

United States Judo Association

Board of Directors

Minutes of the Conference Call of April 11, 2010

Conference Call requested by Director Paul Nogaki

Present on the Call:

AnnMaria DeMars, President

James Pedro, Sr., Vice President

Marc Cohen, Secretary

Paul Nogaki, Treasurer

Gary Goltz

Neil Ohlenkamp

Roy Hash

Joan Love

Dr. James Lally

William Montgomery

Lowell Slaven

Glenn Nakawaki, Legal Counsel

Katrina Davis, Executive Director

AnnMaria DeMars called the meeting to order at 8:30 PM EST

AnnMaria turned the meeting over to Paul Nogaki, who had originally asked for the meeting in order to foster better communications and relations amongst Board members with differing approaches to solving the problems and issues that the organization faces.

Marc Cohen added to Paul's sentiments and said that he agreed that it was important that we need to talk about the issues that were bothering us and build a team approach while going forward.

James Lally said that he wanted to talk about what he considered a flawed election of some of the officers at the Las Vegas meeting of January 23, 2010. He pointed out that the election of the president lacked an affirmation of the board and that the election of the Vice President was completely flawed.

AnnMaria DeMars responded that she felt that the elections were held in public and in accordance with Robert's Rules of Order. She went on to say that going "backwards" was not a good thing for the Board or the Association. She said that she didn't see anything that was horribly wrong with the process in spite of hearing from some individuals to the contrary and she said that she felt there was simply a difference of opinion.

James Pedro stated that he felt that if there were any objections at the time of the elections of the officers, they should have been brought up then and there.

Bill Montgomery answered Mr. Pedro by saying that everyone in attendance was shocked and taken aback and didn't know how to respond at the time. He went on to say that agreements were made and broken at the meeting.

Ms. DeMars asked specifically what agreements were broken, to which Mr. Montgomery replied that she had committed directly to him that Mr. Goltz was going to be selected and supported to become the Vice President. AnnMaria then stated that, that was what Gary had suggested, but that she was going to support him instead as Chief Operating Officer. She went on to say that she was surprised that during the closed door part of the meeting that Gary had supported the motion to do away with the COO job in light of Ms. Davis being appointed to the post of Executive Director.

Mr. Montgomery refuted Ms. DeMars' comments and brought up the fact that Mr. Pedro had refused the nomination of Vice President a number of times and that she was out of order by persuading him to accept the nomination. He further claimed that the current division in the Board was the result of Ms. DeMars' action in regard to her behavior during the vote and in not keeping her agreements.

Jim Pedro then commented that it was Gary Goltz who convinced him to run for the Vice Presidency and that he had no thoughts of doing so before Gary contacted him. He stated that Gary had apparently changed his mind, but didn't communicate that to him.

Joan Love volunteered that although cause must be demonstrated for Board members to be removed from the Board, the Bylaws provide for officers to be changed at the will of and the vote of the Board. In her opinion, considering how tainted the January election was, we needed to have another vote.

Gary Goltz then said that in light of the decision to do away with the COO position, that going into the officer's election he believed that AnnMaria would capitulate to Gary because she agreed that Gary was the most qualified person to be Vice President. Gary went on to say that he was under the impression that Jim was supporting that point of when he refused the nomination three times, only to be swayed into accepting it through AnnMaria's actions during the nomination process. Gary then called upon the Corporate Counsel, Glenn Nakawaki, to speak on the subject of how Roberts Rules of Order treats the subject of the Presiding Officer during the course of a vote including their behavior and responsibilities.

Glenn went on to state that the Presiding officer must refrain from disturbing the assembly, which would be controlling others as well as themselves. Glenn went on to read directly from Robert's Rules and to give specific examples. During a vote, no member should disturb the group by walking across the floor or in any other way; the key words are: "disturbing the assembly". In fact, the Presiding Officer has the same meeting rights as any other member, but these rights are precluded while he or she is presiding. He or she should have nothing to say on the merits of pending questions. If the Presiding Officer cannot behave in such a manner, then it is the Presiding Officer's responsibility to hand the meeting over to another party until the subject or vote is complete.

Gary asked Glenn if he was in the room during the election of the officers and if in his opinion, whether the aforementioned rule was violated. Mr. Nakawaki said that he was in fact present and that the entire table that he was sitting at, including Director Lally, was taken aback by the behavior demonstrated by AnnMaria during the course of the election of the Vice President. Mr. Nakawaki left it up to the Board Members to decide whether or not they perceived her actions to be in violation of Robert's rules.

AnnMaria stated that she had in fact spoken with Dr. Lally at the conclusion of the vote and asked him if he or anyone else wanted to question the procedure or the outcome. She went on to say that no one had said anything about it for two months, and suddenly it comes up as a point of contention.

Lowell Slaven asked to make a comment. He said that he had spoken with AnnMaria before the meeting or the election and told her that he supported Gary Goltz for the Vice Presidency. He said that had he been at the meeting

in person, he would have nominated Gary for the position of President. Specifically, he understood that Gary would be positioned as the Vice President and she as President. He reiterated that he was upset that Jim had turned the nomination down three times and that AnnMaria persuaded him, during the nomination process, to accept the nomination.

Gary then asked to read an excerpt from the USJA Bylaws. "Officers of the Corporation shall serve for a term of four years or unless their successor is selected or they are removed from the office by the Board of Directors". He went on to say that he had that portion of the Bylaws reviewed by several lawyers and they confirmed that the Board can elect and remove officers at any time. Cause is needed to remove a Board Member from the Board, but since the officers are elected by the Board, there is nothing stopping the Board from re-electing officers as often as they want. In his opinion, since the election was tainted by the Presiding Officer showing partiality, that there is clearly justification for a new election for both the President and the Vice President offices.

Neil questioned Gary and asked him if, during the previous administration, he was in favor of the Board removing an officer before their term was over. Gary answered by saying that during that time, he felt that the initiating faction of the Board didn't have a majority and therefore could not remove the President. He stated that the faction had an illegal meeting in Colorado Springs: that there was no quorum, no announcement, and therefore it was in violation of the Bylaws. If the faction had tried the maneuver in a meeting and had a quorum and majority, he would not have liked it, but he would recognize that it was legal.

Glenn made it clear that he had defended AnnMaria in the previous action and that the real issue at the time was whether or not she had assumed the Presidency after the resignation of then President Webb.

Stating that the circumstances were radically different then, Gary emphasized that the difference in this circumstance is that he feels the Bylaws completely support the call for a new election in this instance due to a breach in Robert's Rules. Gary then asked the Board to consider a re-election of the two offices.

Jim Pedro said that he felt the whole thing was ridiculous and he felt that this was all about certain people getting their own way. Jim said that he saw no difference between this and what was going on at USA Judo.

Lowell asked Jim if he felt we should do nothing about this current situation and just go along the way that we are now.

Jim postulated that USA Judo is trying to accomplish the demise of both USJA and USJF and it would make no difference whom the officers were if we had no organization.

AnnMaria agreed with Mr. Pedro by reiterating the same thoughts. She said it was more important for us to come together for a common cause against a common enemy.

Jim Pedro then went on to say that he had told Gary in a phone call earlier in the day that if and when things were running smoothly, that he would resign the Vice Presidency and support Gary for the office.

Neil Ohlenkamp posed a question to Jim Pedro by asking him if, in his opinion, he was unduly persuaded by AnnMaria to accept the nomination for the Vice Presidency. Pedro answered the question by alluding that it was a personal thing between him and AnnMaria.

Bill Montgomery asked that we move along and questioned whether or not we were going to have a re-election for the Presidency and Vice presidency on the call or whether it would wait for the July meeting.

Jim Pedro stated he didn't like the way this was being handled and that we should focus on the battle with USA Judo.

Joan Love felt that it would be a mistake to go into the next mediation hearing with the Board so factional and that purpose of this conference call was to work out the truth about what had gone in the recent past and decide what needs to be done about it. She said that the only way for us to be united is to have another vote that would either affirm or change the leadership of the BoD.

Gary asked to respond to what Jim had said. Gary said that it was never his intention or strategy to get votes against the President because he and she had disagreements.

AnnMaria said that in light of all that had been said, that she felt that she could not be supportive of Gary.

Comments were made by Joan Love, Jim Pedro and Lowell Slaven in support of one another's positions.

Lowell made a comment that he had supported AnnMaria on many occasions, but the election of Jim Pedro had been "shoved down his throat."

Jim Pedro stated that he resigned as the Vice President, Coaching Chair and then finally he stated that he completely resigned from the Board of Directors.

At that point, Jim Pedro left the call and Gary asked AnnMaria what she intended to do. He said that we should either have the election now, or we would have it in July.

AnnMaria answered that she was opposed to having an election in public and reversing it in a private conference call. She also said that she had promised the membership that we would work together and that should not be compromised by "someone leaning over and whispering into another person's ear."

Bill Montgomery answered that comment by saying that there was a litany of things that she had done and that the election was just one issue.

Joan said that she felt that the person who wasn't "working together" with the rest of the Board was AnnMaria.

Gary offered to read a statement from Jim Bregman into the record and Neil said that, that would be out of order. Neil went further in saying it would be a grave mistake in going public with the fact that the Board was dysfunctional. He then indicated that he was opposed to having a vote on the officers during a private phone conference.

Roy Hash then asked to be heard. He said that he felt that everyone on the Board was competent and qualified to serve in any Board office. He said that we all need to be more tolerant and understanding of one another and work towards the common good for the USJA. He asked for proof of any misconduct. He bemoaned the current state of affairs and also objected to a conference call vote for a re-election.

Paul Nogaki and Neil Ohlenkamp also objected to having a re-election on the conference call and with three Board members objecting, it was determined that any re-election would have to wait for the regular meeting in July.

Joan stated her reasons for why she believed that AnnMaria was responsible for the discord on the Board. AnnMaria thought that she was not the cause.

Bill Montgomery made the comment that if we were not going to handle the re-election tonight, then we need to move onto the rest of the items on the agenda.

Marc Cohen stated his belief that AnnMaria's presidency was defective and that Gary would simply be the better choice at this point to lead the USJA.

Neil stated that changing officers behind closed doors would be a major mistake. Bill indicated that it was moot since three members had objected and he asked that we move ahead with the other agenda items.

Gary asked to make one last point. He said that the election of officers should be accomplished in a closed-door portion of the meeting. Lowell agreed and wanted to make a motion that the election of officers in July be held in a closed session. Neil objected to the motion and said that the motion presupposed that there would be an election of officers in July. Instead, he said that the motion should first be that there would be an election in July. Lowell withdrew his original motion and substituted a motion that there would be an election of officers at the July Board meeting in California at the Junior Nationals.

Neil wanted to make the point that he did not believe that it was legal for us to elect officers in a closed session. Bill stated that he thought it was legal, but that if the members requested the results of such a vote and who had voted for which candidates, that we would be obligated to give them that information. Glenn was asked by Gary for his legal opinion on the matter and Glenn said that we could handle such a matter in closed session. However, he did make the caveat that members could ask for the information regarding what had taken place during the closed session.

Gary asked Katrina to comment on whether, in her experience and memory, the officers of this corporation had ever been elected during the open meeting with the exception of the last meeting in Las Vegas. She replied that, in her experience, the election of officers was always done in a closed session.

AnnMaria said that in 2004, the election of officers was held in open session and Gary concurred with her on that point.

Marc Cohen asked that Lowell's motion to hold an election of officers in the upcoming July election be seconded. Gary Goltz seconded the motion.

Neil brought up a point of order before a vote could be taken. He said that he thought that instead of the motion and vote, that this item should be added to the July meeting agenda. Therefore, a July meeting agenda item would be that there would be an election for new officers in July, in closed session.

AnnMaria went onto the next agenda item for this meeting, which was electronic voting protocols. She asked for further discussion and Bill said that he thought we would be all right with the previously established protocols that were passed in 2007 by the then Board. Joan pointed out while the 2007 protocols state that multiple motions are allowed as long as they are not in conflict, there have been some recent objections that multiple motions were out-of-order. With the current protocols requiring a

one-week discussion period followed by a one-week voting period, the latter interpretation would mean that only two motions could be entertained per month. That would slow down the passage for routine items like promotions and committee membership and would not allow the Board to accomplish what it needs to do.

Lowell said that we should not be voting on standard promotions under Shichidan, anyway.

AnnMaria said that there is a thing called a Consent Agenda for items that would be expected to be passed in the normal course with little or no discussion. She would like to see things such as the State Awards, lower Dan promotions and Committee appointees be on this Consent Agenda, which could then be voted upon in a single vote unless someone asks that a particular item on the agenda be taken off for further discussion.

In answer to a question from Marc Cohen, AnnMaria said that a motion is necessary, but it is a block vote for all the items in the consent agenda. She also said that it would be helpful if we voted on promotions once a month or every six weeks so that the agenda is not cluttered with so many items at once.

The secretary will create a monthly Consent Agenda upon which the Board can block vote each month.

Neil was concerned that the Consent Agenda needed to have a minimum life cycle so that if a Board member is unavailable for a short period of time, like a week's vacation, that the consent agenda items would be up long enough for the Board member to have the opportunity to review the item. Neil's response to Bill's question as to how long that life cycle should be, was one week in duration. Therefore, a consent agenda that is emailed to the Board on a Monday, would come up for a final vote on the following Monday.

Joan motioned that the President create a Consent Agenda, if appropriate, on a monthly basis or more often if needed, and post it on a Board email. The vote for the motion is follows:

In Favor	Against	Abstain
Joan Love (motion)		
Lowell Slaven (second)		
Marc Cohen		
Bill Montgomery		
Gary Goltz		
Bill Montgomery		
Neil Ohlenkamp		
Roy Hash		
AnnMaria DeMars		
Paul Nogaki Jim Lally		

The next agenda item was interim appointments to Committees and it was determined that that would be an item that would go on the Consent Agenda.

Another item that should go on the Consent Agenda is the matter of people wishing to begin their own regional training centers. Joan voiced a concern that we still do not have a Regional Training Center Committee because it was never defined. Bill Montgomery said that the new Atlanta Training Center could be used as the "Poster Child" for new Training Centers as outlined by Bruce Toups.

AnnMaria said that she would get a Consent Agenda to the Secretary by the following Monday that would include the State Awards, the Georgia Regional Training Center, promotions and Committee Chairs wishing to add members to their Committees. Those items would go on the Consent Agenda and everybody would have a week to discuss them; we would then be able to vote the following Monday.

Neil asked if it was important for the Board to vote on every regional training center. AnnMaria replied that the plan would eventually become somewhat automatic.

Neil asked why we never approved a Regional Training Committee and Bill replied that it was because it was never discussed. A discussion followed about why we did not approve the original concept of a Regional Training Center Committee and how important it was that it get done.

The next agenda item was issues regarding background checks. Marc Cohen said that it was a non-issue because everyone who is supposed to have a background check should have one, without exception.

Lowell said that it is the responsibility of every person who has a background check with USA Judo to contact them and have a copy sent to the USJA, if it is appropriate. Gary said that it was no problem for him, but others said that there had been problems getting the documentation and some, such as Jim Pedro Sr., had to go directly to the security clearance company to get it.

Bill Montgomery said that the USJA website should prominently display the need for background checks. Bill brought up that people who are on committees oftentimes don't know that they need a background check. He gave the example of a person who is on the Awards Committee. Bill said that the majority of our members don't realize that committee members need a background check.

Jim Lally brought up the fact that USA Swimming was featured on the ABC program 20/20 where the need for background checks was a real problem and caused law suits. He volunteered to send the Board a memo from USA Shooting that that indicated how important this issue is. Gary said that he had experience with the background checks and the company that processes them and he felt that it was inadequate, at best.

Marc Cohen asked if, when a person's background check was expiring, would he/she have 30 days to remedy the situation by getting a new background check? A discussion by a number of members asserted that a first reminder letter should be followed by a second letter that would indicate that you would lose your committee membership within a specified time. Roy suggested that a warning letter should be generated to the member 30 days before their background check expires to let them know that they have to remedy the situation. If he/she did not comply, a second letter would be sent telling the individual that in another 30 days we would not allow them to serve on the Committee. Katrina Davis said that our data base is not currently able to report on background checks that will expire in the near future. Her idea was to send a letter to the person at the time that the background check expires and then if they do not remedy the situation, a second letter would be sent saying that their committee position would be taken from them 30 days after the date of the second letter. Gary Goltz said that he worried about how long it takes for the background checks to come through. He suggested that the person should get a letter 60 days before their background check expires. He said that Katrina should request from her data base management team, that the system allow for a report of background checks that would expire in the near future. Roy said that if an organization puts a requirement in place, then it needs to be able to track compliance prior to the expiration. Roy said that Katrina could track the committee members and their background expiration date. Katrina replied that the current system simply does not allow for that type of information.

Katrina went further to say that it takes months to get any response from the data base management group.

AnnMaria suggested that the Committee Chairs be responsible for informing their members of when their background checks would expire. Each Committee Chair would be given the expiration date for each member.

Bill suggested that every Committee Chair and each of their members be told that if they serve on a committee or a member of a committee, then you must have a current background check in place and you are responsible for this.

Joan added that a reminder about background checks was included in the April issue of Growing Judo, and that we should do a better job of advertising to the committees that they need a background check, not just when they are going for a promotion.

AnnMaria said that we should do our best to reach out to everyone 60 days in advance of their background check expiration.

The next agenda point to come up was the strategy for the mediation with USA Judo on April 27th. Those attending the mediation will be Glenn Nakawaki, Gary Goltz, AnnMaria and Katrina Davis.

A Board member asked about filling the newly opened office of Vice President, but AnnMaria said that she would like to discuss that later on.

AnnMaria said that even though we have other items on the agenda, we need to put those aside because we had pretty much run out of time.

Joan asked about the status of the committees being listed on the web site and AnnMaria said that she had spoken with John Moe about it, but that he was very behind in his regular job and had not gotten around to it as of yet.

AnnMaria called for a close to the Conference call at 10:00 PM EST.

United States Judo Association
Emergency Conference Call Meeting
April 12, 2010

Note: This need for this meeting was expressed by various Board members including Gary Goltz , Joan Love and Katrina Davis the Executive Director. On the morning of April 12, 2010 in light of the resignation of the former President, AnnMaria De Mars and the former Vice President, James Pedro, Sr. the emergency meeting was officially called by Ms. Katrina Davis.

The stated reason for the state of Emergency was a sudden void in the Presidency and Vice Presidency of the Corporation.

Present on the conference call were:

Secretary, Marc Cohen
Director, Joan Love
Director, Bill Montgomery
Director, Gary Goltz
Director, Lowell Slaven
Director, Dr. James Lally
Executive Director, Katrina Davis
Legal Counsel, Glenn Nakawaki

Not present were:

Director, Roy Hash
Director, Neil Ohlenkamp
Treasurer, Paul Nogaki

The meeting was called to order at 9:30 PM EDT by Secretary Marc Cohen and was seconded by Director Gary Goltz.

Discussions were held about the extraordinary need for the emergency meeting because of the resignation by James Pedro Sr. from the Vice Presidency on the Board of Director's conference call on April 11, 2010, followed by the resignation of Dr. AnnMaria De Mars by email on April 12, 2010.

Katrina Davis, Gary Goltz, and Joan Love explained how they had contacted Directors Ohlenkamp, Nogaki and Hash by e-mail and or by phone.

Mr. Hash's e-mail explained that he had a priority situation at his dojo and would not be able to participate until a later hour. However he never confirmed when asked by Mr. Goltz via e-mail. Mr. Hash requested via e-mail that he wanted to note his objection to holding the conference call in his absence in the minutes.

Mr. Nogaki's e-mail explained that he was in route to Chicago and between travel and meetings found it impossible to attend meetings and would not be available.

Mr. Ohlenkamp did leave a message on Ms. Davis' answering machine.

The Secretary, Mr. Cohen who was then the presiding officer, indicated that given the total number of Board Members that the six attending members did in fact constitute a quorum and declared that the meeting was an official meeting of the USJA Board of Directors and that the business of the corporation could be conducted.

Ms. Davis noted that since 2 people resigned from the BOD, one on Sunday, April 11th and the other on Monday, April 12th, that left 9 people on the BOD and therefore, there was a 2/3 majority vote to elect interim positions of President and VP. Counsel Glenn Nakawaki stated the meeting was being held in accordance with our Bylaws.

Mr. Nakawaki referred specifically to **Article VII, Section K. Meetings**: "For the purposes of transacting business of the Corporation, other meetings of the Board of Directors may be convened by the Board of Directors to be held at a time and place set by the President, in accordance with majority vote." Since there was no President, the 'majority vote' of the Board of Directors as to the date and time of the meeting was reflected at the 2/3rds of Directors appearing at the meeting with no objection. If need be, subsequent vote can always "ratify the act" at a later time. Alternatively, under the **Article VIII-Officers, Section D. Secretary**: "The Board of Directors or President may direct the Executive Director to perform the ministerial functions of the Secretary to assure the day-to-day continuity and efficiency of operation of the Corporation. Finally, **Section F. Executive Director** of this same **Section VIII-Officers** provides that: "The Executive Director is invited to all meetings, as a guest, **and will have an advisory voice on the Board of Directors.**" Based on the above, the meeting was

convened by the 2/3rd majority of Board of Directors at the time and date established by the majority of Board Members, and was run by the Secretary where, under Roberts Rules of Order, section 47, page 443: "The duties of the Secretary are: ...11) In the absence of the president and vice-president, to call the meeting to order and preside until the immediate election of a chairman pro tem."

Since there were no objections to conducting the meeting by electronic telephone under these circumstances, the meeting continued.

Jim Lally made a motion to nominate Gary Goltz to fill the position of President. The motion was seconded by Lowell Slaven followed by a call for discussion; no discussion was had. The Secretary called for other nominations, but there were none. A call for an open vote on the motion followed and the results are indicated below:

In Favor	Against	Abstain
James Lally		
Lowell Slaven		
Marc Cohen		
Joan Love		
Gary Goltz		
Bill Montgomery		

Mr. Cohen, as presiding officer declared the motion carried and then turned the meeting over to the President, Gary Goltz.

Mr. Lally made a motion to nominate Joan Love to fill the position of Vice President. Mr. Slaven seconded the motion. No other nominations were put forth and the vote was recorded as follows:

In Favor	Against	Abstain
James Lally		
Bill Montgomery		
Joan Love		
Gary Goltz		
Marc Cohen		
Lowell Slaven		

President Goltz declared the motion carried.

Mr. Lally made the motion that the Coaching Committee Chair, previously held by James Pedro, Sr. and now open due to Mr. Pedro's resignation, be filled by Bill Montgomery. The motion was seconded by Mr. Slaven. There were no other nominations and the result of the vote is noted below:

In Favor	Against	Abstain
Jim Lally		
Lowell Slaven		
Bill Montgomery		
Joan Love		
Gary Goltz		
Marc Cohen		

President Gary Goltz declared the motion passed.

Mr. Lally made the motion that all of the offices filled on this conference call were filled in an emergency session and therefore a vote to affirm these offices be held at the regularly scheduled meeting to be held this coming July at the USJF/USJA Jr. Nationals in Irvine, California.

The motion was seconded by Bill Montgomery. There was no further discussion and the results of the vote are noted below:

In Favor	Against	Abstain
Bill Montgomery		
Gary Goltz		
Lowell Slaven		
Marc Cohen		
James Lally		
Joan Love		

President Goltz declared the motion carried.

Mr. Lally requested that an item be placed on the agenda for the July, 2010 regular meeting at the USJF/USJA Joint Junior Nationals that a vote is made to keep the Board of Directors at 9 members instead of eleven. Mr. Goltz asked that the two open Board positions be kept vacant in light of Mr. Lally's agenda item. Mr. Cohen stated that the Bylaws do not require open Board positions to be filled at a given time.

Counsel Nakawaki noted and cautioned the Board that the action under discussion would necessitate a Bylaw change, which requires a two thirds majority.

Dr. Lally offered to send the Board a copy of the USOC's McKenzie report, which indicates that boards over a certain size are unwieldy and lack in optimum performance.

Motion to adjourn at 10:00, PM, EDT by Lowell Slaven and seconded by Joan Love. The motion was passed unanimously.

Addendum to minutes: Subsequent to the end of the Conference Call, it was unanimously agreed that we should immediately take down the Judoforum's USJA Board of Directors Sub-forum. It was deemed unnecessary to hold a formal Board vote to ask Neil to remove the sub-Forum because it had never been formally approved by the USJA Board of Directors. In addition, the Judoforum's regular USJA forum also listed Ms. DeMars as the Moderator. BoD members also concurred that Ms. DeMars' resignation automatically precluded her from being a representative or spokesperson for the USJA and that a formal Board vote was not

needed to remove her as a moderator. Gary Goltz indicated that he would ask Neil to comply with this request.

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April 18, 2010

Lady and Gentlemen:

I have received from several of you a request for my opinion respecting issues arising out of the Monday night conference call. Let me capsule the issues as follows: Neil Ohlenkamp feels that sections J, K and L of Section VII of the USJA Bylaws were violated by the Monday night conference call. Roy Hash feels that the Colorado Sunshine Law provisions are applicable to the USJA and has objected to the meeting going forward in the absence of Paul Nogaki, Neil Ohlenkamp and himself.

Let me address Neil's concerns first. Preliminarily, I note that Bylaws, Section VII, subsection I, empowers the Board of Directors to fill the vacancies for President and Vice-President left by the resignations of AnnMaria and James Pedro, Sr., in relevant part stating: *"Any vacancy, which may occur on the Board of Directors, by reason of ... resignation ... may be filled by a majority vote of the Board of Directors for the unexpired portion of the term."*

Respecting sections J, K and L of Section VII of the USJA Bylaws, please note the following:

'Subsection J. Mail and Telephone Meetings' provides in relevant part: *"Any action required to be taken at a meeting of the Directors may be taken by mail, electronic mail or telephone vote of the members of the Board of Directors. ... In the case of a telephone meeting, the Secretary will telephone every member of the Board of Directors. The Secretary shall read the motions to be voted on to each member and will record the vote of each member on a separate ballot. The Secretary shall record the date of each telephone vote and will sign each telephone ballot certifying that it reflects the wishes of the Board member concerned. A majority vote, of a quorum of the Board of Directors, resulting from a mail, electronic mail or telephone meeting, shall have the same force and effect as a majority vote of the Board of Directors meeting in person, and may be stated as such at any time for any purpose."*

'Subsection K. Meetings' provides in relevant part: *"Meetings of the Board of Directors shall be conducted in accordance with Roberts Rules of Order. The annual meetings of the Board of Directors will be held at a time and place set by the Board of Directors, for the purpose of receiving annual reports and transacting any other business of the Corporation... For the purposes of transacting business of the Corporation, other meetings of the Board of*

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Directors may be convened by the Board of Directors, to be held at a time and place set by the President, in accordance with majority vote.... Special meetings of the Board of Directors may be convened by the President in accordance with majority vote of the entire Board.

Notice of a meeting, whether annual, scheduled or special, shall be given to all Board members, *if possible*, not less than thirty, (30) days in advance of such meeting. The dates of such scheduled meetings shall be posted in any USJA publication, on the USJA internet site and via electronic mail, at the earliest date of availability of, confirmed, information regarding scheduled dates and venue of the above mentioned events. Directors may invite guests to any meeting of the Board, however, the Board may, in its sole discretion, exclude or remove guests from the meeting. General membership meetings shall be announced....All meetings shall be open to the general membership in good standing. ...

Finally, '**Subsection L. Notice Requirements**' provides in relevant part: "Except as otherwise provided by statutes, written notice, of each meeting of the Board of Directors, whether annual, semi-annual, or special, stating the place and time when such meeting is to be held (and in the case of a special meeting stating the purpose for which such meeting is called), shall be served either personally or by mail, within the period specified, upon each Director entitled to vote at such meeting. If mailed, such notice shall be sent to each Director at his address as it appears on the records of the Corporation, unless he shall have previously filed with the Secretary of the Corporation a written request that notices intended for him be mailed to some other address, ... Such notice (or any part thereof) may be waived by any Director by written consent or by oral statement at any meeting and shall be deemed waived by any Director who is present, ... at such meeting."

Let me add five items before I apply the facts as I understand them:

- (1) The first is that Neil is **listed on the corporate USJA website** as having the following e-mail address: prior to the day of the subject meeting of the USJA on April 12, 2010, Neil's given email address, posted on the corporate website for the USJA, was judounleashed@gmail.com.
- (2) The second is found in the following language in relevant part from the **Bylaws, Article VIII-Officers, subsection D. Secretary**: "...In addition, he shall perform such other duties as the Board of Directors may from time to time assign him. The Board of Directors ... may direct the Executive Director to perform the ministerial functions of the Secretary to assure the day-to-day continuity and efficiency of operation of the Corporation.."

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- (3) The third is found in Robert's Rules of Order Newly Revised - 10th Edition, at Section 47, Officers, pages 442 and 443, in relevant part: "Duties of the Secretary. The duties of the secretary are: ... 11) In the absence of the president and vice-president, to call the meeting to order and preside until the immediate election of a chairman pro tem."
- (4) The fourth is found in the following language in relevant part from the **Bylaws, Article VIII-Officers, subsection F. Executive Director**: "The Executive Director is invited to all meetings, as a guest, and **will have an advisory voice on the Board of Directors.**"
- (5) Finally, the fifth is found in the following language in relevant part from the **Bylaws, Article VIII-Officers, subsection D. Secretary**: "The Board of Directors or President may direct the Executive Director to perform the ministerial functions of the Secretary to assure the day-to-day continuity and efficiency of operation of the Corporation."

I have reviewed the email history the best I can, primarily for April 12, 2010. I note the first email concerning the subject meeting was sent by Gary Goltz on **April 12, 2010 at 8:00 a.m. PDT**. This was sent to the entire Board's email addresses, including for Neil Ohlenkamp, Roy Hash and Paul Nogaki. **This first email simply had a heading of "Conference call tonight 6:30 pm PDT 9:30 pm EDT" and also listed "218-339-4600, code 126879", the telephone number and code for the conference telephone call.** Thereafter, for the next 19 emails that I am referencing hereafter, every one bore a heading bearing "Conference call tonight 6:30 pm PDT 9:30 pm. EDT" and was sent to the Board's email addresses , including for Neil Ohlenkamp, Roy Hash and Paul Nogaki. It is presumptive that, for anyone reading the email, the time of the conference call would have been known.

Paul Nogaki then advised **at 8:16 a.m. PDT** that he would not be able to make the call as he would be on a plane traveling during that time.

At **8:19 a.m. PDT**, Joan Love emailed her concern that **while she thinks it is urgent that we talk [emphasis added]**, she also thinks it is essential that everyone be available and requested of Paul Nogaki if he had a better time.

At **8:25 a.m. PDT**, Roy Hash emailed that the suggested time is "right in the middle of" his class sessions, that he has a serious issue to resolve at his class, and that **"I realize that it is urgent that we get together to resolve a line of succession [emphasis added]** but I will not be available this evening until 10:30 CST."

At **8:41 a.m. PDT**, Paul emailed that he would be getting "into Chicago at 11:30 PM CDT", would be getting to his hotel after midnight, would be in meetings and fly back the next day to arrive by 10:30 p.m., and would be free Wednesday afternoon and night.

At **8:42 a.m. PDT**, Joan emailed Roy to point out that 10:30 Central time (which Roy had earlier advised he was able to make) would amount to 11:30 p.m. Eastern time, but that **Bill**

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Montgomery would “do whatever is necessary”[emphasis added] although a half hour earlier would be better. Joan pointed out the question was still Paul’s travel schedule which may allow talking earlier (approximately 5:30 p.m. EDT/2:30 p.m. PDT) but only for approximately 30-40 minutes.

At **8:51 a.m. PDT**, Paul emailed back that he would be in meeting “all day today starting in 15 minutes until I headed out to the airport at about 3:30 PDT,” which effectively ended any chances of his inclusion on that day.

At **9:16 a.m. PDT**, Marc Cohen expressed his opinion by email that “clearly this is too important to compromise. If we need to find another day and time that allows all of us to be present and attentive, then it needs to be done.”[emphasis added] He advised that his schedule was open Tuesday and Thursday evening, or after 10:00 p.m. tonight or Wednesday night, EDT.

At **9:20 a.m. PDT**, Joan Love advised that she thought “we need to find a feasible time but it also needs to be soon. I am willing to go with a late call tonight, as Roy suggested.”

At **9:24 a.m. PDT**, Roy Hash responded to Joan Love that “I don’t think this evening will work due to Paul’s travel. I am free tomorrow evening from 8pm CST on and all of Wednesday and Thursday evenings. I regret that I can’t fit a call into my schedule until late tonight. I too agree that we need to resolve the leadership crisis as quickly as possible. Roy”

At **10:01 a.m. PDT**, Dr. Lally emailed his question as to why can’t the meeting be done now or that afternoon. He observed that “**We are saying this is important and we are then saying wait a couple of days. Emphasis added]**” He inquired as to how many constitutes a “quorum” as this would qualify as an “urgent” matter inasmuch as “Leaving the organization leaderless any longer than we have to is not a good thing.” He then, in relevant part, asked “**Would anyone be opposed to an electronic motion for electing the temporary replacement officers for now with affirmation in July? [Emphasis added]**”

At **10:24 a.m. PDT**, Katrina Davis, USJA Executive Director, emailed Dr. Lally, with a copy to the entire Board, of the following:

“Dear USJA Board of Directors;

In light of the recent developments with the USJA Board of Directors and the subsequent resignation of the President and Vice President I see it **IMPERATIVE** that a call be instituted with the remaining board members.

This is something that **CANNOT** be put on hold as the structure and viability of the USJA must be maintained. We have a strong and determined group of people on this board that can come to an agreement that leaves the USJA in place with a majority decision and puts a new regime in

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place to move forward and not miss a beat with the sole purpose of a unified mind set that will only benefit the growth of judo.

We must look at this as a step forward and at the same time offer our gratitude for those whom have served. I cannot urge all of you enough that as the Executive Director and from my past experience that an emergency meeting be called together for the purpose of resolving positions within the BOD and moving forward not backwards.

We have a very strong core of individuals that can and will make this happen. I suggest the call be tonight at 7:30 Mountain Time this evening. **It is imperative that EVERYONE do what they have to in order to make this happen.**

Call in number; 218-339-4600

Access Code; 126879

Sincerely,
Katrina R. Davis

USJA Executive Director”

At **10:46 a.m. PDT**, Gary Goltz emailed a response, stating: “This need to happen tonight as this as Katrina states is an emergency. If Roy can be on the call later, I’m open to making it later. Katrina, please call Neil on this...thanks.”

At **10:47 a.m. PDT**, Marc Cohen advised that he could schedule himself for 9:30 EDST, and that “Given the extraordinary conditions and circumstances, I think that we have no better choice. I am certain that Paul understands and will concede the necessity of going ahead without his input. I assume that the phone number and access code are good for everyone. ...”

At **11:25 a.m. PDT**, Katrina Davis emailed her response to Gary Goltz and the rest of the Board that she had called Neil Ohlenkamp and left him a voice mail regarding that night’s conference call.

At **3:04 p.m. PDT**, Roy Hash emailed his assumption that the Conference call was going forward at 8:30 CST “tonight since I have not seen any recent follow up.” He went on record objecting to the call occurring at that specific time, noting that Paul and he have advised that they are not available during this time period. He also noted that he had not seen “any notice from Neil or Lowell if they are available to participate.”

At **3:15 p.m. PDT**, Gary Goltz responded to Roy, advising that Katrina had a message out to Neil and “again let us know what time you are available so we can see if the 7 of us can accommodate you. As Katrina said this is an emergency call and we have all juggled our schedules to be on it.”

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At **3:30 p.m. PDT**, Roy Hash responded, saying he should “be able to make it home by 10 CST” but that his “concern is not just for me but for the other BOD members who voices and votes have a right to be heard and entered into the record. I want my objection entered as a part of the official record if the decision is made to move forward with this critical action. **I also understand that if a quorum exists it is the BOD’s right to take action [emphasis added].** Just off hand has any thought or consideration been given to how we are going to conduct a secret ballot on this conference call? I love to stay and discuss via email but I’m off to class to deal with more pressing issues.”

At **3:51 p.m. PDT**, Marc Cohen responded to Roy, saying: “Whatever it takes. I’ll stay up past midnight and beyond to accommodate you and Paul. Not having heard from Neil is disquieting, but I am certain there is an excellent reason for not hearing from him yet. Consider this similar to an emergency session of Congress. We do whatever we have to in order to make this happen. Poland just lost their President as well as PM and 97 others. Within hours their government was secured and running.”

At **4:03 p.m. PDT**, Dr. Lally emailed: “Roy brings up an excellent point...I would offer that we use this call tonight to get “temporary” leadership in place which can be ratified, elected, affirmed in July. It is the good of the whole, not the individual that must be sustained right now. If Roy cannot make the call, let his objection be noted as well as the absentee board members and let’s move this along. If Poland can do it we should be able to. Thank you for the time and consideration that you provide this. Respectfully lally”

The telephone Conference call went forward that evening. I was also present on that telephone call. My review follows:

LEGAL DISCUSSION:

Re: USJA Bylaws Article VII Section J issues:

It is a given that Neil Ohlenkamp missed the meeting. However, he has concerns arising from his apparent view that if he had been duly contacted by telephone for his vote, despite the fact he was not present by his calling in, that he would have been able to vote. He believes that Marc therefore violated this provision. The relevant portion of the provision reads:

“In the case of a telephone meeting, the Secretary will telephone every member of the Board of Directors. The Secretary shall read the motions to be voted on to each member and will record the vote of each member on a separate ballot. The Secretary shall record the date of each telephone vote and will sign each telephone ballot certifying that it reflects the wishes of the Board member concerned.”

I believe Mr. Ohlenkamp’s position on this language is mistaken. If you adopt Mr. Ohlenkamp’s position, then no member of the Board of Directors need ever bother to appear on a Conference

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call, relying on this position to be contacted. However, this position is extreme. Keep in mind that Neil was not present when he acknowledged receiving a phone message regarding the conference call from Katrina. What makes him know he would have been “present” if Marc had in fact called him? And what about Paul Nogaki, who was on a plane en route to Chicago? How would he have gotten any call made to him? If this were true, what would be the point of the provisions for a “quorum”? The better position reflects what a conference call is, and Marc in fact, even in the conference call situation, Secretary Marc Cohen was on the telephone, **to each member of the Board present via telephone and therefore entitled to vote**, and took their vote. Neil was not present, yet his claim to entitlement to vote this way is not unlike a claim to a right for an absentee vote. **Robert’s Rules of Order -Newly Revised** (10th edition), Section 45, p. 408-409 states: **“It is a fundamental principle of parliamentary law that the right to vote is limited to the members of an organization who are actually present at the time the vote is taken in a legal meeting**, although it should be noted that a member need not be present when the question is put. Exceptions to this rule must be expressly stated in the bylaws. ...” The very next sentence of the section J being discussed states: **“A majority vote, of a quorum of the Board of Directors, resulting from a ...telephone meeting, shall have the same force and effect as a majority vote of the Board of Directors meeting in person, and may be stated as such at any time for any purpose.”** Here, there was a quorum (six directors present on the conference call, constituting both a quorum of the nine directors on the Board, as well as the ‘majority vote’, and as well, a 2/3rd majority) and all six voted unanimously for the elected parties.

Re: USJA Bylaws Article VII Section K issues:

'**Subsection K. Meetings**' provides in relevant part: *"Meetings of the Board of Directors shall be conducted in accordance with Roberts Rules of Order.* The annual meetings of the Board of Directors will be held at a time and place set by the Board of Directors, for the purpose of receiving annual reports and transacting any other business of the Corporation...
...For the purposes of transacting business of the Corporation, other meetings of the Board of Directors may be convened by the Board of Directors, to be held at a time and place set by the President, in accordance with majority vote.... Special meetings of the Board of Directors may be convened by the President in accordance with majority vote of the entire Board."

Since there was no President, the 'majority vote' of the Board of Directors as to the date and time of the meeting was reflected at the 2/3rds of Directors appearing at the meeting **with no objection**. If need be, subsequent vote can always "ratify the act" at a later time. Alternatively, under the **Bylaws, Article VIII-Officers, Section D. Secretary**: "The Board of Directors or President may direct the Executive Director to perform the ministerial functions of the Secretary to assure the day-to-day continuity and efficiency of operation of the Corporation. In conjunction with the foregoing, **Section F. Executive Director** of this same **Section VIII-Officers** provides that: "The Executive Director is invited to all meetings, as a guest, **and will have an advisory voice on the Board of Directors.**" Based on the above, the conference call meeting was

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convened by the 2/3rd majority of Board of Directors at the time and date established by the majority of Board Members, and was run by the Secretary where, under Roberts Rules of Order, section 47, page 443: "The duties of the Secretary are: ...11)In the absence of the president and vice-president, to call the meeting to order and preside until the immediate election of a chairman pro tem."

'**Subsection K. Meetings**' further provides in relevant part: "Notice of a meeting, whether annual, scheduled or special, shall be given to all Board members, *if possible*, not less than thirty, (30) days in advance of such meeting. The dates of such scheduled meetings shall be posted in any USJA publication, on the USJA internet site and via electronic mail, at the earliest date of availability of, confirmed, information regarding scheduled dates and venue of the above mentioned events. Directors may invite guests to any meeting of the Board, however, the Board may, in its sole discretion, exclude or remove guests from the meeting. General membership meetings shall be announced....All meetings shall be open to the general membership in good standing. ..."

As the above Bylaws expressly states, notice of a special meeting shall be given to all Board members not less than thirty days in advance **if possible**. Here, it was found to be not possible. Thirty days until a noticed special meeting would have meant that the USJA would have had to attend the second and final mediation session with USA Judo on April 27th, 2010 without either a President and/or Vice-President in attendance. Furthermore, since the date of the April 12, 2010 meeting would not ultimately be confirmed until the time of the meeting itself with respect to quorum, the above Bylaw language does not require advance posting on the USJA internet site until the meeting itself. This special meeting was not a "general membership meeting" that needed to be announced, although the meeting was open to the general membership in good standing. It is my position that when the minutes of this meeting, time and date are ultimately posted, that the requirement of the above is met.

Re: USJA Bylaws Article VII Section L issues:

'**Subsection L. Notice Requirements**' provides in relevant part: "Except as otherwise provided by statutes, **written notice**, of each meeting of the Board of Directors, whether annual, semi-annual, or special, **stating the place and time when such meeting is to be held (and in the case of a special meeting stating the purpose for which such meeting is called)**, shall be **served** either personally or **by mail**, within the period specified, upon each Director entitled to vote at such meeting. **If mailed, such notice shall be sent to each Director at his address as it appears on the records of the Corporation**, unless he shall have previously filed with the Secretary of the Corporation a written request that notices intended for him be mailed to some other address, ..."

If it is Neil's position that he needed to be provided with a written notice stating the place and time and purpose for which the meeting is called, I must aver that twenty emails encompassing the subject and the efforts of the Directors to schedule same are more than adequate. Of course,

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if the Board of Directors had sent same by 'regular mail', Neil would not even have received the notice on the day the meeting was held although it would technically have been proper. Hence, all logic and reasonableness suggest that 'email' was proper in this matter. You will note that Katrina Davis' April 12 10:24 a.m PDT email, fully presented above, meets the full requirements of the above.

Furthermore, Katrina acknowledged above calling Neil, and Neil has acknowledged receiving her phone message. I followed up with a discussion with Katrina as to what her message to Neil on his voice mail stated. She indicated that **she stated that an emergency conference call was needed tonight, and to please check his emails for details and to get the dial in number and access code for the conference.** Katrina then acknowledged receiving a return voice mail from Neil, apparently after she was gone, which she played for me, and which had Neil stating: "Hi Katrina, this is Neil. I'm calling back from your message to find out what time this conference call is tonight if you can give me a call back and let me know. Thanks, bye". Neil's failure to reference getting the dial in number and access code for the conference in his voicemail is simply left to speculation and is not important.

However, given that the email address to which all twenty emails were sent was, in fact, the email address listed for Neil at the USJA web site, and given that Katrina's voicemail referenced Neil's need to check his emails for details and to get the dial in number and access code for the conference, and given that all twenty emails had a heading revealing the time of the conference, it appears that the notice requirements for this section were reasonably met. It should be noted that typically in the legal arena, if notice had been properly sent by regular mail which was never opened, the failure to timely open the mail does not render the notice untimely.

'**Subsection L. Notice Requirements**' further provides in relevant part:

"Such notice (or any part thereof) may be waived by any Director by written consent or by oral statement at any meeting and **shall be deemed waived by any Director who is present, ... at such meeting.**"

In essence, for the six Board of Directors who did appear at this meeting, any notice requirements were obviously and logically waived with their appearance. They constitute a quorum, a majority vote, and a 2/3rds majority vote.

Based on the above, it is my opinion that subsections J, K and L do not affect the validity of the meeting on April 12, 2010 or the results of the meeting.

At this time, let me address Roy Hash's concerns for the applicability of the Colorado Sunshine Law provisions to the USJA. As I understand that Dr. Lally is seeking the opinion of a Colorado attorney, I must defer ultimately to such counsel as I am not admitted to the Colorado Bar. However, as an attorney, I have done some research on the issue which I offer for your consideration as background information. I thank Mr. Hash for posing the question.

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Re: Apparent Non-Applicability of the Colorado Sunshine Statute to the USJA

The Colorado Sunshine Law is found at Title 24-Article 6- section 402. The initial “Sunshine Law” was passed in 1973 and concerned itself with disclosure of private interests by public officials; regulated lobbying; and, for the first time in Colorado, required open meetings of all meetings of two or more members of any board, committee, commission, or other policy making or rule making body of any state agency or authority or of the legislature in accordance with its provisions. In 1977, it was revised again for legislation concerning public meetings and meetings regarding executive session. In 1985, it was revised again concerning the State Board of Parole meetings. Recent amendments have also occurred in 1996.

There are essentially three bodies involved in the Colorado Sunshine Law: a) a **“local public body” which means any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function** but does not include persons on the administrative staff of the local public body; b) “Political subdivision of the state” which includes, but is not limited to, any county, city, city and county, town, home rule city, home rule county, home rule city and county, school district, special district, local improvement district, special improvement district, or service district; and c) **“State public body” which means any board, committee, commission, or other advisory, policy-making, rule-making, decision-making, or formally constituted body of any state agency, state authority, governing board of a state institution of higher education including the regents of the university of Colorado, a nonprofit corporation incorporated pursuant to section 23-5-121(2), C.R.S., or the general assembly, and any public or private entity to which the state, or an official thereof, has delegated a governmental decision-making function** but does not include persons on the administrative staff of the state public body.

At first glance, none of the above applies to the USJA except possibly the “nonprofit corporation incorporated pursuant to section 23-5-121(2). However, a review of this statute finds that it is concerned with the transfer of newly created technologies from university research to the private sector, and that it authorizes governing boards of any state-supported institution of higher education or the Colorado commission on higher education to incorporate one or more private nonprofit corporations to develop discoveries and technology at state-supported institutions of higher education. This is not the USJA..

In summary, the Sunshine Review answers the question of what governmental bodies are subject to the Colorado Sunshine Law for open meetings in this way: “The act defines government body as all branches of state and local government including all boards, commissions, etc. It also includes non-profit and private corporations who receive state funding and any bodies who have been granted decision-making authority”, excluding administrative staff for the state. Again, this is not the USJA. Although it does not seem to apply, I defer to Dr. Lally’s Colorado attorney.

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Paul Nogaki has expressed his concern for the scope of the Colorado Sunshine Law based on his experience with The Brown Act and non-profit corporations here in California. I appreciate his concern and input. However, my comments about the Colorado Sunshine Law remain above.

Re: Scope of the Brown Act

To compare the scope of The Brown Act, I reviewed an explanation of The Brown Act published by the Office of the Attorney General concerning private or nonprofit corporations and other entities. The section concerning private and nonprofit corporations is relatively small, so allow me to share this information with you:

“C. Private or Nonprofit Corporations and Other Entities

Under specified circumstances, meetings of boards, commissions, committees or other multi-member bodies that govern private corporations, limited liability companies or other entities may become subject to the open meeting requirements of the Act. Ordinarily, these private corporations or other entities will be nonprofit corporations. In some instances, they are created by the governmental entity to support the efforts of the governmental entity. Other times they are privately created and, to some degree, may partner with a governmental entity to accomplish a common goal. (See Ed. Code, section 47604(a) [concerning possible application to charter schools].) The circumstances that determine whether nonprofit corporations or other entities are governed by the Brown Act are set forth in section 54952(c).

The Act expressly applies to private corporations, limited liability companies and other entities that are created by the legislative body for the purpose of exercising authority which can be lawfully delegated to them. (Section 54952(c)(1); *Epstein v. Hollywood Entertainment District II Business Improvement District* (2000) 85 Cal.App.4th 152 [Property Owners Association covered because it received money from taxes on property and businesses within the Business Improvement District, and it was structured to assume certain administrative functions ordinarily performed by the city]; 85 Ops.Cal.Atty.Gen. 55(2002)[Act covered private nonprofit corporation formed for the purpose of providing programming for a cable television channel set aside for educational use by a cable operator pursuant to its franchise agreement with a city and subsequently designated by the city to provide the programming services]; 81 Ops. Cal.Atty.Gen. 281, 290 (1998) [community redevelopment agency created nonprofit entity and delegated authority to it].) Typically, the entities subject to this subdivision will be nonprofit corporations established jointly by various government entities for the purpose of constructing, operating or maintaining a public works project or public facility. (*International Longshoremen’s & Warehousemen’s Union v. Los Angeles Expert Terminal, Inc.* (1999) 69 Cal.App.4th 287, 294.)

The Act also applies to the meetings of entities which receive funds from a local agency where the legislative body for the local agency appoints one of its members to the governing board of the entity as a voting member of the board. (Section 54952(c)(2).) The Act does not apply to boards of a nonprofit corporation or other entity where the legislative body appoints someone

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other than one of its own members to the governing body of such entity. It continues to be the law that the mere receipt of public funds by a nonprofit corporation or other entity does not subject it to the requirements of the Act.”

I offer the foregoing as simply a comparison of how The Brown Act is versus the Colorado Sunshine Law. The Brown Act seems to involve private non-profit corporations where they are established by various governmental agencies, and where the legislative body appoints someone of its own members to the governing board of such entity. Neither applies to the USJA.

Conclusions

It is always good to know where the dangers lie. For that reason, the areas of concern for Roy Hash with the Colorado Sunshine Law, and the concerns of Paul Nogaki derived from The Brown Act are appreciated.

Ultimately, however, I find no legal basis for contending the conference call of April 12, 2010 should not have been held. I accept differences of opinion. However, a review of the email history preceding the conference call speaks for itself. What it says of character also speaks for itself. Recently, I noted that Roy Hash made a comment about the USJA staff, noting “The USJA has an absolutely superb office staff and an Executive Director without equal in the world.” I echo that conclusion. Isn’t it ironic, then, that the strongest call for the immediate conference call and office elections to be held as quickly as possible came from this same Executive Director. Look above at the emails and see for yourself.

Respectfully submitted,

Glenn Nakawaki,

Corporate Counsel, USJA

