



State Of California

SEISMIC SAFETY COMMISSION

Arnold Schwarzenegger, Governor



Gary McGavin
*Architectural Planning
Chairman*

Dennis Mileti
*Social Services
Vice-Chair*

Lawrence Klein
Utilities

Dr. Lucy Jones
Seismology

Hon. Richard Alarcon
State Senate

Saeed Ali
Senate Representative

Hon. Mark Church
Local Government

Dr. Bruce Clark
Geology

Hon. Carol Liu
State Assembly

Donald Manning
Assembly Representative

Celestine Palmer
Insurance

Daniel Shapiro
Structural Engineering

Keith Wheeler
Emergency Services

Jeff Sedivec
Fire Protection

Arul Arulmoli
Soils Engineer

Hon. Jim Wattenburger
County Government

Andrew Adelman
City Building Official

Richard McCarthy
Executive Director

Seismic Safety Commission
Minutes of Teleconference Meeting
August 10, 2006
Seismic Safety Commission Office
1755 Creekside Oaks Drive, Suite 100
Sacramento, California

Members Participating

Gary McGavin, Chair
Dennis Mileti, Vice Chair
Saeed Ali
Kandiah (Arul) Arulmoli
Mark Church
Bruce Clark
Lucy Jones
Lawrence T. Klein
Don Manning
Celestine Palmer
Dan Shapiro

Members Absent

Andrew Adelman
Jeff Sedivec
James Wattenburger
Keith Wheeler

Staff Participating

Richard McCarthy, Executive Director
Karen Cogan, Executive Assistant
Robert Anderson, Staff Geologist
Fred Turner, Senior Structural Engineer

I. CALL TO ORDER/ROLL CALL

Commission Chairman Gary McGavin called the meeting of the Seismic Safety Commission to order at 10:00 a.m. Executive Assistant Karen Cogan called the roll and confirmed the presence of a quorum.

II. CHAIRMAN'S REMARKS

Chairman McGavin commented that it was difficult to obtain a quorum at this meeting, and he urged commissioners to make every effort to attend the Commission's September meeting. He noted there will be a workshop the day before the meeting, so commissioners should be prepared for a two-day commitment.

Chairman McGavin advised that SB 1278, legislation regarding the Commission's funding source, composition, and status, is likely to experience opposition, and he drew attention to the letter from PIF.

Chairman McGavin said he added to the agenda a discussion of a merit increase for the Executive Director because Mr. McCarthy has served the Commission in that position for nearly ten years without any merit raises.

III. EXECUTIVE DIRECTOR'S REPORT

FEMA Appeal

Executive Director Richard McCarthy reported that he and Mr. Fred Turner met with Federal Emergency Management Agency (FEMA) Region IX and Office of Emergency Services (OES) representatives to discuss the Commission's FEMA appeal. The FEMA representative, Ms. Nancy Ward, said FEMA will confer with the Office of the Inspector General (OIG) regarding their audit.

Mr. Turner advised that OES has already paid \$186,000 to FEMA on the Commission's behalf, and this amount might have to be repaid, even if FEMA determines no additional amounts are owed.

Mr. McCarthy explained that FEMA and OIG conducted independent audits that resulted in inconsistent findings. He remarked that OIG's budget is based on a quota system, so the more money the auditors find, the better their performance looks, an apparent conflict of interest.

Mr. McCarthy said FEMA plans to resolve the issue this year. He added that he would have more to report at the September meeting.

September Commission Meeting and Workshop

Mr. McCarthy proposed holding a workshop on September 13 to discuss SB 1278, the Commission's legislative program, and the CRAF fund settlement. He noted the September 14 meeting will be a very important one because it will focus on the Field Act, and a number of guest speakers have been invited.

Chairman McGavin recommended following up with an email or letter reminding commissioners of the September meeting dates and times. Commissioner Celestine Palmer suggested that Chairman McGavin send the letter, and he accepted this assignment.

Mr. McCarthy noted a revised agenda for the September meeting will be sent to commissioners next week.

Budget Issues

Mr. McCarthy noted commissioners will receive copies of the first quarter budget report and the long-term financial projections at the September Commission meeting.

Mr. McCarthy reported that the CRAF fund settlement is close to completion, and the Commission is likely to receive the balance of approximately \$5.2 million for research projects before the end of the year. He said a percentage of the funds can be used to manage the program, but not for day-to-day Commission operations. He noted research universities typically have an overhead percentage of 50 to 70 percent.

Mr. McCarthy said he wanted to identify an appropriate overhead amount to the Attorney General's office. He estimated that funding for two staff people and necessary travel would be approximately \$225,000 per year. Mr. McCarthy advised that the Commission will need to conduct a public bidding

process in order to award research funds to private contractors, a process likely to take six months. He said the staff will develop a draft program for the Commission to review at the September meeting. He asked Commissioners Bruce Clark and Lucy Jones to assist in this effort.

Office Relocation

Ms. Cogan reported that the Commission staff filled out the necessary forms to arrange new office space for the Commission after the existing lease expires in May 2007. She said the first choice would be to renegotiate with the current landlord, but ADA compliance remains a problem. She noted the landlord does not want to pay for a drinking fountain and shower.

Mr. McCarthy advised that he planned to confer with the Division of the State Architect and investigate the possibility of obtaining an exemption.

Mr. McCarthy said the Commission used to maintain \$10,000 in a revolving architectural fund for office relocation, but those funds were swept by the Department of Finance. He noted the Commission's budget change proposal for \$10,000 last year was denied, so the Commission will need to spend its own money this year to move by May 15, 2007.

Commissioner Clark asked whether being under the State and Consumer Services Agency would make a difference. Mr. McCarthy said he was not sure.

IV. LEGISLATIVE REPORT

SB 1278 (Alquist)

Mr. McCarthy drew attention to the August 7 version of SB 1278, and he reviewed the policy and text of the bill.

Mr. McCarthy stated that an issue has arisen with respect to the majority needed to approve SB 1278. He explained that if the measure is considered a tax, a two-thirds majority is required to pass the bill from the floors of the Assembly; otherwise, only a simple majority is required. He noted that under the Commission's current funding arrangement, the Department of Insurance collects the money, not the Commission. He said the funding was negotiated in 2003 and continued in 2005, and both times, legislative counsel raised no issues about the simple majority. Mr. McCarthy observed that SB 1278 proposes the same source of funding, so only a simple majority should be required now.

Mr. McCarthy said he plans to meet with legislative counsel and Senator Alquist's staff to question the two-thirds majority interpretation. He added that if a two-thirds majority is required, SB 1278 will not succeed.

Mr. McCarthy reported that the Governor's Office has still not identified an alternative funding source for the Commission. If this issue is still not resolved by August 17, when the Appropriations Committee will hear the suspense file, he recommended using the general fund or insurance fund rather than pulling the bill. Chairman McGavin agreed that the bill should not be withdrawn.

Mr. McCarthy proposed submitting SB 1278, with an identified source of funds, and then making changes after the bill passes out of the Appropriations Committee. He stated that the goal is to get the bill out of Appropriations and to the floor of the Assembly, and then see whether the administration

supports the bill. He asked if, absent a funding source, the Commission still supported the other provisions of the bill, including moving to the State and Consumer Services Agency and adding three new commissioners.

ACTION: Commissioner Jones made a motion, seconded by Commissioner Larry Klein, that:

The Commission not proceed with the other provisions of SB 1278 if no funding source is provided.

Commissioner Don Manning expressed his opinion that the funding source should have been identified months ago, and the Commission has reason to be concerned about the motives behind the move. He noted it will be easier to eliminate the Commission altogether if it is part of a state agency. He recommended not proceeding unless funding is assured.

Commissioner Clark said he understood there was other legislation extending the Commission's sunset to 2009, and he asked about the status of that measure. Mr. McCarthy confirmed that a budget trailer bill from the Senate authorizes the Commission to continue under the insurance fund until July 1, 2009. However, he cautioned, that the Commission's annual budget appropriation is not guaranteed.

Commissioner Saeed Ali recommended meeting with the State and Consumer Services Agency secretary to discuss these implications. He noted the Commission needs a strong advocate. Mr. McCarthy thanked Commissioner Ali for his suggestion and said he would request a meeting with the deputy secretary.

Mr. McCarthy said that if no funding source is identified, the staff will identify a source and try to get SB 1278 through the Appropriations Committee to the Assembly floor. At that point, if no funding source is identified, the Commission would not proceed. Commissioner Jones suggested identifying the general fund as a source. Mr. McCarthy responded that the legislative consultants indicated the Appropriations Committee would not support that option.

Commissioner Ali proposed a friendly amendment: that the Commission request the Legislature's assistance in finding a stable funding source, and that the Commission agree to move to the State and Consumer Services Agency and add three members in return for that assurance. He added that the general fund would be ideal, but the insurance fund would be acceptable if it is assured. Commissioner Jones accepted this amendment.

* Motion carried, 11 - 0.

V. MERIT INCREASE FOR EXECUTIVE DIRECTOR

Chairman McGavin recommended changing Mr. McCarthy's management category and showing an increase in duties to request a 10 percent merit increase. He expressed his opinion that such an increase was long overdue.

ACTION: Commissioner Ali made a motion, seconded by Commissioner Palmer, that:

The Commission approve the request to change the Executive Director's classification as proposed.

Commissioner Shapiro suggested specifying that change would be from “I” to “F.” Commissioners Ali and Palmer accepted this amendment.

* Motion carried, 11 - 0.

VI. PUBLIC COMMENT

There were no members of the public who wished to address the Commission.

VII. MISCELLANEOUS & GOOD OF MEETING

Commissioner Klein asked about the impact of the CRAF settlement on the Commission’s operations. Mr. McCarthy said this issue will be discussed in detail at the September workshop.

Commissioner Jones recommended that the Commission not use the same overhead rate as universities; she noted a research funding program like those at the U.S. Geological Survey or National Science Foundation would be a better model, and typical overhead rates in those programs are about 10 percent.

Mr. McCarthy said he envisioned the end product from the Commission’s Field Act inquiry to be a short letter, possibly five pages or less, to the Governor and Legislature defining the issues, discussing positions, and recommending specific changes or improvements. He noted there has been pressure by community colleges to exempt their projects from the Field Act, and many stakeholders complain that the seismic retrofit required by the Field Act is too expensive.

Commissioner Jones observed that the Commission needs to address these issues and identify possible improvements. She advocated a proactive rather than a defensive approach.

Mr. Turner commented that employee retention and recruiting of qualified staff have been a major problem for the Division of the State Architect (DSA).

Commissioner Jones asked when the last significant upgrade of the Field Act took place. Chairman McGavin said the Field Act is amended regularly with each bond issue. Mr. McCarthy noted the charter school amendment was part of the last two education bonds.

Mr. Turner stated that the Field Act was amended in the early 2000’s to give DSA stop work authority and allow DSA to post damaged buildings.

Mr. Turner advised that the PEER Review Committee met on August 9 and had a very productive meeting, and PEER representatives were thankful for the Commission’s attention. Chairman McGavin proposed agendaing a discussion of this activity for the September meeting.

VIII. ADJOURN

There being no further business, the meeting was adjourned at 11:53 a.m.

Sue Celli
Office Manager

Approved by:

Richard McCarthy
Executive Director