



Oceano Community Services District

Summary Minutes

Regular Meeting Wednesday, September 9, 2020 – 6:00 P.M.

Location: TELECONFERENCE

1. **CALL TO ORDER:** at approximately 6:00 p.m. by Vice President White
2. **ROLL CALL:** Board members present: Vice President White, Director Gibson, Director Villa, and Director Replogle. Also present, General Manager Will Clemens, Legal Counsel Jeff Minnery, and Business and Accounting Manager, Carey Casciola. President Austin absent.
3. **FLAG SALUTE:** led by Vice President White
4. **AGENDA REVIEW:**
A motion was made by Director Gibson to move agenda item 8A to the beginning of the agenda with a second from Vice President White, 4-0 roll call vote, President Austin absent. A motion was made by Director Gibson to approve the agenda as modified with a second from Director Replogle, 4-0 vote, President Austin absent.

8A BUSINESS ITEM:	ACTION:
<p>Presentation and approval of a letter of support for the Active Transportation Program grant application for the Front Street Pedestrian Improvements Project (Project).</p>	<p>After an opportunity for public comment, a presentation by Steve Kahn of Cannon and Board discussion, a motion was made by Director Gibson to approve a letter of support for the Active Transportation Program grant application for the Front Street Pedestrian Improvements Project with a second from Director Replogle with a 4-0 roll call vote, President Austin absent.</p> <p>Public Comment was received from:</p> <p>Robin Harris – In support of lights that still allow night sky viewing.</p> <p>Julie Tacker – Asked about project price and funding for any unforeseen utility conflicts.</p> <p>Brenda Lowe – In support of this project.</p>

5. **PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA:**
No public comment received.
6. **SPECIAL PRESENTATIONS & REPORTS:**
 - A. **STAFF REPORTS:**
 - i. **Sheriff's South Station** - Commander Michael Manuele – not in attendance.
 - ii. **FCFA** - Chief Steve Lieberman – not in attendance.
 - iii. **Operations** - Utility Systems Manager, Tony Marraccino - Continuing with daily and monthly rounds & samples. 4 work orders. 12 USAs. 3 Customer Service calls. 1 after hours call out – issue with office phone. Continuing with sewer jetting and meter swaps. Overlay paving project with County is going well and should begin next week. Continuing to paint fire hydrants

and do trash pick-up following COVID-19 protocols. Lopez is at 46% (22,348 af) and there were -0- SSOs (Sewer System Overflows) for the month of August.

- iv. **OCSD General Manager** – Retrofitted lighting for OCSD office, Fire Station and parking lot; this was funded an on-bill financing program with PG&E.

B. BOARD OF DIRECTORS AND OUTSIDE COMMITTEE REPORTS:

- i. Director Villa – Reported on OAC (Oceano Advisory Council), see attached letter.
- ii. Director Gibson – Reported after item 10, see below.
- iii. Vice President White – None
- iv. Director Replogle – None
- v. President Austin – Absent

b. PUBLIC COMMENT ON SPECIAL PRESENTATIONS AND REPORTS:

Julie Tacker	Asked for an update from OAC (Oceano Advisory Council) regarding letter sent about parking issues on Pier Avenue.
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7 CONSENT AGENDA:	ACTION:
<ul style="list-style-type: none"> a. Review and Approval of Minutes for Regular Meeting August 26, 2020 b. Review of Cash Disbursements c. Submittal of the District’s Public Facilities Fee Annual Report 	<p>After an opportunity for public comment and Board discussion, staff recommendations were approved with a motion from Director Villa and a second from Director Replogle and a 4-0 roll call vote, President Austin absent.</p> <p>Public Comment was received from:</p> <p>Brenda Lowe – Commented that she cannot see other participants or anyone campaigning via Zoom.</p> <p>Julie Tacker – Commented on first amendment rights.</p>

8B BUSINESS ITEM:	ACTION:
Presentation on Adjusting Water System Service Charges.	<p>After an opportunity for public comment, a presentation (attached) by the General Manager and Board discussion the item was received and filed.</p> <p>Public Comment was received from:</p> <p>Julie Tacker – Asked to have the other communities included in the rate comparison identified in the presentation.</p>

8C BUSINESS ITEM:	ACTION:
Consideration of a Resolution to Transition from At-Large to District-Based Elections.	<p>After an opportunity for public comment and Board discussion, a motion was made by Director Replogle declaring the District's intention to transition from At-Large to District-Based elections by November 2022 by approving the resolution with a second from Vice President White and a 4-0 roll call vote, President Austin absent.</p> <p>Public Comment was received from:</p> <p>Lucia Casalnuovo – In support of the resolution.</p>

9. **HEARING ITEM:** None

10. **RECEIVED WRITTEN COMMUNICATIONS:** Agenda Item 8B – Veronica Cota – see attached.

6. **SPECIAL PRESENTATIONS & REPORTS**

B. **BOARD OF DIRECTORS AND OUTSIDE COMMITTEE REPORTS:**

- ii. Director Gibson – Reported on WRAC (Water Resources Advisory Committee) and Zone 3 Advisory Committee.
No public comment.

11. **LATE RECEIVED WRITTEN COMMUNICATIONS:** See attached:

Lanny Ebenstein	In support of the resolution in agenda item 8C.
April Dury	Commented on agenda items 8A(iv) and 8B(ii).

12. **FUTURE AGENDA ITEMS:** Cienaga Seabreeze Park, Inc. Continued, Deferred Infrastructure Program, Lopez Water Contract Amendments, Wastewater CIP, The Place, EIR State Parks PWP, Old Firehouse Art, California Voting Rights Act, Fireworks Ordinance, District Flag Policy/ Pride Month, Social Media Policy / Live Stream Board Meetings

13. **FUTURE HEARING ITEMS:** Ordinance for a Water Rate Increase and Protest Hearing October 14, 2020

14. **CLOSED SESSION:** The Board entered closed session at approximately 7:45 to 8:15. No reportable action
Public comment was received from:

Julie Tacker	Regarding the Central Coast Blue project and the EIR comment period.
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15. **ADJOURNMENT:** at approximately 8:15 pm.

DATE: September 3, 2020

TO: Kevin Pearce, State Parks; kevin.pearce@parks.ca.gov 805.773-7170

Michael Britton, SLO County Public Works - Traffic; mbritton@co.slo.ca.us 805.788-2318

Michael Hill, SLO County Public Works – Street Sweeping; mhill@co.slo.ca.us 805.781.5276

Lynn Compton, 4th District Supervisor, via Caleb Mott; District4@co.slo.ca.us 805.781.4337

FROM: Allene Villa, Chair, Oceano Advisory Council (OAC)

SUBJECT: Restricted parking hours/pedestrian beach access on **Pier Avenue, Oceano**

The Oceano Advisory Council (OAC) has been made aware of citizen concerns regarding a lack of parking and a lack of concise signage on Pier Avenue between the hours of 5 am and 9 am. This lack of parking, in addition to the sign confusion, is deleteriously affecting our local beach walkers, surfers, and fisher persons having access to the beach, resulting in expensive tickets being issued by State Parks on our county-owned roadway.

On behalf of the local community we went on a fact-gathering mission in order to present you with the particular issues and what we would like to propose as starting points to come up with solutions.

- Our understanding is that Pier Avenue is a county road but State Parks issues county-related parking violations (\$71.50 and higher) and the fines are paid to the State Parks payment processor.
 - 1) Why does State Parks issue tickets on county-owned property?
 - 2) We are asking for clarification of which government agency this revenue stream benefits.
 - 3) Which agency issues parking tickets if a vehicle is parked before 6am at the Grand Ave entrance parking lot?

- Large sections of the south side Pier Ave (from the State Parks kiosk down to Lakeside Ave) are painted red and off limits for parking, with much of the “red zone” so faded as to be difficult to discern.
 - 1) What would it take for the county to re-assess the need for so much red curb designation and getting that minimized for the benefit of visitors?
 - 2) When will the area get a fresh coat of curbside paint, outside of the recent fire hydrant painting done last week?

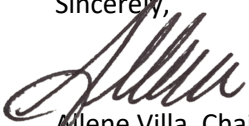
- It has been relayed that the “no parking” times on Pier Avenue are due to street sweeping activity, done by both the county (via an outside vendor named Venco Power Sweeping, Inc.) and State Parks (via their own street sweeping machine and via an outside vendor named SP Maintenance Services Inc.)
 - 1) Based on numerous observances the county-provided vendor sweeps only on Wednesdays, between 6:30a and 8a so we propose the parking restriction could be modified to be for just that day.
 - 2) Trying to watch when the State Parks machine OR the State Parks-provided vendor sweeps, we have yet to observe that activity, even after several weeks of attempt, from 5am until 9am, during every day of the week.
 - 3) If cars parked on Pier Ave are a deterrent during street sweeping activity, why is there no street parking restriction anywhere else in “the Strand” area, where street sweeping is also occurring and cars take up almost all curb space?

- 4) If cars parked on Pier Ave are a deterrent during street sweeping activity, why does the section of Pier Ave (south side), between Air Park Dr and Norswing Dr have parking available starting at 6am when the same street has restricted the parking until 9am?
 - 5) The county pays for a vendor to sweep every Wednesday and the State pays for a vendor to sweep “three days a week, presumably Monday, Wednesday and Friday”. Are taxpayers paying twice for the same service on Wednesdays?
 - 6) Is there any reason, besides street sweeping, that explains the parking restrictions on Pier Ave? We would like to work on changing that restriction and making it more inviting for the residents and visitors who wish to enjoy our beach.
- State Parks has a large parking lot (555 Pier Ave) which could accommodate many beach goers’ cars. State Parks asserts that parking there is only for patrons of the visitor center or lagoon nature trails – yet the visitor center continues to be closed to the public and only State Parks vehicles are taking up space.
- 1) What could move us forward in allowing for 6a to 9a parking for the general public in that lot?
- The lack of handicapped/accessible parking available to the public, everywhere on Pier Ave. At this time the only designated spot on that entire road, and in that entire area, is within the State-owned paved parking lot to the north, at the end of Pier Ave – a lot that only has 16 spaces currently. Its location to available beach-ready equipment, and more compact sand accessibility does not seem to be well-planned. Pier Ave itself does not have even one designated accessible parking spot, anywhere from the State parking lot all the way to Hwy 1.
- 1) What does it take to get the current accessible parking spot moved closer to the kiosk?
 - 2) What does it take to get another (or three) accessible parking spots at the end of Pier Ave, on State Parks property?
 - 3) What will it take for the county to add one or two street-side accessible parking spots on Pier Ave?
 - 4) What is needed to have a removable/retractable “boardwalk” created, so that people with mobility issues can more easily access our coastline?

Our intent as the Oceano Advisory Council is to bring attention to citizen concerns that fall within the scope of our stated purpose - “promote community involvement to encourage sound planning and development in Oceano”. To that end, we respectfully request a meeting between the agencies and our council, to work together on helping the Oceano community develop some much-needed updating and planning within the Pier Ave area of our wonderful community. Pier Avenue is the road to “Oceano’s Front Porch” – as such, we can make it so much more welcoming and useful to everyone and collaboration among the residents and your various agencies is the first step towards that goal.

Thank you for your attention and we look forward to your anticipated response.

Sincerely,



Milene Villa, Chair
Oceano Advisory Council (OAC)

Cell:805.904.8259



COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
Lynn Compton *District Four Supervisor*

Hello Chair Villa,

Thank you for reaching out to California State Parks, County Public Works, and my office regarding parking on Pier Avenue in Oceano. I have coordinated a response to this letter with each of these departments in order to answer the questions that the Oceano Advisory Council (OAC) submitted. Below you will find the text of the letter the OAC sent, followed by responses from the agencies. Please see below:

“Our understanding is that Pier Avenue is a county road but State Parks issues county-related parking violations (\$71.50 and higher) and the fines are paid to the State Parks payment processor.

- 1) Why does State Parks issue tickets on county-owned property?

State Parks: *State Park Rangers are California Peace Officers with statewide jurisdiction and authority to enforce the laws of this state (and county). In reference to Pier Avenue, parking compliance and the enforcement of posted regulatory parking restrictions is critical to maintain efforts to address street sweeping maintenance activities. Rangers support county enforcement efforts which would otherwise be addressed by the California Highway Patrol Officers (through an agreement with the San Luis Obispo County Sheriff's Office).*

- 2) We are asking for clarification of which government agency this revenue stream benefits.

State Parks: *An answer to this question is nuanced. The County receives a direct benefit by having California State Park Rangers conduct traffic enforcement along Pier Avenue. By State Park Rangers addressing traffic enforcement along Pier Avenue, California Highway Patrol Officers are able to focus their patrol efforts in other parts of the south County area. A reminder that the San Luis Obispo County Sheriff's Office has an MOU with the California Highway Patrol to provide traffic enforcement within unincorporated parts of the county; Pier Avenue corridor included. The presence of State Park Rangers along Pier Avenue also benefits the south County area by allowing San Luis Obispo County Sheriff's Office patrol Deputies to focus their efforts elsewhere.*

San Luis Obispo County receives a \$12.50 surcharge for every parking citation issued by California State Park Rangers.

- 3) Which agency issues parking tickets if a vehicle is parked before 6am at the Grand Ave entrance parking lot?

State Parks: *Parking is prohibited along Grand Avenue, west of Highway 1/Pacific Coast Highway. Parking within the Grand Avenue parking lots is property which is owned, managed and controlled by California State Parks. California State Park Rangers address*

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criminal and traffic enforcement in the areas of the parking lots and dirt lot north of Grand Avenue/west of Le Sage Riviera RV park.

Large sections of the south side Pier Ave (from the State Parks kiosk down to Lakeside Ave) are painted red and off limits for parking, with much of the “red zone” so faded as to be difficult to discern.

- 4) What would it take for the county to re-assess the need for so much red curb designation and getting that minimized for the benefit of visitors?

County Public Works: *We will have crews go out and evaluate the existing red curbs and refresh as necessary.*

- 5) When will the area get a fresh coat of curbside paint, outside of the recent fire hydrant painting done last week?

County Public Works: *The County does not typically place red curbs at fire hydrants, as parking within 15 feet of a hydrant is illegal whether marked or not. Any other red curb can and will be refreshed as needed.*

We will have crews go out and evaluate the existing red curbs and refresh as necessary.

It has been relayed that the “no parking” times on Pier Avenue are due to street sweeping activity, done by both the county (via an outside vendor named Venco Power Sweeping, Inc.) and State Parks (via their own street sweeping machine and via an outside vendor named SP Maintenance Services Inc.)

- 6) Based on numerous observances the county-provided vendor sweeps only on Wednesdays, between 6:30 and 8a (sic AM) so we propose the parking restriction could be modified to be for just that day.

County Public Works: *The County vendor typically sweeps on Wednesdays. and State Parks typically sweeps every weekday. In order to accommodate any and all street sweeping that is done – whether it be State Parks or the County - we need to assure the roadway is clear so that the service can be provided. In addition, certain locations have an added restriction due to a community-wide No Camping ordinance, prohibiting parking from 2AM-6AM. This time prohibition was extended from 2AM-9AM (2011) on Pier Avenue expressly for the purposes of assuring that the roadway stays clear for street sweeping for both agencies County and State Parks.*

- 7) Trying to watch when the State Parks machine OR the State Parks-provided vendor sweeps, we have yet to observe that activity, even after several weeks of attempt, from 5am until 9am, during every day of the week.

State Parks: *California State Parks, Oceano Dunes District has been closed to vehicles since March 28, 2020 due to the COVID-19 pandemic. During normal operations, street sweeping around the entrance to the park at Pier Avenue would be conducted daily (m-f). While the*

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park has been closed and while vehicle access has been restricted, street sweeping has been addressed and performed on an as-needed basis. State Parks street sweeping equipment has also been down due to mechanical repair during a short period of time as well.

California State Parks, Oceano Dunes District also has a contract in place to sweep from Strand Way to Air Park Drive, three days a week (M,W,F).

- 8) If cars parked on Pier Ave are a deterrent during street sweeping activity, why is there no street parking restriction anywhere else in “the Strand” area, where street sweeping is also occurring and cars take up almost all curb space?

County Public Works: *The parking restrictions on Pier Ave are in support of the need for more frequent sweeping. If parking is determined to be a systemic issue preventing sweeping in the other ‘Strand’ areas maintained by the County a special parking ordinance could be adopted. None is proposed at this time.*

In addition, the County’s contract with the street sweeping vendor includes actions to remedy pervasive parking issues that impact street sweeping operations. The vendor has not informed the County of continuous and persistent issues with vehicles parked so as to prevent sweeping; so while we may agree that it happens from time to time, it does not pose as much of a problem as would vehicles parked on Pier Avenue between the State Parks entrance and Air Park Drive.

- 9) If cars parked on Pier Ave are a deterrent during street sweeping activity, why does the section of Pier Ave (south side), between Air Park Dr and Norswing Dr have parking available starting at 6am when the same street has restricted the parking until 9am?

County Public Works: *The 2AM-6AM restriction is intended to reinforce the overnight camping statute. The section of Pier Avenue with the 2AM-9AM restriction is closer to the State Park entrance, and as such, sand deposited by vehicles coming off of the beach typically occurs within the first couple of blocks. The additional time restriction allows the sweeping to occur where the need is greatest. Outside of that first two blocks, the amount of sand deposited on the roadway decreases substantially, and any sand missed as a result of any parked cars beyond those first two blocks is less likely to be problematic.*

- 10) The county pays for a vendor to sweep every Wednesday and the State pays for a vendor to sweep “three days a week, presumably Monday, Wednesday and Friday”. Are taxpayers paying twice for the same service on Wednesdays?

State Parks: *California State Parks provides street sweeping services at park entrances and state parking facilities; along Pier Avenue this is west of Strand Way. California State Parks pays for street sweeping services to be performed by a contractor between Strand Way and Airpark Drive.*

County Public Works: *The sand deposited on Pier Avenue between the State Park entrance and Air Park Drive is heavier during normal conditions. Street sweeping is paid for out of the County Road fund and is mandated in order for the County to be in compliance with its*

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Municipal Separate Storm Sewer Permit (MS4).

- 11) Is there any reason, besides street sweeping, that explains the parking restrictions on Pier Ave? We would like to work on changing that restriction and making it more inviting for the residents and visitors who wish to enjoy our beach.

County Public Works: *Outside of the “No Overnight Camping” ordinance related restriction from 2am to 6am and sweeping operations (2AM-9AM), the remaining parking restrictions exist for a variety of reasons – sight distance at Strand Way, community mailboxes, and the remaining are to perpetuate the orderly flow of traffic. Public Works staff is already in the process of reevaluating these parking restrictions.*

State Parks has a large parking lot (555 Pier Ave) which could accommodate many beach goers’ cars. State Parks asserts that parking there is only for patrons of the visitor center or lagoon nature trails – yet the visitor center continues to be closed to the public and only State Parks vehicles are taking up space.

- 12) What could move us forward in allowing for 6a to 9a parking for the general public in that lot?
State Parks: *California State Parks will consider this request. The facilities at Oceano Campground, as stated, are currently for visitors to the Oceano campground visitor center.*

The lack of handicapped/accessible parking available to the public, everywhere on Pier Ave. At this time the only designated spot on that entire road, and in that entire area, is within the State-owned paved parking lot to the north, at the end of Pier Ave – a lot that only has 16 spaces currently. Its location to available beach-ready equipment, and more compact sand accessibility does not seem to be well-planned. Pier Ave itself does not have even one designated accessible parking spot, anywhere from the State parking lot all the way to Hwy 1.

- 13) What does it take to get the current accessible parking spot moved closer to the kiosk?
State Parks: *Good recommendation. California State Parks will consider this request.*

- 14) What does it take to get another (or three) accessible parking spots at the end of Pier Ave, on State Parks property?
State Parks: *Good recommendation. California State Parks will consider this request.*

- 15) What will it take for the county to add one or two street-side accessible parking spots on Pier Ave?
County Public Works: *Pier Ave is not a candidate for accessible parking. Accessible parking is preferred in areas where either 90 degree or angle parking can be achieved, such as parking lots. There are currently two accessible parking spots being installed on Air Park Drive for this reason.*

- 16) What is needed to have a removable/retractable “boardwalk” created, so that people with mobility issues can more easily access our coastline?

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State Parks: *More information would be necessary to clarify this request. California State Parks is open to further discussions specific to this item."*

I hope that we were able to adequately address these questions and that the Advisory Council has a better idea of how each agency serves the public on Pier Avenue. As you can see, the State and County work together in order to keep Pier Avenue safe, clean, and accessible to the community. If you have additional questions, please let us know and we are glad to assist you further.

Respectfully,



Lynn Compton
District 4 Supervisor
County of San Luis Obispo

CC:

Kevin Pearce, California State Parks
John Waddell, County of San Luis Obispo Public Works
Joshua Roberts, County of San Luis Obispo Public Works
Michael Britton, County of San Luis Obispo Public Works

Oceano Community Services District



Water Rate Increase Informational Presentation

Ordinance 2015-01&2017-01

ESTABLISHED WATER SERVICE CHARGES

- ❑ Enacted in the midst of a drought
- ❑ Customers continue to conserve water
- ❑ Existing rates insufficient to cover water costs

Pro Forma - Current Rates

Oceano CSD	Rate Increase	Supply	3%	3%	3%	3%	3%	3%
		Base	3%	3%	3%	3%	3%	3%
Revenues and Expenses		Cost Inflation	3%	3%	3%	3%	3%	3%
Total Water Sales (CCF)	286,637	298,522	298,522	298,522	298,522	298,522	298,522	298,522
	2018-19	2019-20	2020-21	2021- 22	2022-23	2023-24	2024-25	
	Actual	Estimated	Budget	Projection	Projection	Projection	Projection	
Water Sales - Supply	1,155,432	1,269,794	1,280,760	1,319,183	1,358,758	1,399,521	1,441,507	
Water Sales - Base	984,006	1,022,206	1,049,240	1,080,717	1,113,139	1,146,533	1,180,929	
System Connection Fees	45,493	50,884	51,639	53,188	54,784	56,427	58,120	
Delinquent Fees	28,481	27,930	27,000	27,810	28,644	29,504	30,389	
New Account Setup Fees	2,700	3,240	3,240	3,337	3,437	3,540	3,647	
Courtesy Notices Fees	4,322	4,329	4,500	4,635	4,774	4,917	5,065	
Wheeling Fees	22,621	21,525	25,000	25,750	26,523	27,318	28,138	
Interest	2,370	0	0	0	0	0	0	
Grant Revenue	104,318	0	0	0	0	0	0	
Other Revenues	19,978	29,330	11,350	11,691	12,041	12,402	12,775	
Total - Revenues	2,369,720	2,429,238	2,452,729	2,526,311	2,602,100	2,680,163	2,760,568	
Water Supply - Lopez (Pass through)	472,914	462,693	493,997	493,997	493,997	493,997	493,997	
Water Supply - State (Pass through)	953,953	1,101,264	1,151,000	1,151,000	1,151,000	1,151,000	1,151,000	
Source of Supply- Expenses	1,426,867	1,563,957	1,644,997	1,644,997	1,644,997	1,644,997	1,644,997	
Salaries & Benefits	238,932	267,692	349,858	360,354	371,164	382,299	393,768	
Admin Allocation	378,606	517,907	555,363	572,024	589,185	606,860	625,066	
Services & Supplies	223,649	203,911	291,220	299,957	308,955	318,224	327,771	
Transfers	71,375	34,888	56,075	57,757	59,490	61,275	63,113	
O&M- Expenses	912,562	1,024,398	1,252,516	1,290,091	1,328,794	1,368,658	1,409,718	
CIP Projects - Fixed Assets	267,821	270,057	40,000	75,000	150,000	150,000	150,000	
Capital - Expenses	267,821	270,057	40,000	75,000	150,000	150,000	150,000	
Total - Expenses	2,607,250	2,858,412	2,937,513	3,010,088	3,123,791	3,163,655	3,204,715	
Revenues minus Expenses	(237,530)	(429,174)	(484,784)	(483,778)	(521,691)	(483,492)	(444,147)	
Water Fund Ending Reserve Balance	1,390,488	961,314	476,530	(7,248)	(528,939)	(1,012,430)	(1,456,577)	
Minimum Reserve Balance (3 months expenses)	651,812	714,603	734,378	752,522	780,948	790,914	801,179	

WATER RATE INCREASE

What was NOT addressed in prior ordinances?

- ✓ The District's Long-Term Plan
 - ❖ System Infrastructure Repairs (CIP)
 - ❖ Staffing Needs
 - ❖ Financial Reserves

WATER RATE INCREASE

What is addressed in this Ordinance?

- ✓ The District's Long-Term Plan
 - ❖ Funding System Infrastructure Repairs (CIP)
 - ❖ Funding Increased Staffing 1.5 FTE
 - ❖ Minimum Financial Reserves

Water Rate Increase

- ❖ Funding the Capital Improvement Program
 - ❖ \$186,000 annual need identified in 2010
 - ❖ Was not implemented
 - ❖ Capital projects funded from grants/reserves
 - ❖ 2019 CIP update identifies over \$4 million needed over next 10 years
 - ❖ \$150,000 annually will fund that need thru pay as you go and debt financing
 - ❖ Phased in over three years
 - ❖ \$4.22 monthly bill impact
 - ❖ \$122,000 annual depreciation expense





Water Rate Increase

- ❖ Funding Increased Staffing Needs
 - ❖ 1 FTE Utility System Operator added in 2019
 - ❖ \$113,412 annual salary and benefits
 - ❖ .5 FTE Account Administrator added in 2019
 - ❖ \$30,393 annual salary and benefits
 - ❖ Converted Utility System Supervisor to Utility System Manager and a Utility System Operator to a Lead Operator in 2019
 - ❖ \$20,000 annual cost differential

Agency	Total Staff	Utility Staff	Total Staff per Capita	Utility Staff per Connection
Oceano CSD	8.5	4	.0011	.0018
CSD 1	10	6	.0014	.0022
CSD 2	21.5	14.5	.0017	.0033
CSD 3	21.6	7	.0027	.0027
CSD 4	49	16	.0086	.0040

Water Rate Increase

- ❖ Funding Minimum Reserve Balance
 - ❖ Maintain above 3 months expenditures
 - ❖ No other reserves proposed

Water System Revenues Rate Structure

- ❖ 6 units of water in base rate eliminated
 - ❖ Difficult to legally defend under Prop 218 cost of service
 - ❖ Other agencies phasing out this feature
 - ❖ Time for Oceano to do the same

Water System Revenues Rate Structure

- ❖ Multi-Family customer class created
 - ❖ Apartments, mobile home parks, duplexes, etc. served by a master meter
 - ❖ Cost of service is generally less and justifies this class
 - ❖ Less demand on system for storage, infrastructure, maintenance, and peaking

Water System Revenues Rate Structure

- ❖ Moving to two-tiered rate structure
 - ❖ Currently 5 tiers
 - ❖ San Juan Capistrano court decision
 - ❖ Two tiers tied directly to the cost of Lopez and State Water
 - ❖ Tier 1 – Lopez (0-6 units)
 - ❖ Tier 2 – State (above 6 units)

Water System Revenues Rate Structure

- ❖ Increase being phased in over time
 - ❖ Three-year phase in
 - ❖ Year 1 - 13%
 - ❖ Year 2 - 10%
 - ❖ Year 3 - 10%

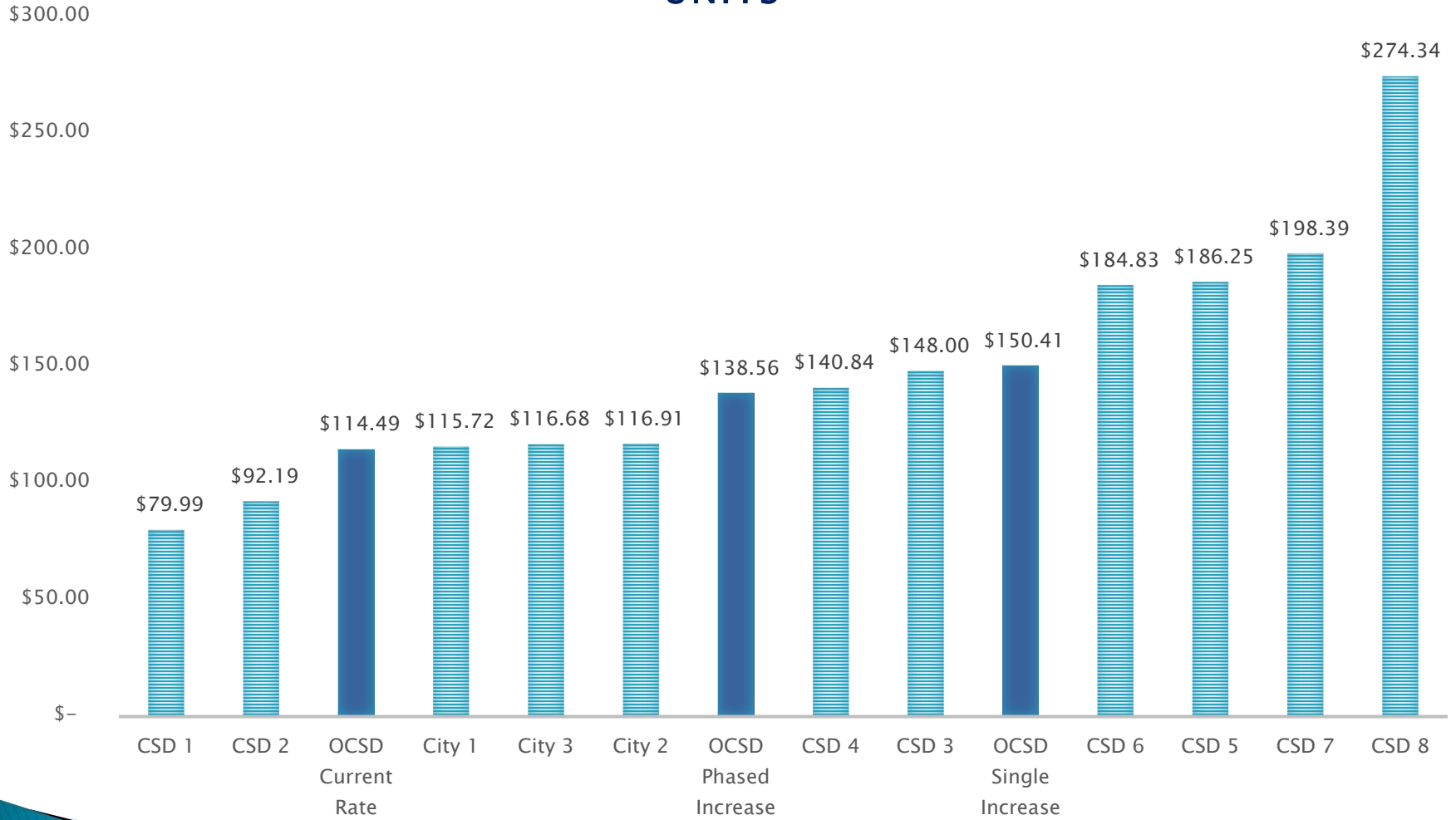
OCEANO CSD RESIDENTIAL WATER AFFORDABILITY

	Annual	% of MHI
Median Household Income	\$39,000	
Affordability Thresholds	\$585-\$1,560	1.5-4%
Average Water Cost (Proposed Increase)	\$832	2.1%

Addressing Affordability

- ✓ Proposition 218 Limitations
- ✓ Create Multi-family customer class
- ✓ Ease burden by phasing in increases
 - ✓ CIP
 - ✓ Rates
- ✓ Target savings from grants to low income
- ✓ State Program

BI-MONTHLY WATER RATE COMPARISON – (SFR) 15 UNITS



Water Rate Increase

- ❖ What does community get?
 - ❖ Capital Improvement Program
 - ❖ Improved Health and Safety
 - ❖ Improved Fire Flow
 - ❖ Sufficient Staffing for Operations
 - ❖ Improved maintenance
 - ❖ Financially Sustainable System
 - ❖ Legally defensible rate structure
 - ❖ Equitable rates

PROCESS AND NEXT STEPS

- ✓ Proposition 218 & Timing
- ✓ Protest Hearing October 14, 2020
- ✓ Rates effective starting billing period in November

Carey Casciola

From: Celia Ruiz <celia@oceanocsd.org>
Sent: Thursday, September 10, 2020 8:18 AM
To: Carey Casciola; 'Will Clemens'
Subject: FW: Oceano CSD -- District Elections
Attachments: Oceano report .pdf

See below

Thanks

Celia Ruiz

Account Administrator III

Oceano Community Services District
1655 Front St., PO Box 599
Oceano, CA. 93475
Office (805) 481-6730
Fax (805) 481-6836

<http://oceanocsd.org/main/>



From: lannyebenstein [REDACTED]
Sent: Wednesday, September 09, 2020 4:32 PM
To: office@oceanocsd.org
Cc: [REDACTED]
Subject: Oceano CSD -- District Elections

Board of Trustees
Oceano Community Services District

Dear Members of the Board:

The California Voting Rights Project is a nonprofit 501(c)(3) organization that supports district elections.

We are delighted that you are considering a resolution at your meeting tonight to institute district elections. This would render any legal challenge to the District's current form of organization unnecessary.

Attached is a report that we had recently prepared in cooperation with residents of the Oceano Community Services District to require implementation of district elections that contains information with respect to this issue.

Thank you for your consideration. We are confident district elections will offer much to the Oceano Community Services District.

Sincerely,
Lanny Ebenstein
Lanny Ebenstein, Ph.D., President
California Voting Rights Project
P.O. Box 3480
Santa Barbara, CA 93130

Abridgment of
Voting Rights and
Racially Polarized
Voting in the
Oceano
Community
Services District

California Voting Rights Project
September 2020

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Abridgment of Voting Rights and Racially Polarized Voting in the Oceano Community Services District

Introduction

There is a very strong case for establishing district elections in the Oceano Community Services District. The Oceano Community Services District is very diverse: its population is more than one-half comprised of individuals from protected classes, but apparently no individuals from protected classes have sought election or been elected to the Board of Directors of the Oceano Community Services District in contested elections since the year 2000. The current Board is comprised only one-fifth by a member of a protected class.

The diversity within the Oceano Community Services District has not been represented on its Board of Directors historically or currently. Thirty-eight total individuals have sought election to the Oceano Community Services District Board of Directors in contested elections since 2000, and 20 have been elected. All of these candidates have together received more than 25,000 votes.

Pursuant to 2010 data from the United States Census Bureau, Latinx residents comprised 47.8 percent of the population in Oceano. Latinx students are 81.8 percent of students at Oceano Elementary School. Moreover, the number of members of protected classes in the Oceano Community Services District is increasing.

There are many examples of racially polarized voting in the Oceano Community Services District on state ballot measures. There are significant differences between whites and members of protected classes in the Oceano Community Services District in various socioeconomic characteristics, including ones pertaining to education and employment.

Abridgment of voting rights of members of protected classes, racially polarized voting, vote dilution, and differential voting characterize candidate elections and other electoral choices in the Oceano Community Services District. The United States Voting Rights Act and, particularly, the California Voting Rights Act provide strong and explicit protections to members of protected classes to challenge at-large forms of election to government agencies in court and to replace them with district elections. Pursuant to the California Voting Rights Act: “An at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class” (Sec. 14027).

To date, no government agency in California has prevailed in a challenge to its electoral system on the basis of the California Voting Rights Act.¹ The current at-large method of election in the Oceano Community Services District impairs the ability of members of protected classes to elect candidates of their choice and their ability to influence the outcomes of elections. Therefore, district elections must be instituted in the Oceano Community Services District.

1. United States Voting Rights Act

The United States Voting Rights Act is landmark federal legislation prohibiting racial discrimination in voting. Passed in 1965 in the wake of suppression of civil and voting rights, the United States Voting Rights Act is intended to enforce the voting rights guaranteed by the 14th and 15th Amendments to the United States Constitution and, in particular, the provisions of the 15th Amendment: “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race ... [or] color”.

According to the federal Voting Rights Act: “No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color ... A violation ... is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens ... in that its members have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice. The extent to which members of a protected class have been elected to office in the ... political subdivision is one circumstance which may be considered” (52 U.S. Code Sec. 10301).

The United States Supreme Court has “long recognized that multi-member districts and at-large voting schemes may operate to minimize or cancel out the voting strength” of protected classes (*Thornburg v. Gingles*, 478 U.S. 30, 47 (1986)). Although legal actions against government agencies in California to require district elections have been brought since 2002 pursuant to the California Voting Rights Act, the United States Voting Rights Act also provides explicit and strong protection for the voting rights of members of protected classes.

2. California Voting Rights Act

Building on the United States Voting Rights Act, the California Voting Rights Act was passed by the California legislature in 2001 and signed into law in 2002 to allow legal challenges to government agencies in California with at-large methods of election to require them to institute district elections. According to the Rose Institute of State and Local Government at Claremont McKenna College, the statewide leader in gathering information on the transition from at-large to district elections: “The California Voting Rights Act was written to promote the use of by-district elections to encourage the election of candidates preferred by previously ‘underrepresented’ voters such as Latinos.”² A copy of the California Voting Rights Act is included here as Exhibit A and incorporated herein by this reference.

As previously cited, the core provision of the California Voting Rights Act (CVRA) is:

14027. An at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or abridgment of the rights of voters who are members of a protected class.

The CVRA could not be more clear: an at-large method of election is **illegal** in California when it impairs the ability of members of protected classes to elect candidates of their choice or to influence the outcomes of elections as a result of dilution of the vote or abridgment of the rights of voters who are members of a protected class. Upon showing vote dilution or abridgment of the rights of voters of protected classes, **at-large methods of election must be discontinued.**

According to Section 14028 of the CVRA: “A violation of Section 14027 is established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.” In addition: “Other factors such as ... the extent to which members of a protected

class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, ... are probative ... factors to establish a violation” of the CVRA (Sec. 14028(e)).

The CVRA is clear respecting what the remedy for illegal, at-large elections is: “Upon a finding of a violation ..., the court shall implement appropriate remedies, **including the imposition of district-based elections**, that are tailored to remedy the violation” (Sec. 14029, emphasis added). Though a remedy for violation of the CVRA other than single-member district elections may be contemplated here, in fact no remedy has been ordered by a California court for violation of the California Voting Rights Act other than district elections.

When, as in the Oceano Community Services District, a political agency utilizes an illegal, at-large method of election, district elections must be implemented.

To date, dozens of legal actions have been brought against special districts, cities, school districts, and other government agencies in California for violation of the California Voting Rights Act. All have been successful. The replacement of at-large elections by district elections is sweeping the state as a result of the CVRA. According to the Rose Institute, more than 135 California educational agencies and dozens of cities have implemented district elections in recent years.³ The Rose Institute also states: “Another significant effect of the California Voting Rights Act is the financial cost it has imposed ...--many challenges so far have resulted in settlements or legal awards over one million dollars.”⁴

The California Voting Rights Act was ruled constitutional by a California Court of Appeal in 2007. This decision held: “The CVRA is race neutral. It does not favor any race over others or allocate burdens or benefits to any groups on the basis of race. It simply gives a cause of action to members of any racial or ethnic group that can establish that its members' votes are diluted.”⁵ The court also held: “Curing vote dilution is a legitimate government interest”; and: “To prove a violation, plaintiffs ... do not need to show that members of a protected class live in a geographically compact area.”⁶

The CVRA further states: “Proof of an intent on the part of the voters or elected officials to discriminate against a protected class is not required” (Sec. 14028(d)) to sustain a legal action brought pursuant to the California Voting Rights Act.

3. Abridgment of Voting Rights and Racially Polarized Voting in the Oceano Community Services District

Abridgment of voting rights and racially polarized voting characterize elections in the Oceano Community Services District. According to available election records, apparently **no member of a protected class has been elected to the Oceano Community Services District Board of Directors since the year 2000**. One individual, Allene Villa, became a member of the Board in 2018 in an uncontested election. Another member of a protected class, Matt Guerrero, was appointed to the Board of Directors.

Pursuant to the California Voting Rights Act, it is not necessary that racially polarized voting be demonstrated in elections to the governing agency's board of directors. Rather, as previously cited: "'Racially polarized voting' means voting in which there is a difference ... in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate" (Sec. 14026(e))--irrespective of whether the difference in voting occurs for the board of directors of the government agency in which district elections are sought or in some other electoral choice.

This point is made clear by legal specialists in districting, electoral issues, and voting rights Marguerite Leoni and Christopher Skinnell. They write in "The California Voting Rights Act," published by the *Public Law Journal* (vol. 32, Spring 2009), an official publication of the State Bar of California Public Law Section and distributed by the League of California Cities:

No Minority Candidates.

The fact that no members of the minority group have ever run for membership on the legislative body will not insulate a jurisdiction from CVRA challenge. The CVRA expressly provides that a violation can be shown if racially-polarized voting occurs in elections incorporating *other* electoral choices that affect the rights and privileges of members of a protected class, such as ballot measures.

(Elec. Code Sec.s 14028(a) & (b).) Some particularly obvious examples ... might include Proposition 187 (denying services to undocumented immigrants), [and] Proposition 209 (preventing state agencies from adopting affirmative action programs) ... But other local measures may also serve the same purpose.⁷

This article also states that the California Voting Rights Act “makes fundamental changes to minority voting rights law in California”; the CVRA “alters established paradigms of proof and defenses ..., thus making it easier for plaintiffs in California to challenge allegedly discriminatory voting practices”; the CVRA “prescribe[s] an extremely light burden ... to establish a violation”; the CVRA “eliminate[s] the first precondition that plaintiffs must prove at the liability stage in federal litigation, that is, that the minority group is sufficiently large and geographically compact to form a majority in a single member district”; the CVRA “eliminates the requirement that plaintiffs prove discrimination”; the CVRA “mandates the award of costs, attorneys fees, and expert expenses to prevailing plaintiffs”; the CVRA “denies not only attorneys fees but also the costs of litigation to prevailing defendants”; the “sole fact that the voters of a city or special district have enacted an at-large electoral system by ballot measure, or rejected a by-district electoral system by ballot measure, will not protect a jurisdiction”; and “Demands by minority group representatives for a change to by-district elections must be taken seriously, even if the minority group is not numerous enough to form a majority in a new single member district. Changing voluntarily permits the elected representatives ... to control the districting process and the considerations that will guide the districting. Once the single member districts are in place, the [government agency] is in the CVRA safe harbor.”⁸ A copy of this article is attached here as Exhibit B and incorporated herein by this reference.

The table commencing on the next page presents all candidates and the votes they received for the Board of Directors in the Oceano Community Services District since 2000, according to records of the San Luis Obispo County elections department (there were not elections in 2010 and 2018 as a result of insufficient candidates) (source: San Luis Obispo County Clerk-Recorder):

**A. Board of Directors Candidates in Oceano
Community Services District, 2000 to Present**

<u>Year</u>	<u>Candidate</u>	<u>Votes</u>
2000	Searcy	708
	Gallardo	694
	Senna	667
	Wilson	539
	Carnahan	503
	Dahl	469
	Dyer	454
	Ramler	322
2002 (full term)	Mann	748
	Angello	640
	Wilson	508
2002 (replacement)	Dahl	664
	Ramler	475
2004	Hill	1,167
	Dahl	929
	Bookout	878
	Senna	827
	Searcy	673
2006	Mann	690
	Dean	628
	Ramler	577
	Wampler	420
2008	Hill	1,213
	Lucey	1,212
	Dahl	972
	Bookout	851

<u>Year</u>	<u>Candidate</u>	<u>Votes</u> (cont.d)
2012 (replacement)	White	1,006
	Searcy	927
2014	Balckburn	634
	Curtis	320
	Ebinger	262
2016	Austin	1,077
	Brunet	765
	Coalwell	760
	Clemons	708
	Amokrane	498
	Naylor	434
	Holmes	416

The California Voting Rights Project has made a good faith effort to identify candidates by ethnicity who have run for the Board of Directors of the Oceano Community Services District through interviewing residents of the District, reviewing media articles, and other means. As best we can determine, none of the candidates who have run since the year 2000 in contested races have been members of protected classes. Even if, on further investigation, one or more candidates in contested elections were members of protected classes, it would not change the overall finding of lack of representation in candidates for and candidates elected to the Board of Directors.

The tables on the next page present the total number of candidates and the number of candidates elected in each Oceano Community Services District Board of Directors election since 2000 and the total numbers of votes cast in elections to the Board of Directors since 2000:

**B. Oceano Community Services District Board of Directors
Elections Since 2000, Total and Elected Candidates**

<u>Year</u>	<u>Total Cand.s</u>	<u>Elected Cand.s</u>
2000	8	3
2002	5	3
2004	5	3
2006	4	2
2008	4	3
2012	2	1
2014	3	2
2016	<u>7</u>	<u>3</u>
Total:	38	20

**C. Oceano Community Services District Board of Directors
Elections Since 2000, Total Candidate Votes**

<u>Year</u>	<u>Total Votes</u>
2000	4,356
2002	3,035
2004	4,474
2006	2,315
2008	4,248
2012	1,933
2014	1,216
2016	<u>4,658</u>
Total:	26,235

There have been, as can be seen, 38 candidates for and 20 candidates elected to the Board of Directors of the Oceano Community Services District in contested elections since 2000, and they have collectively received more than 25,000 votes. That apparently none of the candidates in contested elections or votes they have received have been for members of protected classes demonstrates the lack of representativeness of the current electoral system.

Racially polarized voting characterizes candidate elections in the Oceano Community Services District. Pursuant to the CVRA: “One circumstance that may be considered in determining a violation ... is the extent to which candidates who are members of a protected class and who are preferred by voters of the protected class, as determined by an analysis of voting behavior, have been elected to the governing body of a political subdivision” (Sec. 14028(a)). That no apparent candidates who have been members of protected classes have been elected to the Board of Directors of the Oceano Community Services District in contested elections since 2000 is very strong evidence the District is in violation of the California Voting Rights Act.

There are also many examples of racially polarized voting, vote dilution, and differential voting in electoral choices other than for the Oceano Community Services District Board of Directors since 2000 on, for example, state ballot measures. These include:

D. Racially Polarized Voting on State Ballot Measures in the Oceano Community Services District Since 2000

<u>Year</u>	<u>Ballot Measure</u>	<u>Purpose</u>
2002	46	Housing shelter
2002	47	Education facilities bonds
2002	49	School programs
2004	61	Children’s hospital
2004	63	Mental health services
2004	66	Limit “3 Strikes”

<u>Year</u>	<u>Ballot Measure</u>	<u>Purpose</u>
2006	1C	Emergency shelter
2006	1D	Education facilities bonds
2006	86	Cigarette tax
2008	9	Criminal justice system
2010	21	Vehicle license fee
2010	25	State budget vote
2012	30	Education taxes
2012	32	Political contributions
2016	51	School bonds
2018	1	Housing assistance bonds

The analysis here, furthermore, extends historically only to 2000. Research suggests that if this analysis were continued back to the 1980s, incorporating state and local ballot measures and state and local candidates for office, it may be possible to demonstrate **35 or more** instances of racially polarized voting in the Oceano Community Services District since this time.

Pursuant to the CVRA, as previously noted: “A violation of Section 14027 is established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision” (Sec. 14028(a), underlining added). The underlined passage was specifically incorporated into the CVRA to provide for challenges to government agencies in which few members of protected classes had run for its elected board. **Pursuant to the California Voting Rights Act, district elections must be implemented in the Oceano Community Services District.**

The Oceano Community Services District is a very diverse community, far more diverse than its current or past Boards of Directors, and candidates for it

have been. The following tables present the ethnic population, according to the United States Census Bureau, in 2010 and 2000 in Oceano:

**E. Oceano Community Services District
Ethnicity in U.S. Census, 2010**

<u>Group</u>	<u>Percent</u>
African American	0.9%
Native American	1.6%
Asian	2.3%
Latinx (any race)	47.8%

**F. Oceano Community Services District
Ethnicity in U.S. Census, 2000**

<u>Group</u>	<u>Percent</u>
African American	1.1%
Native American	1.3%
Asian	1.8%
Latinx (any race)	44.6%

Not only is Oceano a diverse community, but its diversity is increasing, especially of Latinx residents.

Oceano's diversity is also reflected in the school population in Oceano Elementary School (grades Kindergarten through 8th), which is a part of the Lucia Mar Unified School District, as reflected in the following table on the next page (source: California Department of Education):

G. Oceano Elementary School Ethnicity, 2019-20

<u>Group</u>	<u>Percent</u>
African American	1.3%
Native American	0.8%
Asian	0.5%
Latinx	81.8%

The California Voting Rights Act also states: “Other factors such as ... denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, ... are probative, but not necessary factors to establish a violation” (Sec. 14028(e)). As well as the examples of abridgment of voting rights, racially polarized voting, and vote dilution previously outlined, there is significant evidence of the extent to which members of protected classes in the Oceano Community Services District bear the effects of past discrimination in areas such as education, employment, and health.

These data are in part presented by the United States Census Bureau Community Survey estimate for 2018:

H. Comparison Between White and Latinx Populations in Oceano Community Services District on Median Earnings, 2018

	<u>Whites, 16+</u>	<u>Latinos, 16+</u>
Median earnings	\$51,137	\$24,432

The California Assessment of Student Performance and Progress (CAASPP) is the main state assessment system for students in California schools. The CAASPP provides educational performance measures in a variety of areas. The following tables present achievement for all students tested in Oceano

Elementary School in English Language Arts/Literacy and Mathematics, disaggregated by white and Latinx students:

**I. Oceano Elementary School 2018-19 CAASPP
English Language Arts/Literacy Achievement by Ethnicity**

<u>Achievement Level</u>	<u>White</u>	<u>Latinx</u>
4 -- Exceeds Standard	45.45%	11.86%
3 -- Meets Standard	27.27%	21.13%
2 -- Nearly Meets Standard	18.10%	32.99%
1 -- Standard Not Met	9.09%	34.02%

**J. Oceano Elementary School 2018-19 CAASPP
Mathematics Achievement by Ethnicity**

<u>Achievement Level</u>	<u>White</u>	<u>Latinx</u>
4 -- Exceeds Standard	50.00%	10.77%
3 -- Meets Standard	10.00%	25.13%
2 -- Nearly Meets Standard	20.00%	32.31%
1 -- Standard Not Met	20.00%	31.79%

A number of government agencies within San Luis Obispo county have implemented district elections. The next table on the following page presents government agencies in San Luis Obispo county with district elections:

**K. San Luis Obispo County Government
Agencies With District Elections**

Board of Supervisors

County Board of Education

San Luis Obispo County Community College District

City of Arroyo Grande

City of Grover Beach

City of Paso Robles

Lucia Mar Unified School District

Paso Robles Joint Unified School District

San Luis Coastal Unified School District

Almost all of the other local government agencies within which residents of the Oceano Community Services District vote--the Board of Supervisors, County Board of Education, San Luis Obispo Community College District, and Lucia Mar Unified School District--utilize district elections.

Clear and compelling evidence exists that the Oceano Community Services District's current, at-large method of election to its Board of Directors runs counter to the California Voting Rights Act. The Oceano Community Services District must transition to district-based elections to conform with California law. In the event this matter were to become the subject of litigation through a lawsuit being filed, it would be possible to establish many examples of abridgment of protected class voting rights, racially polarized voting, vote dilution, differential voting, and effects of past discrimination. Upon conclusion of any litigation, the San Luis Obispo County Superior Court would undoubtedly order the Oceano Community Services District to transition to district-based elections and compensate the plaintiffs for their attorney costs and fees, as well as any expert fees incurred in bringing the action. A draft complaint against the Oceano Community Services District--in the event litigation is required in this matter--is included here as Exhibit C and incorporated herein by this reference.

4. "Ranked-Choice Voting" Would Not Meet Requirements of the CVRA

One form of electoral reorganization that has received some attention in recent years is ranked-choice voting. Although there are a number of variations of this form of electoral system, the essential idea is that if no candidate in a race receives a majority of the vote, the second choice votes of defeated candidates in ascending order from the candidate who received the least first choice votes are added to the candidates who received more first choice votes until one candidate receives a majority of votes cast.

To date, no California court has ordered or sanctioned ranked-choice voting as a remedy for a violation of the California Voting Rights Act. Indeed, as we have seen, district elections are the only remedy for violation of the CVRA mentioned in the Act, and only district elections have been ordered by courts as a remedy for violation of the CVRA.

Irrespective of the strengths or weaknesses (including complexity) of ranked-choice voting as an abstract system of voting, the American system of voting, with very few exceptions, has been based on the principle of first past the post. Specifically in the case of violations of the California Voting Rights Act, the issue is not the inability to elect candidates at-large in a different form of at-large election (i.e., ranked-choice voting), the issue usually is that geographical areas of a government agency would elect members of protected classes in districts, but members of protected classes cannot be elected at-large under any form of at-large election--first past the post or ranked-choice.

Ranked-choice voting does not address the primary issue raised in almost all violations of the California Voting Rights Act, including in the Oceano Community Services District. For this reason, ranked-choice voting would not be an acceptable remedy for a violation of the CVRA. Indeed, ranked-choice voting has often been explored as an alternative to district elections by government agencies opposed to the purposes of the CVRA. Ranked-choice voting does not meet the requirements of the California Voting Rights Act as a remedy for a violation.

It should be noted that on February 12, 2020, the Board of Directors of the Oceano Community Services District passed a resolution “declaring its intention to consider transitioning from at-large elections to alternative representative elections” (Board Resolution No. 2020-04). This resolution does not protect the Oceano Community Services District from a legal challenge of its current form of at-large elections under the California Voting Rights Act for a number of reasons, including: 1) the resolution makes no reference to a definite change from the current at-large elections, 2) the resolution makes no reference to transitioning to district elections but merely to an alternative voting system, 3) the resolution does not outline steps to transition from at-large elections to district elections, and 4) the resolution does not include a time-frame for transitioning from at-large elections to district elections. Board Resolution No. 2020-04 is not in compliance with the California Voting Rights Act as amended by subsequent legislation.

5. Methods of Instituting District Elections in the Oceano Community Services District

There are two methods by which district elections may be instituted in the Oceano Community Services District: a) litigation, or b) a pre-litigation settlement agreement by the Oceano Community Services District Board of Directors outlining its intention to transition to district elections, detailing specific steps it will take to facilitate this transition, and estimating the time-frame for this transition.

If litigation were the path followed, a court action may--at any time after 45 days from the Oceano Community Services District's receipt of the certified letter notifying it of a violation of the CVRA--be commenced in San Luis Obispo County Superior Court against the Oceano Community Services District for violation of the California Voting Rights Act.

If the Oceano Community Services District Board of Directors chooses a pre-litigation settlement, then, pursuant to Section 10010 of the California Elections Code, the process the Oceano Community Services District must follow, as modified by the settlement agreement, is:

1) Within 45 days of receipt of the certified letter notifying the Oceano Community Services District that its method of conducting elections may violate the CVRA, the Oceano Community Services District Board of Directors must adopt a resolution outlining its intention to transition from at-large to district elections, specifying specific steps it will take to facilitate this transition, and estimating the time-frame for this transition.

2) If the Oceano Community Services District Board of Directors passes a resolution to this effect, a legal action may not be commenced for another 90 days after the resolution's passage or until as specified in a settlement agreement (for example, until the November 2022 election).

3) Before district lines are drawn, the Oceano Community Services District Board of Directors must hold two public hearings at which the public is invited

to provide input concerning the composition of districts. In advance of these hearings, the Oceano Community Services District should conduct outreach to the public, including to non-English-speaking communities, explaining the districting process and encouraging participation.

4) Following these two public hearings, the Oceano Community Services District must publish and make available for release at least one draft map and the proposed sequence of elections to new districts. The Oceano Community Services District Board of Directors must then hold two more public hearings at which the public is invited to provide input on the draft map or maps and proposed sequence of elections.

5) In determining the sequence of elections, the Oceano Community Services District Board of Directors must give special consideration to the purposes of the California Voting Rights Act. For this reason, it is very likely that among the first districts in which district elections will be held will be districts including large proportions of individuals from protected classes.

6) After adopting the resolution of intention to transition from at-large to district elections and holding the public hearings, the Oceano Community Services District Board of Directors adopts a map of districts and a sequence of elections.

If the Oceano Community Services District establishes district elections according to the above process--as modified by a settlement agreement--no litigation is necessary.

Pursuant to Assembly Bill 2389, signed into legislation in 2016, special districts may adopt a resolution to implement district elections without being required to submit the resolution to the voters of the district for approval. A copy of Assembly Bill 2389 is included here as Exhibit D and incorporated herein by this reference.

6. Advantages of a Pre-Litigation Settlement

There are many advantages of a pre-litigation settlement rather than a court action to enforce the California Voting Rights Act to institute district elections. Most importantly, the Oceano Community Services District and its Board of Directors retain a greater role in and more control over the transition process to district elections and legal costs are limited.

A greater role by the Board of Directors and more control over the transition to district elections could manifest itself in a number of ways, including:

1) Participation in timing of the first district elections, which would likely be held in November 2022. If this matter were to go to court, a court could require elections to be held sooner. As a result of a pre-litigation settlement agreement, the first district elections could be held in 2022. Elsewhere in California, settlement agreements have been reached to hold the first district elections in 2022, following the 2020 census. These settlement agreements have allowed the affected government jurisdictions to commence district elections in 2022 to save the costs in time and expense of redistricting in both 2020 (using 2010 census data) and 2022. In addition, existing incumbents elected in 2016 are eligible to run for reelection in 2020 under existing electoral arrangements through a settlement agreement to implement district elections starting in November 2022.

2) The Oceano Community Services District Board of Directors would retain the ability to draw the lines of voting districts both now and in the future rather than the court drawing the lines of voting districts through a court-determined process.

3) The existing Board of Directors would be retained and there would be no chance of a special election. Occasionally in court actions brought pursuant to the CVRA, past elections have been nullified and courts have ordered new, special elections.

4) Saving of plaintiffs' attorney fees and its own legal expenses by the Oceano Community Services District, potentially saving hundreds of thousands or more than a million dollars.

The preceding are only some of the advantages of a pre-litigation settlement agreement. It should be emphasized that the typical savings from not having to implement district elections in 2020 and draw lines twice in two years usually exceed the cost of reimbursement for a settlement agreement reached within the 45-day statutory period. A copy of the resolution and settlement agreement establishing district elections in the City of Arroyo Grande is included here as Exhibit E and incorporated herein by this reference.

7. Attorney's Fees

Pursuant to the CVRA: "In any action to enforce [the California Voting Rights Act] the court shall allow the prevailing plaintiff party ... a reasonable attorney's fee ... and litigation expenses including, but not limited to, expert witness fees and expenses as part of the costs" (Sec. 14030). In addition: "Prevailing defendant parties shall not recover any costs" (id.).

In recent years, many jurisdictions have had to pay hundreds of thousands and even millions of dollars in attorney's fees to prevailing plaintiff parties. Moreover, jurisdictions are responsible for their own legal costs, which can also be hundreds of thousands of dollars. The following table presents some settlements in California Voting Rights Act litigation:

L. Settlements in CVRA Litigation (partial list)

<u>Jurisdiction</u>	<u>Settlement</u>
City of Palmdale	\$4,500,000
City of Modesto	\$3,000,000
City of Anaheim	\$1,200,000
City of Whittier	\$1,000,000
Santa Clarita Community College Dist.	\$850,000
San Mateo County	\$650,000
Tulare Healthcare District	\$500,000
City of Escondido	\$385,000
City of Garden Grove	\$290,000
City of Bellflower	\$250,000

As a result of the potentially great costs of litigation, **the California Voting Rights Project strongly recommends that government jurisdictions reach settlement in the pre-litigation stage.** In this case, pursuant to Assembly Bill 350 signed into legislation in 2016, costs to government jurisdictions are capped at \$30,000 plus annual CPI adjustment (as of 2020, \$31,930) for demographic and legal services.⁹ It should be emphasized that Assembly Bill 350 applies only to the pre-litigation phase of cases brought pursuant to the CVRA. If a CVRA action becomes the subject of litigation through a complaint being filed, there is no cap on attorney's fees and costs other than as stated in the CVRA and can be hundreds of thousands or more dollars.

In addition, because Assembly Bill 350 would "impose additional duties on local agencies, the bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state ... This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for these costs shall be made pursuant to ... statutory provisions" (Legislative Counsel's Digest of Assembly Bill 350). Accordingly, it may be possible for the Oceano Community Services District to receive reimbursement from the state for a pre-litigation settlement. A copy of Assembly Bill 350 and the Legislative Counsel's Digest is included here as Exhibit F and incorporated herein by this reference.

8. Benefits of District Elections

Even if the Oceano Community Services District were not required to institute district elections pursuant to the California Voting Rights Act, there are many benefits of district elections which have been experienced in other jurisdictions. These include greater voter turn-out and participation. In some places, turn-out in some precincts increased by as much as one-quarter after district elections were implemented.

As a result of greater voter turn-out and interest through district elections, there are more contested elections and fewer Board of Directors' positions filled by appointment. More candidates seek election. Especially Latinx families will be better represented on the Board of Directors.

District elections bring government closer to the people. They result in representatives who are more knowledgeable of local problems and issues. Candidates learn about their voting district when running for office. Voters have a member of the Board of Directors to whom they can turn on issues and Board members become more knowledgeable about area-specific concerns. There is a wider spectrum of views on the Board of Directors and more representation from all neighborhoods and the entire community. District elections lead to greater community identity and have been accompanied by greater diversity of all sorts on elective bodies.

District elections result in less expensive political campaigns. It is easier for younger and lower socioeconomic candidates to run for office if they do not have to raise as much money. This results in less influence by special interests. By walking door to door and other inexpensive means, candidates can be elected who would not be elected in at-large elections.

The Oceano Community Services District will be an even better special district with district elections--more representative of the people and in compliance with the law. District elections will make elections to the Board of Directors fairer and more inclusive and will increase participation and representation. The universal experience with district elections in California is that special districts and other government agencies have found them to be a

superior form of electoral system and representation irrespective of their legal requirement.

For further information on the likelihood of district elections being ordered by a court, see the February 21, 2017, Council Agenda Report in the City of Santa Maria, which is included here as Exhibit G and incorporated herein by this reference. According to this report: "After much analysis and in-depth conversations with those most familiar with these types of litigation matters, staff is recommending that the City Council adopt a resolution declaring its intention to transition from at-large to district-based elections ... Staff makes this recommendation due to the extraordinary costs to successfully defend against a CVRA lawsuit and the fact that no apparent [government agency] has successfully prevailed against a CVRA lawsuit, and that the public interest would best be served by transitioning to a district-based election system."¹⁰

Benefits of district elections are described in "The Politics of Latino Education: The Biases of At-Large Elections," by David Leal, Valerie Martinez-Ebers, and Kenneth Meier, published in the *Journal of Politics* (November 2004), a publication of the Southern Political Science Association, included here as Exhibit H and incorporated herein by this reference. Although primarily focused on school districts, this article provides much good information:

Representation is an integral part of the political system.

Boards are involved in all aspects of school policy. They hire and fire superintendents, set the curricula, decide spending priorities, and adopt reform plans. Although many decisions are in practice left to superintendents and other administrators, school boards are tasked to oversee these experts. Boards, therefore, shoulder much responsibility for the quality of public education in America.

Latino representation on school boards was associated with better educational conditions. In school districts with more Latino representation, Latino students experienced greater access to equal education ... There also appeared to be a ripple effect, whereby more

Latino school board members led to more Latino school administrators, which in turn led to more Latino teachers.

Multiple studies suggest greater minority representation in the educational policy process translates into more positive outcomes for minority students.

Our study supports the findings of earlier research showing minority population translating into minority school board seats at a substantially higher rate with district elections than with at-large elections. Our findings show that at-large election systems usually disadvantage Latinos; the obvious recommendation is that at-large systems should be replaced by single-member systems.¹¹

As members of protected classes are elected to governing boards, there are also more members of protected classes who become employed by government agencies. In addition, because candidates for higher elective office are overwhelmingly elected first to local office, district elections lead to greater representation in time at all levels of elective office.

Conclusion

Abridgment of voting rights and racially polarized voting have no place in the Oceano Community Services District or anywhere else. Clear and compelling evidence of abridgment of voting rights, polarized voting, vote dilution, differential voting, and effects of past discrimination would sustain a legal action brought pursuant to the California Voting Rights Act to institute district elections in the Oceano Community Services District. A pre-litigation settlement agreement by the Oceano Community Services District Board of Directors provides the best opportunity to implement district elections in a manner that retains participation by the Board of Directors and Oceano Community Services District in the transition to district elections and is cost-effective.

Endnotes

¹ See “CVRA Settlement Agreement / Resolution of Intention,” Council Agenda Staff Report, City of Carpinteria (August 14, 2017): “The City Attorney’s Office has surveyed the reported case law concerning litigation based on a violation of the CVRA. There is no reported case in which the defendant public agency has prevailed on the merits by proving that a violation of the CVRA did not occur” (p. 3).

² Justin Levitt et al., “Quiet Revolution in California Local Government Gains Momentum” (Claremont McKenna College: Rose Institute of State and Local Government, November 3, 2016), p. 1. The Rose Institute remarks on the switch from at-large to district elections in California: “This quiet tectonic shift in local government is accelerating” (id.).

³ Id., p. 1.

⁴ Id., p. 2.

⁵ *Sanchez v. City of Modesto*, Court of Appeal, Fifth District, California, No. F048277 (December 6, 2006).

⁶ Id.

⁷ Marguerite Mary Leoni and Christopher E. Skinnell, “The California Voting Rights Act,” *Public Law Journal* (Vol. 32, No. 2, Spring 2009; Official Publication of the State Bar of California Public Law Section; included here as Exhibit B).

⁸ Id.

⁹ Pursuant to Assembly Bill 350: “The amount of reimbursement required by this section is capped at \$30,000, as adjusted annually to the Consumer Price Index for All Urban Consumers, U.S. city average, as published by the United States Department of Labor” (Section 1. 10010(f)(3); included here as Exhibit F). In 2017 the increase in the Consumer Price Index for All Urban Consumers was 2.1%, in 2018 the increase was 1.9%, and in 2019 the increase was 2.3 percent, meaning the cap for reimbursement is now \$31,930.

¹⁰ City of Santa Maria, “Council Agenda Report” (February 21, 2017; included here as Exhibit G).

¹¹ David L. Leal, Valerie Martinez-Ebers, and Kenneth J. Meier, "The Politics of Latino Education: The Biases of At-Large Elections," *Journal of Politics* (Vol. 66, No. 4, November 2004; included here as Exhibit H).

Carey Casciola

From: A.J. Dury [REDACTED]
Sent: Wednesday, September 9, 2020 7:15 PM
To: Carey Casciola; Jeffrey Minnery
Subject: Re: Zoom Meeting Phone #'s

Thank you for this Carey.

Unfortunately, while my audio works EVERYWHERE else, as I do multiple Zoom meetings every week, clearly I was not prepared for the OCSD meeting to have audio issues so I did not have any phone numbers at my fingertips.

By the time I was able to get phone contact info, the district had moved on to other agenda items and history has shown me that there was no way I'd be allowed to comment on an agenda item after it has been closed.

My comments, as I tried to participate in the meeting but was thwarted:

Allowing Shirley Gibson to give a history as a Halcyon resident, during what is SUPPOSED to where directors give REPORTS of actual committees (of which she was absolutely unprepared!) was definitely beyond the scope of that agenda item and purely for campaign purposes. Thank you to Jeff Minnery for (finally) reining her in. Try and remember that the next time the concept of "best practices" comes up when dealing with a board member stumping during the report section.

GM Clemens' report on the agenda - why is there not a written report that accompanies the agenda? This would assist the public immeasurably. I request that the board members make that part of future agendas.

Thank you again, for providing me call-in information.

April

April Dury

On Wednesday, September 9, 2020, 06:41:20 PM PDT, Carey Casciola <carey@oceanocsd.org> wrote:

Telephone: Listen to the meeting live by dialing (669) 900-9128 or (253) 215-8782.

Enter Meeting ID# 892-6279-7188 followed by the pound (#) key.

Then enter the Password: 508435 followed by the pound (#) key

Carey Casciola

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