



**SOUTH SAN LUIS OBISPO COUNTY
SANITATION DISTRICT**

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**AGENDA
BOARD OF DIRECTORS MEETING**
Arroyo Grande City Council Chambers
215 E. Branch Street
Arroyo Grande, California 93420

**Action Summary Minutes of the
Regular Meeting of Wednesday, September 20, 2017, at 6:00 p.m.**

1. CALL TO ORDER AND ROLL CALL

Chairman Shoals called the meeting to order and recognized a quorum.

Present: John Shoals, Chairman, City of Grover Beach
Jim Hill, Director, City of Arroyo Grande
Linda Austin, Vice Chair, Oceano Community Services District

District Staff: Richard Sweet, Technical/Administrative Services Consultant
Gilbert A. Trujillo, District Legal Counsel
Paul Karp, Technical/Administrative Services Consultant

2. PLEDGE OF ALLEGIANCE

Chairman Shoals led the Pledge of Allegiance

3. AGENDA REVIEW

Motion: Director Hill made a motion to approve the Agenda as presented.

Second: Chairman Shoals

Action: Motion approved 3 – 0

Ayes: Directors Hill, Austin and Chairman Shoals

Noes: None

4. PUBLIC COMMENTS ON ITEMS NOT APPEARING ON AGENDA

Chairman Shoals opened the Public Comment period.

Speaking from the public were:

- Patty Welsh, who requested a moment of silence for a local resident who passed away after being hit by a vehicle in the Village;

- Julie Tacker, who spoke on the former Administrator's relocation expenses which the contract did not reflect, requested that the Board agendaize some resolution to the matter.
- Tim Brown, spoke about the devastation in Florida, the Florida Keys and the Virgin Islands from the recent hurricane and asked that the Board take a step back and keep that in perspective during the meeting, the past history at the Sanitation District and former Administrators and the current Board, legal fees, employees who are on paid administrative leave, and consideration of a five member board.
- Patricia Price, distributed and read a document to the Board voicing concerns about numerous District issues, no confidence with the District, staff and the Board, violations of the Brown Act and the Bylaws.
- Teri Klier, spoke about the Board and her strong support for Director Hill.
- Debbie Peterson commented on some of the documents in the 3,700+ emails, and that she had not met at any of the locations noted in the Investigation Report.
- Kris Victorine, commented and acknowledged Director Hill's diligence and oversight of the District, concerns about expenses and budgetary funds within the current budget and answers and false statements that were provided by the former District Administrator.
- Ron Holt commented on civility and moving on, and continuing to attend future meetings until answers and actions are taken.
- Ron Arnoldson, commented about past District Administrators and the problems that occurred along with further investigations, employees on paid administrative leave, politically motivated Brown Act violations against Mayor Hill, and the Redundancy project.

Chairman Shoals closed the Public Comment period.

5. **CONSENT AGENDA:**

Director Hill requested the Approval of Warrants be taken separately.

5A. **Approval of Warrants**

Board discussion ensued. Director Hill noted legal fees for District Counsel and Liebert Cassidy Whitmore ("LCW"), and the Board not being apprised of the number of investigations, the fiduciary responsibility to the residents of the District to control expenses, and would not support the fees and would vote no on the expenses. Director Austin felt it was apparent the bills were due to the investigations and if not paid, would there be legal ramifications. Legal Counsel responded that they are legally binding contracts to provide professional services and if payment is promised and not approved, the District would be in breach of contract. Chairman Shoals asked about a breakdown of the LCW fees; Technical Consultant Sweet provided the answers.

Chairman Shoals opened the Public Comment period.

Speaking from the public were:

- Stewart Jenkins, stated he was the attorney for Mayor Hill, commented about the contract with LCW and felt the District has the obligation, if the

investigation or services have been shoddy and not quality work, to question the bill, and referenced comments in the LCW letter.

- Julie Tacker, agreed with the previous speaker, noting legal counsel should have been informed if the amount was going over what had been approved, and the redacting of 3,715 pages of record that the legal counsels from Arroyo Grande and the District didn't go through.
- Mary Lucey, commented about good government and suggested moving the Consent Agenda to the end of the agenda.
- Ron Holt, spoke about legal bills that had not gone through the proper process of approval.
- Patricia Price, commented about the \$7,500 for the investigation and that was all that was being spent without it being brought back to the Board.
- Tim Brown, spoke about the legal bills which should be scrutinized and reviewed, and it is a fiduciary responsibility.
- Debbie Peterson, spoke about the legal bills, referring to LCW bills.
- Ron Arnoldson, agreed with what Mr. Jenkins stated about the investigation report and fees, along with other ongoing investigations and evaluating the costs.
- Nancy McNeil, commented about the person who caused the latest investigation by violating process is now complaining about not following process.
- Kevin Rice, spoke about the appalling bills for legal counsel and LCW, investigation was shoddy and the bill should be questioned.

Chairman Shoals closed the Public Comment period.

Chairman Shoals asked Technical Consultant Sweet to respond to questions regarding the Liebert Cassidy Whitmore ("LCW") bills. Mr. Sweet clarified the invoices were for a two-month period and provided information. Legal Counsel also provided responses regarding the warrants and the review process for those warrants. Special Legal Counsel was also asked to provide any additional information and clarification on the LCW invoices.

Board comments ensued, with the following action taken:

Motion: Director Austin made a motion to approve the Warrant Register as presented.

Second: Chairman Shoals

Action: Motion approved 2 – 1

Ayes: Director Austin and Chairman Shoals

Noes: Director Hill

Chairman Shoals then opened the Public Comment period for the remaining item on the Consent Agenda.

Speaking from the public were:

- Julie Tacker, stated the District should get out of the litigation business, questioned the LCW contract being retroactive, and the number of investigations at the District.

Chairman Shoals closed the Public Comment period.

5B. Approval of Minutes for Meeting of September 6, 2017

Motion: Director Hill made a motion to approve the Minutes, noting the minutes stated the previous speaker spoke on the LCW contract.

Second: Director Austin

Action: Motion approved 3 - 0

Ayes: Directors Austin, Hill and Chairman Shoals

Noes: None

6. ACTION ITEMS:

6A. JOINT INVESTIGATION WITH ARROYO GRANDE:

- 1. PRESENTATION BY LIEBERT CASSIDY WHITMORE (“LCW”);**
- 2. DIRECTION TO STAFF.**

Technical Consultant Sweet provided a brief report regarding the presentation by Liebert Cassidy Whitmore (“LCW”) with the findings of the joint investigation with the City of Arroyo Grande, and to provide direction to staff. He also noted some additional information received from the City of Arroyo Grande, and other supplemental information that had been received. Mr. Sweet then introduced Shelline Bennett of Liebert Cassidy Whitmore (“LCW”) who presented the Final Legal Conclusions and Recommendations following Allegations of Brown Act Violations by Arroyo Grande Mayor and Board Member Jim Hill. Ms. Bennett provided an in-depth report on the allegations primarily affecting the Sanitation District which included: (1) Disclosure of confidential District and City closed session communications to third parties; (2) Disclosure of confidential District and City attorney-client communications to third parties; (3) Acting unilaterally and outside the scope of his legislative role as Board Member and Mayor, including involvement in personnel matters; and (4) Disclosure of confidential District and City personnel information to third parties.

Board questions and comments ensued. Director Austin asked for an explanation regarding immunity and liability of the Board (Special Counsel provided response), the billing for LCW, polling of the public records requests and a question on a particular document (Special Counsel provided response), invoice estimate for the District and the City; and LCW offices and locations. Director Hill questioned District Counsel as to who reviews and prepares staff reports (District Counsel responded), referred to several allegations raised in the Investigative Report by Investigator Scott Nelson and requested Special Counsel to respond to each of the questions raised, referenced emails and other documents that were cited in

the report, noting the report was factually inaccurate, and responses were inadequate, questioned Special Counsel regarding Page 18 of the report that stated “the District’s Board of Directors includes three Directors and two Alternates”, Special Counsel provided responses, followed by comments from Director Hill.

Chairman Shoals called for a break at 8:16 p.m. The Board reconvened at 8:25 p.m.

Chairman Shoals asked Special Counsel about oversight with investigations that LCW handles, Special Counsel provided a response; and conflict of interest with legal counsel and LCW, District Counsel provided a response.

Chairman Shoals opened the Public Comment period.

Speaking from the public were:

- Stewart Jenkins, stated he had a few responses to what had been stated, encouraged the Board to do the right thing and move forward, that there was no refusal by Mayor Hill to participate, due process is guaranteed by the Constitution, and LCW not complying with basic due process; referenced numerous sections in the LCW letter, and feels Mayor Hill deserves an apology.
- Nancy McNeil, voiced numerous concerns including refusal of Director Hill to participate in the investigation, investigations are done to uncover the truth and the facts and LCW has done an exceptional job with the investigation, pay for mistakes and learn from them, and implement the recommendations that have been made by LCW.
- Mike Brennler, commented about good government, supported and respected Director Hill, and questioned the investigative report and those involved.
- Coleen Kubel, commented about time not given to Mr. Jenkins or his responses, support for Director Hill and blames others for the investigation.
- Mary Lucey, spoke about good government, paid \$100,000 for the Knudson Report, and the LCW Investigative Report was exceptional.
- Ron Holt, spoke about the law firm of LCW being politically motivated and biased, possible conflict if LCW was handling another investigation for the District.
- Ron Arnoldson, commented about the investigative report and Special Legal Counsel, and changing of the Bylaws.
- Julie Tacker, distributed a document and referenced the Jenkins letter, spending more money redacting phone numbers and charging for it, and complying with the Public Record Act with regard to the Investigator.
- Joe Shacker, spoke about the former District Administrators, and the hiring of a new Administrator.
- Kevin Rice, commented about the “kangaroo court witch hunt”, and the investigative report being irrelevant.
- Shirley Gibson, spoke about the cost of the public records request that the City and District will have to pay, past pattern of Director Hill in driving out past City Managers District Administrators which cost the ratepayers money for hiring replacements.

- Debbie Peterson, spoke about human rights and Mayor Hill is entitled to human rights, the Board should declare a mistrial and move on, referenced emails and the bylaws, and noted in an email that she met at a local business and she did not attend any meetings as was noted.
- Kris Victorine, commented about serial meetings and offered an explanation from what was in the investigative report, and inconsistencies with the report.
- Patricia Price, commented about the public records requests and the expense created, no confidence in the Investigative Report, has concerns about other investigations in the District and feels they will be unbiased, and that Director Hill was not interviewed.

Chairman Shoals closed the Public Comment period.

Board questions and comments ensued. Director Austin questioned due process; Special Counsel responded. Director Hill commented that the investigation showed he consistently asked that items be placed on an agenda which did not occur, has not done misdeeds as characterized, did not refuse to participate in the investigation as he was leaving on vacation and asked Mr. Jenkins to respond to the request, shares concerns about other investigations at the District and the potential for unfairness, leaves it in the hands of the Board and stated Special Counsel owes him an apology. Director Austin commented about the focus of the investigation and the “threat of litigation” and spending thousands of ratepayer dollars to uncover the truth, Director Hill’s refusal to accept responsibility, no remorse and no admission of wrongdoing on what was proven by the Investigator and noted in the Investigative Report. She also provided other comments as to the report and Director Hill’s pattern of behavior and the interaction with third parties and interaction on the Board that put the District in the threat of litigation due to his misconduct. Chairman Shoals stated he is not interested in a witch hunt and it is unfortunate that this is before the Board and that all are subject to attacks which come with the territory. He shared his many concerns, specifically when it comes to personnel issues and items that were requested to be placed on an agenda and not following the bylaws. It does become a concern when you infringe on an employee’s right to privacy and protecting the District. He also noted issues related to the Administration trailer, related permits that were handled by the former District Administrator and commented about the number of issues and projects that were handled by the former District Administrator. He also corrected comments that were made by Mr. Rice. He concluded by stating that some action must be taken on this item. Director Hill then spoke about allowing an employee to address the Board in closed session; District Counsel responded to the question. Director Hill responded that the Board was put on notice to be watchful of issues at the District. Chairman Shoals provided additional comments. Director Austin stated she represents the residents of Oceano and the District.

Chairman Shoals called for the motion:

- Motion:** Director Austin made the following motion:
- Adopt recommendations provided by Liebert Cassidy Whitmore;
 - Direct staff to prepare a resolution of public censure and agendize for a future meeting;
 - Draft letter for Chair's signature to be addressed to City of Arroyo Grande requesting that they designate a different representative to the Board and authorizing Legal Counsel to research whether it is feasible or plausible;
 - Direct staff to exclude Director Hill from all confidential emails;
 - Direct staff to not respond to unilateral direction from any Board Member and to notify the entire Board immediately of such actions;
 - Direct staff to not respond to any attempt by any Director to interfere in personnel matters and notify the entire Board if such attempts are made;
 - Adopt the recommendation to have one-on-one training with the Director, and could include all Directors.

Second: Chairman Shoals

Action: Motion approved 2 – 1

Ayes: Director Austin and Chairman Shoals

Noes: Director Hill

Chairman Shoals then inquired if there would be a Board consensus to add an item to a future agenda to consider the formation of an executive committee consisting of the two City Managers and the General Manager to help provide some oversight to explore and research the possibility of expanding the Board to five members. Board discussion ensued with direction to have staff research and come back to the Board at a future meeting with recommendations and/or suggestions.

Due to the lateness of the meeting, Board discussion ensued to extending the time for the meeting.

Motion: Director Austin made a motion to extend the meeting to 10:20 p.m.

Second: Chairman Shoals

Action: Motion approved 2 – 1; Director Hill voted No

Ayes: Director Austin and Chairman Shoals

Noes: None

Chairman Shoals called for a five minute recess at 10:00 p.m. The Board reconvened at 10:05 p.m.

6B. TECHNICAL CONSULTANTS AND PLANT OPERATION'S REPORT

Motion: Director Hill made a motion to continue Item 6B. to the next regular Board meeting.

Second: Director Austin

Action: Motion approved 3 – 0

Ayes: Directors Hill, Austin and Chairman Shoals

Noes: None

7. BOARD MEMBER COMMUNICATIONS

None.

8. CLOSED SESSION

District Counsel Gilbert Trujillo read the Closed Session items into the Record.

Chairman Shoals opened the Public Comment period.

Speaking from the public were:

- Julie Tacker, commented about closed session, no Union until the former Administrator arrived, violation of the Public Record Act, and ongoing litigation and investigations.
- Stewart Jenkins, commented about the Brown Act and referred to code sections in items 8B and 8C; Legal Counsel provided response.

Chairman Shoals closed the Public Comment period.

The Board adjourned to closed session at 10:20 p.m. to consider the following items:

8A. CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code Section 54957.6: Agency designated representatives: Richard Sweet or Paul J. Karp; Susan Wells and Employee organization: Service Employees International Union (SEIU) Local 620

Discussed, no reportable action.

8B. CONFERENCE WITH LEGAL COUNSEL: ANTICIPATED LITIGATION: significant exposure to litigation pursuant to **paragraph (2) of Government Code Section: 54956.9 (d), paragraph 2, and (e)(5):** Three Items

Discussed, no reportable action.

8C. CONFERENCE WITH LEGAL COUNSEL: ANTICIPATED LITIGATION:
significant exposure to litigation pursuant to **Government Code Section:**
54956.9 (d), paragraph 2, and (e)(4): One Item

Discussed, no reportable action.

The Board reconvened the meeting at 10:35 p.m.

9. ADJOURN MEETING

The meeting was adjourned at 10:36 p.m.

**The next regular Board of Directors meeting is scheduled for
October 4, 2017, 6 pm at the
Arroyo Grande City Council Chambers,
215 E. Branch Street, Arroyo Grande, California 93420**