting is unavailable as there was no system in place at the time.

The Fiscal Committee's recommendation from the June 10, 2024, meeting was to evenly split the costs of the LPV Watermaster Rules Appeal, but to first provide your Board with a presentation on how the split will affect the two budgets. Further, the Fiscal Committee recommended that this presentation to the Board should also include the options of the LPV Watermaster paying the entire costs incurred and paying none of the costs. Exhibit 11B, attached, presents these three options for the Agency-wide budget, and Exhibit 11C, attached, presents these options for the LPV Watermaster budget. The table below provides the bottom line of those budget scenarios and their impact on the LPV Basin Assessment.

	No Reimbursement	Split Reimbursement	Full Reimbursement
FY 24-25 FCGMA Budget: Net Operating Results	(\$1, 607,067)	(\$1,407,067)	(\$1,207,067)
LPV Watermaster Budget: Grand Total	\$2,363,095	\$2,583,095	\$2,803,095
LPV Watermaster Basin Assessment (per Acre-Foot)	\$59.08	\$64.58	\$70.08
LPV Watermaster Quarterly Basin Assessment (per AF)	\$14.77	\$16.14	\$17.52

CONCLUSION:

The Fiscal Committee recommended the LPV Watermaster Appeal funding reimbursement be shared equally between the Agency and the LPV Watermaster. Action on this item will inform the FY 24-25 Agency budget and the separate FY 24-25 LPV Watermaster budget accordingly. Both budgets will be brought before your Board on this Agenda as separate items.

This letter has been reviewed by Agency Counsel. If you have any questions, please call me at (805) 654-3942.

Sincerely,



Arne Anselm
Interim Executive Officer

Attachments:

- Exhibit 11A – LPV PAC Response Letter dated May 17, 2024
- Exhibit 11B - FY 24-25 FCGMA Budget Legal Reimbursement Scenarios
- Exhibit 11C - FY 24-25 LPV Watermaster Budget Legal Reimbursement Scenarios

Exhibit 11A – LPV PAC Response Letter dated May 17, 2024

Eugene West, Chair
Las Posas Valley Watermaster
800 S. Victoria Ave.
Ventura, CA 93009

May 17, 2024

Chair West:

As you know, Las Posas Valley Watermaster Policy Advisory Committee (PAC) representatives attended the May 14, 2024 Watermaster/FCGMA Fiscal Committee meeting. We appreciate the opportunity to be involved and would like to extend our thanks to you and Director Trembley for your incisive questions, requests for even greater detail, cogent framing of the policy questions, and openness to feedback from the PAC and other members of the public. We also appreciate staff's responsiveness to PAC's request for detail ahead of the committee meeting, Mr. Anselm's and Mr. Kaseke's willingness to provide additional detail during the discussion and ahead of future meetings of the Board and committee, and the generally collegial and collaborative atmosphere of the meeting. We thought it was a very productive and encouraging meeting.

At its May 16, 2024 meeting, the PAC discussed some of the questions coming out of the committee meeting. The main policy question the PAC would like to express an opinion on is that any **legal fees related to the FCGMA's appeal be strictly confined to the FCGMA budget and not be borne by the PAC**. This should resolve the revenue shortfall described during the committee meeting and therefore make it unnecessary to collect the second half of the initial basin assessment. More importantly, however, it stands to principle that the Watermaster should not bear the costs associated with legal action taken on behalf of the FCGMA against the Judgment.

In addition, we confirmed our previously state preference for quarterly billing; support the proposed approach to building operating reserves; and particularly appreciate the request to further itemize some of the line items under "Allocation & Recordkeeping" to better inform the segregation and/or duplication of effort between the FCGMA and Watermaster budgets.

Lastly, regarding the collection and enforcement of late payments, the PAC appreciates Watermaster staff's approach to sending a friendly reminder notice. Beyond that, we encourage the Watermaster to follow the remedies outlined in the Judgment.

Again, we appreciate the productivity of the May 14 fiscal committee and look forward to resolving these policy issues ahead of dialing in the FY2024-25 budget.

Sincerely,



Ian Prichard, Chair, LPV PAC

Item 11 - Exhibit 11B – FY 24-25 FCGMA Budget Legal Reimbursement Scenarios

FCGMA FY 2024-25 BUDGET - DRAFT

Fund O170 Unit 5795			
2024-25 Draft Budget			
With no reimbursement			
Split reimbursement			
Full Reimbursement			
1	BEGINNING YEAR FUND BALANCE	\$6,996,395	\$6,996,395
2	Revenues		
3	Pump Charge (Note 1)	\$726,000	\$726,000
4	Groundwater Sustainability Fee (Note 2)	\$3,509,000	\$3,509,000
5	Penalties / Interest	\$130,000	\$130,000
6	GMA Pumping Surcharges	\$1,000,000	\$1,000,000
7	GEMES (Reserve Fee)	\$2,420,000	\$2,420,000
8	SGM Impl Grant Round 1 (OPV) - DWR (Note 3)	\$2,577,800	\$2,577,800
9	SGM Impl Grant Round 1 (OPV) - Admin (Note 4)	\$46,472	\$46,472
10	Water Market / AMI Grant (Note 5)	-	-
11	Interest Earnings (Note 6)	\$287,000	\$287,000
12	Loan From Surcharges (Note 7)	\$0	\$0
13	LPV Watermaster for Rules Appeal (Note 8)	\$0	\$200,000
14	Misc. Revenue	-	-
15	Total Revenues	\$10,696,272	\$10,896,272
16	Expenditures		
17	Public Works Agency Charges (Note 9)	\$3,375,535	\$3,375,535
18	General Services Agency Charges (Note 10)	\$25,000	\$25,000
19	FCGMA Online Support/GIS (Note 11)	\$247,061	\$247,061
20	LAFCO Funding (Note 12)	\$3,510	\$3,510
21	General Legal (County Counsel) (Note 13)	\$170,000	\$170,000
22	Special Counsel (Stoel, Shute MW)	\$1,875,000	\$1,875,000
23	County Counsel (Litigation) - GEMES	\$200,000	\$200,000
24	Board Member Insurance	\$4,085	\$4,085
25	Biennial Audit	\$20,000	\$20,000
26	AWA Dues / Symposium/Conference	\$2,500	\$2,500
27	Public Outreach & Notices	\$1,000	\$1,000
28	GSP Annual Reports (Note 14)	\$97,000	\$97,000
29	Et Weather Station Contract	-	-
30	Watershed Contributions / Match (Note 15)	\$1,500	\$1,500
31	Computer Equipment, Software & Website	\$5,000	\$5,000
32	Office Equipment/Supplies/Printing	\$1,000	\$1,000
33	Misc Expense / Misc Payment	\$2,500	\$2,500
34	Special Expenditures	-	-
35	New FCGMA Data Management System (Note 16)	-	-
36	GSP Implementation Updates (Note 17)	\$989,000	\$989,000
37	SGM Impl. Grant Monit Well Install (OPV) (Note 18)	\$4,870,000	\$4,870,000
38	SGM Impl. Grant Round 1 (OPV) - App. (Note 19)	-	-
39	SGM Impl. Grant Round 1 - Adminstration (Note 20)	\$60,000	\$60,000
40	SGM Round 2 Grant Application (Note 21)	-	-
41	Stakeholder Facilitation / Public Outreach	\$25,000	\$25,000
42	AMI Data Support	\$61,648	\$61,648
43	Oxnard Well Destruction (Note 22)	-	-
44	Rate Counsel & Consultant (Note 23)	\$17,000	\$17,000
47	Contingency	250,000.00	250,000.00
48	Loan to Operations (Initiated FY 22-23)		
49	Total Expenditures	\$12,303,339	\$12,303,339
50	Net Operating Results	(\$1,607,067)	(\$1,407,067)
51	Operating Reserves	\$1,000,000	\$1,000,000
52	YEAR END FUND BALANCE	\$5,389,328	\$5,589,328

Footnotes:

- (1) FY 24-25 projected pump charge revenue assuming 121,000 AFY extraction at \$6.00 per AF.
- (2) Projected groundwater sustainability fee revenues assuming 121,000 AF extractions.
- (3) Projected reimbursement from DWR for SGM Implementation Grant Round 1 funds for FCGMA projects in the Oxnard & Pleasant Valley Basins.
- (4) Reimbursement from subgrantees City of Camarillo, UWCD, and PVCWD for consultant grant administration services per Board direction (7/20/2022).
- (5) Funding as subgrantee to The Nature Conservancy's Natural Resources Conservation Service grant. Ended FY 21-22.
- (6) Annual interest earnings apportionments projected to be received from the County Pooled Investment Fund.
- (7) Loan from Designated Surcharges Account approved by Board as part of FY 2022-23 Budget to be repaid in FY 2024-25.
- (8) Recommendation of Fiscal Committee for LPV Watermaster to repay 50% legal fees for LPV Watermaster Appeal
- (9) Projected PWA charges to implement FY 2024-25 Annual Workplan. Includes Executive Officer and Fiscal allocation.
- (10) County General Services Agency (GSA) fees for printing of Board packets and other materials, mail and shipping, Board room and AV fees, etc.
- (11) FY 24-25 Estimate for IT services to support, maintain, and improve FCGMA Online Data Management System
- (12) Payment to LAFCO Per Govt. Code Sect. 56381 (b) (1).
- (13) County Counsel services for regular FCGMA legal advisory services.
- (14) GSP Annual Report expense updated based on new Dudek scope approved by Board 12/9/2022 and amended 2/28/24.
- (15) Includes contributions to Watershed Coalition of Ventura County (\$2,200) and Santa Clara Watershed Committee (\$1,500).
- (16) New FCGMA data management system procurement planning-level projections.
- (17) Projected GSP implementation consultant costs. Updated based on Dudek contract scope approved by Board 12/9/2022 and subsequent contract modifications/amendments.
- (18) Monitoring well installation in OPV basins projected expense. Majority funded by DWR SGM Implementation Grant.
- (19) Consultant expenses for grant application for DWR SGM Implementation Grant Round 1 for projects in Oxnard & Pleasant Valley Basins.
- (20) Consultant to assist with DWR SGM Implementation Grant Round 1 Administration for the OPV Basins. Reimbursement from City of Camarillo, PVCWD, and UWCD. FCGMA net share \$9,748 annually.
- (21) Consultant expenses for grant application for DWR SGM Implementation Grant Round 2 for projects in Las Posas Valley Basin.
- (22) Projected cost to destroy Oxnard well; destruction complete and project wrapping up as of this draft Budget.
- (23) Rate counsel and consultant for planned replenishment fee. Projected expense in FY 2024-25 for GEMES by Jarvis Fay.

Item 11 - Exhibit 11C – FY 24-25 LPV Watermaster Budget Legal Reimbursement Scenarios

LPV Watermaster Budget FY 2024-25¹

No Watermaster Rules Appeal Reimbursement

Task	Reference ²	Labor Hours Estimate ³	Labor Cost Estimate ⁴	Contract Cost Estimate ⁵
Watermaster Administration				
Watermaster Meetings and Notice	Ex A 2.5	384	\$ 81,408	
Review of Records	Ex A 2.4	96	\$ 20,352	
Website	Ex A 2.4.1	24	\$ 5,088	
Subtotal - Watermaster Administration		504	\$ 106,848	\$ -
Allocations & Record Keeping				
Annual Allocations & Allocation Schedule	4.2, 4.3	40	\$ 8,480	
New Uses / Subscription Projects	4.6	40	\$ 8,480	
Carryover	4.11	192	\$ 40,704	
Transfers	4.12	96	\$ 20,352	
Change of Point of Extraction	4.13	96	\$ 20,352	
New or Replacement Well	4.14	96	\$ 20,352	
Overuse	4.15	80	\$ 16,960	
Extraction and use Monitoring and Reporting	Ex A, Article V	384	\$ 81,408	\$ 20,000
Data Management and Support		192	\$ 40,704	\$ 200,000
Subtotal - Allocations & Record Keeping		1,216	\$ 257,792	\$ 220,000
Basin Management				
GSP Update (5-year evaluation) ⁶	4.9.1	220	\$ 46,640	\$ 43,440
2025 Basin Optimization Yield Study ⁶	4.10	220	\$ 46,640	\$ 122,000
Annual Report ⁶	5.2.3, Ex A 2.7.10	120	\$ 25,440	\$ 48,860
Initial Basin Optimization Plan ⁶	5.3	180	\$ 38,160	\$ 78,000
Subtotal - Basin Management		740	\$ 156,880	\$ 292,300
Committee Coordination and Consultations				
Policy Advisory Committee	6.1, Ex A Article III	288	\$ 61,056	
PAC Administration ⁹				\$ 170,000
Technical Advisory Committee ⁶	6.11, Ex A Article IV	48	\$ 10,176	\$ 97,440
TAC Member Cost ⁷				\$ 259,200
Insurance ¹⁰				\$ 5,000
Subtotal - Committee Coordination and Consultations		336	\$ 71,232	\$ 526,640
Budget and Assessments				
Watermaster Budget	7.5, Ex A 2.7.6	80	\$ 16,960	
Basin Assessments	7.1-7.3, 7.6, Ex A 2.8	192	\$ 40,704	\$ 25,000
Processing Fees	7.4	192	\$ 40,704	
Audits	7.7	180	\$ 38,160	\$ 20,000
Subtotal - Budget and Assessments		644	\$ 136,528	\$ 45,000
Calleguas Aquifer Storage & Recovery Project				
Calleguas ASR Project Operations Study	8.4	384	\$ 81,408	
Subtotal - Calleguas Aquifer Storage & Recovery Project		384	\$ 81,408	\$ -
Legal Services⁸				
Advisory		576	\$ 149,184	
Judicial Review (challenges to court)	9.2	384	\$ 99,456	
LPV Water Rules Appeal				0
Subtotal - Legal Services		960	\$ 248,640	\$ -
TOTALS:		4,784	\$ 1,059,328	\$ 1,088,940
			Total:	\$ 2,148,268
			Operating Reserves¹¹:	\$ 214,827
			Grand Total:	\$ 2,363,095
			Total Annual Allocation (AF):	40,000
			Basin Assessment per AF:	\$ 59.08
			Quarterly Assessment	\$ 14.77

Footnotes

- The FY 2024-25 Budget is for estimated Watermaster administration expenses. It is anticipated that the Basin Assessment may need to be adjusted with addition of Basin Optimization Projects costs following Committee Consultation.
- Reference to LPV Adjudication Judgment section, "Ex A" is Exhibit A of the Judgment.
- Estimated annual hours for Ventura County staff.
- Labor cost estimate based on Ventura County Public Works Agency providing LPV Watermaster staff at a blended rate.
- Contract cost estimate for outside services.
- Contract costs for Dudek for assisting with Response Reports (approved 5/22). Assumes one TAC meeting and response reports.
- Contract cost estimate for three TAC members including preparation of Recommendation Reports. Assumes two meetings per month.
- Legal Services labor costs based on Ventura County Counsel providing LPV Watermaster legal services; Judicial Review includes outside counsel costs.
- PAC 5/3/2024 Letter requested \$170,000 for PAC administrator
- PAC request for PAC and TAC members insurance; Committee has requested declaration coverage amounts and difference between Board coverage
- Operating reserves are calculated to be maintained at 10% of annual budget

Item 11 - Exhibit 11C – FY 24-25 LPV Watermaster Budget Legal Reimbursement Scenarios

LPV Watermaster Budget FY 2024-25¹

50/50 Watermaster Rules Appeal Reimbursement

Task	Reference ²	Labor Hours Estimate ³	Labor Cost Estimate ⁴	Contract Cost Estimate ⁵
Watermaster Administration				
Watermaster Meetings and Notice	Ex A 2.5	384	\$ 81,408	
Review of Records	Ex A 2.4	96	\$ 20,352	
Website	Ex A 2.4.1	24	\$ 5,088	
Subtotal - Watermaster Administration		504	\$ 106,848	\$ -
Allocations & Record Keeping				
Annual Allocations & Allocation Schedule	4.2, 4.3	40	\$ 8,480	
New Uses / Subscription Projects	4.6	40	\$ 8,480	
Carryover	4.11	192	\$ 40,704	
Transfers	4.12	96	\$ 20,352	
Change of Point of Extraction	4.13	96	\$ 20,352	
New or Replacement Well	4.14	96	\$ 20,352	
Overuse	4.15	80	\$ 16,960	
Extraction and use Monitoring and Reporting	Ex A, Article V	384	\$ 81,408	\$ 20,000
Data Management and Support		192	\$ 40,704	\$ 200,000
Subtotal - Allocations & Record Keeping		1,216	\$ 257,792	\$ 220,000
Basin Management				
GSP Update (5-year evaluation) ⁶	4.9.1	220	\$ 46,640	\$ 43,440
2025 Basin Optimization Yield Study ⁶	4.10	220	\$ 46,640	\$ 122,000
Annual Report ⁶	5.2.3, Ex A 2.7.10	120	\$ 25,440	\$ 48,860
Initial Basin Optimization Plan ⁶	5.3	180	\$ 38,160	\$ 78,000
Subtotal - Basin Management		740	\$ 156,880	\$ 292,300
Committee Coordination and Consultations				
Policy Advisory Committee	6.1, Ex A Article III	288	\$ 61,056	
PAC Administration ⁹				\$ 170,000
Technical Advisory Committee ⁶	6.11, Ex A Article IV	48	\$ 10,176	\$ 97,440
TAC Member Cost ⁷				\$ 259,200
Insurance ¹⁰				\$ 5,000
Subtotal - Committee Coordination and Consultations		336	\$ 71,232	\$ 526,640
Budget and Assessments				
Watermaster Budget	7.5, Ex A 2.7.6	80	\$ 16,960	
Basin Assessments	7.1-7.3, 7.6, Ex A 2.8	192	\$ 40,704	\$ 25,000
Processing Fees	7.4	192	\$ 40,704	
Audits	7.7	180	\$ 38,160	\$ 20,000
Subtotal - Budget and Assessments		644	\$ 136,528	\$ 45,000
Calleguas Aquifer Storage & Recovery Project				
Calleguas ASR Project Operations Study	8.4	384	\$ 81,408	
Subtotal - Calleguas Aquifer Storage & Recovery Project		384	\$ 81,408	\$ -
Legal Services⁸				
Advisory		576	\$ 149,184	
Judicial Review (challenges to court)	9.2	384	\$ 99,456	
LPV Water Rules Appeal				200,000
Subtotal - Legal Services		960	\$ 248,640	\$ -
TOTALS:		4,784	\$ 1,059,328	\$ 1,288,940
			Total:	\$ 2,348,268
			Operating Reserves¹¹:	\$ 234,827
			Grand Total:	\$ 2,583,095
			Total Annual Allocation (AF):	40,000
			Basin Assessment per AF:	\$ 64.58
			Quarterly Assessment	\$ 16.14

Footnotes

1 The FY 2024-25 Budget is for estimated Watermaster administration expenses. It is anticipated that the Basin Assessment may need to be adjusted with addition of Basin Optimization Projects costs following Committee Consultation.

2 Reference to LPV Adjudication Judgment section, "Ex A" is Exhibit A of the Judgment.

3 Estimated annual hours for Ventura County staff.

4 Labor cost estimate based on Ventura County Public Works Agency providing LPV Watermaster staff at a blended rate.

5 Contract cost estimate for outside services.

6 Contract costs for Dudek for assisting with Response Reports (approved 5/22). Assumes one TAC meeting and response reports.

7 Contract cost estimate for three TAC members including preparation of Recommendation Reports. Assumes two meetings per month.

8 Legal Services labor costs based on Ventura County Counsel providing LPV Watermaster legal services; Judicial Review includes outside counsel costs.

9 PAC 5/3/2024 Letter requested \$170,000 for PAC administrator

10 PAC request for PAC and TAC members insurance; Committee has requested declaration coverage amounts and difference between Board coverage

11 Operating reserves are calculated to be maintained at 10% of annual budget

LPV Watermaster Budget FY 2024-25¹

Full Watermaster Rules Appeal Reimbursement

Task	Reference ²	Labor Hours Estimate ³	Labor Cost Estimate ⁴	Contract Cost Estimate ⁵
Watermaster Administration				
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Review of Records	Ex A 2.4	96	\$ 20,352	
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Subtotal - Budget and Assessments		644	\$ 136,528	\$ 45,000
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Subtotal - Calleguas Aquifer Storage & Recovery Project		384	\$ 81,408	\$ -
Legal Services⁸				
Advisory		576	\$ 149,184	
Judicial Review (challenges to court)	9.2	384	\$ 99,456	
LPV Water Rules Appeal				400,000
Subtotal - Legal Services		960	\$ 248,640	\$ -
TOTALS:		4,784	\$ 1,059,328	\$ 1,488,940
			Total:	\$ 2,548,268
			Operating Reserves¹¹:	\$ 254,827
			Grand Total:	\$ 2,803,095
			Total Annual Allocation (AF):	40,000
			Basin Assessment per AF:	\$ 70.08
			Quarterly Assessment	\$ 17.52

Footnotes

- The FY 2024-25 Budget is for estimated Watermaster administration expenses. It is anticipated that the Basin Assessment may need to be adjusted with addition of Basin Optimization Projects costs following Committee Consultation.
- Reference to LPV Adjudication Judgment section, "Ex A" is Exhibit A of the Judgment.
- Estimated annual hours for Ventura County staff.
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- Contract cost estimate for outside services.
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- PAC 5/3/2024 Letter requested \$170,000 for PAC administrator
- PAC request for PAC and TAC members insurance; Committee has requested declaration coverage amounts and difference between Board coverage
- Operating reserves are calculated to be maintained at 10% of annual budget