

## Carey Casciola

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**From:** A.J. Dury [REDACTED]  
**Sent:** Saturday, January 7, 2023 9:33 PM  
**To:** Will Clemens; Carey Casciola; Jeffrey Minnery  
**Cc:** Director Austin; Director Villa; Director Gibson; Director Joyce-Suneson; Director Varni  
**Subject:** 01.12.23 Agenda: Missing Correspondence - Public Records Request OCSD

Dear Carey, Will and legal council Jeff Minnery

Looking at the latest agenda that was posted, with its accompanying packet, there are three documents missing for Item **14. Closed Session**.

I request to have the following documents provided to me (via electronic format) and I request that they be included in the online agenda packet, as well as hard copies for the board members, and additional hard copies for the public attendees the evening of the meeting:

- 1) Demand for Cure & Correct from April Dury
- 2) Demand for Cure & Correct from Bonnie Ernst
- 3) Demand for Cure & Correct from Lucia Casalnuovo

There is no reason to have omitted them originally and it is a disservice to the public to hide them.

I request to be given these documents as soon as possible and before the meeting on January 12, 2023.

Lastly, please add **this** correspondence to the end of the agenda packet, under agenda item **11. Late Received Written Communications**.

Sincerely,

April Dury

## Carey Casciola

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**From:** julie Tacker [REDACTED]  
**Sent:** Sunday, January 8, 2023 7:38 AM  
**To:** Will Clemens; Carey Casciola; Director Austin; Director Villa; Director Gibson; Director Joyce-Suneson; Director Varni; Jeffrey Minnery  
**Subject:** Comment on Agenda Item #7(B): Recommendation to Review Cash Disbursements  
**Attachments:** LOCSD Board Member Request for Compensation form.pdf

Good morning All,

Please consider these comments as they relate to the item listed above.

Two board members have submitted compensation requests that date back to meetings prior to the end of fiscal year 2021-22. Of course you should pay them, but please realize this practice presents complications for accounting. That fiscal year is closed, yet these expenses occurred in that year.

For the future your board should consider adopting new procedures that would require the expenditure be made in a timely fashion (i.e. prior to the close of the fiscal year's books). Attached please find an example that is working well in Los Osos. This form has their complete policy on it and is signed by the board member, acknowledging they understand and are following it.

Thank you for your time. Please feel free to contact me with any questions you may have.

Julie Tacker  
[REDACTED]

11/01 - FAC Meeting  
 11/03 - BOD Meeting  
 11/15 - PRAC Meeting  
 11/16 - BMC Meeting  
 11/16 - UAC Meeting  
 11/17 - ESAC Meeting  
 11/28 - FAC Meeting

*\*please include any qualifying Ad Hoc or outside Meetings reported on*

## DIRECTOR'S MONTHLY REQUEST FOR COMPENSATION FOR MEETING ATTENDANCE

NAME Christine Wornack DATE 12/1/22  
 FOR THE MONTH OF November

### 9. DIRECTOR COMPENSATION *(amended and adopted 02/04/2021)*

- 9.1 Each Director is authorized to receive one hundred dollars (\$100.00) as compensation for each regular, adjourned or special meeting of the Board of Directors, each required training session, each Standing Committee meeting of which said Director is either the Chairperson or Vice Chairperson, each ad Hoc Committee meeting, each non-District meeting assigned by the Board President to a Board member at the beginning of each calendar year or other function/meeting attended by him/her as a representative of the District at the direction of the Board of Directors.
- 9.2 Each Director shall submit his/her compensation request no later than ninety (90) days after attendance at each meeting referenced in above section 9.1, however in no case shall a compensation request be submitted later than July 31 for a meeting attended in the previous fiscal year.
- 9.3 Pursuant to the requirements of Government Code §61047, in order to receive compensation for a non-District meeting assigned by the Board President to a Board member at the beginning of each calendar year or other function/meeting attended by him/her as a representative of the District at the direction of the Board of Directors, a Board member must deliver a written report at the next Board of Directors' meeting following the meeting or event unless said non-District meeting occurs after the Agenda for said Board of Director's Meeting has been posted in which case the written report shall be delivered prior to the following Board of Director's meeting.
- 9.4 The Board President or in his/her absence the Vice President is authorized to receive one hundred dollars (\$100.00) as compensation for each County or State agency meeting attended by him/her, when he/she determines that District representation is necessary to protect and/or advance the interest of the District.
- 9.5 In no event shall Director compensation exceed \$100.00 per day.
- 9.6 Pursuant to Sections 61047 *et seq.* of the Government Code, Director compensation shall not exceed \$600.00 in any one calendar month.

MEETING DATE: 11/1 MEETING: FAC  
 MEETING DATE: 11/3 MEETING: BOD  
 MEETING DATE: 11/16 MEETING: MBNEP  
 MEETING DATE: \_\_\_\_\_ MEETING: \_\_\_\_\_  
 MEETING DATE: \_\_\_\_\_ MEETING: \_\_\_\_\_  
 MEETING DATE: \_\_\_\_\_ MEETING: \_\_\_\_\_

TOTAL # OF MEETINGS: 3 TOTAL COMPENSATION: \$ 300.00

SIGNATURE: Christine Wornack DATE: 12/1/2022

Office Use Only:  
 Date Received: 12/5/22  
 Reviewed and Validated By: [Signature]

## Carey Casciola

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**From:** Bonita Ernst [REDACTED]  
**Sent:** Monday, January 9, 2023 3:22 PM  
**To:** Will Clemens; Carey Casciola; Jeffrey Minnery; Director Austin; Director Villa; Director Gibson; Director Joyce-Suneson; Director Varni  
**Subject:** Board meeting 1.11.23\_ Agenda item 7A - Review and Approval of Minutes  
**Attachments:** TRANSCRIPT 12\_14\_22.docx

General Manager Clemens:

The minutes for the Board meeting of December 14, 2022 appear to be missing some crucial information regarding the actual "motion(s)" and "vote(s)" for the election of President and Vice President.

Please add the attached written transcript of a portion of the meeting that related to the election to this agenda item 7A.

Respectfully,  
Bonita Ernst  
Oceano

Transcript of selections of the December 14, 2022 OCSD meeting that pertain to item 9(d)

WILL CLEMMENS, General Manager (reading from Bylaws):

The President and Vice President shall be elected annually during the first regular meeting in December. After any newly elected board members are seated the term of office for the President and Vice President of the board shall commence immediately after the election and that's really all it it speaks to as far as terms but .....

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SHIRLEY GIBSON:

so I I'll make a motion that um  
Director Austin as president and Allene Villa as vice president

DIRECTOR AUSTIN:

Do you mean to go the rotation way or just start the rotation or?

DIRECTOR GIBSON:

yeah we could start the rotation  
so it would start with district one two three four five

UNKNOWN:

District one in succession  
okay

DIRECTOR AUSTIN:

I'll second it

GIBSON:

yeah

DIRECTOR AUSTIN:

public comment?  
Vote.

CAREY CASCIOLA:

Director Gibson?

GIBSON:

yes

CASCIOLA:

Director Austin?

AUSTIN:

yes

CASCIOLA:

Director Varney?

VARNEY: no

CASCIOLA: Director Joyce Suneson?

BEVERLY JOYCE-SUNESON:

Can I clarify are we doing the rotation at this point?

CLEMENSON:

Yes, so it would

**the way I understood the motion was  
start the rotation with one, which would be Director Austin and the  
Vice President with region two which would be Allene Villa. my understanding yeah**

**DIRECTOR GIBSON:**

**and then the next year Allene...**

**AUSTIN: Allene is the the president**

**DIRECTOR GIBSON: and then District 3 is the Vice President..**

DIRECTOR VARNI:

I think we're leaving out a person here and that's director Villa and I think she really ought to be here for a decision like this.

DIRECTOR GIBSON:

Well as I understand it we have a quorum and I think that this has to be done in December. Am I right about that?

JEFF MINNERY: (unable to hear)  
at the meeting today

DIRECTOR VARNI:

But if we have a 2-2 vote it doesn't happen

JEFF MINNERY: At the point of order we do have a motion and a second and we are in the middle of a roll call vote so I believe it's uh the last call is to the director's uh Joyce Suneson

BEVERLY JOYCE-SUNESON: **okay yes for the rotation yes**

CLEMMENS: okay

um with that this would be the time to go through the committee assignments

## Carey Casciola

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**From:** Lucia Casalnuovo [REDACTED]  
**Sent:** Wednesday, December 21, 2022 6:54 PM  
**To:** Director Villa; Director Gibson; Director Joyce-Suneson; Director Varni; Will Clemens; Carey Casciola  
**Cc:** jminnery@ammcglaw.com; Jimmy Paulding  
**Subject:** Violation of Brown Act 12/14/2022

December 20, 2020

Will Clemens, General Manager, Oceano Community Services District  
Linda Austin, Director  
Allene Villa, Director  
Shirley Gibson, Director  
Beverly Joyce-Suneson, Director  
Charles Varni, Director

*Dear Mr. Clemens and Directors,*

*I want to bring to your attention what I believe was a violation of the Brown Act during the **Oceano Community Services District (OCSD) meeting of December 14, 2022.***

*The **OCSD** voted a motion to elect new Council President and Vice President with the promise that all subsequent elections for President and Vice President of the Council would be canceled and subsequently operate on a rotating basis through the Districts 1,2,3,4 & 5.*

*This action to adopt a yearly rotation basically nullifies the bylaws that President and Vice President should be voted on each December. Changing the bylaws or discussing a new way of electing officers was not on the agenda. This action violates the Brown Act.*

*I request that the **OCSD** cure and correct the illegally taken action as follows: **nullify the election of Linda Austin and Allene Villa as President and Vice President of the OCSD board. The OCSD will schedule new elections as soon as possible and hold new elections for the 2023 officers of President and Vice President.***

*You have 30 days from the receipt of this request to cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as requested, such inaction may prompt me to seek a judicial invalidation of the challenged action in which case I would also ask the court to order you to pay my court costs and reasonable attorney fees.*

*Respectfully,*

*Lucia Casalnuovo*

*cc **Jeff Minnery***

***Jimmy Paulding***

**April J. Dury**  
[REDACTED]  
[REDACTED]

December 14, 2022

Board President: Linda Austin  
Directors: Allene Villa,  
Charles Varni,  
Shirley Gibson  
Beverly Joyce-Suneson,

Oceano Community Services District

Dear OCSD Board of Directors:

This letter is to call your attention to what I believe was a substantial violation of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of the action taken by the current board of the Oceano Community Services District (OCSD).

**In its meeting of December 14, 2022, while in discussion over item 9(d), GM Clemens stated "there is nothing in our bylaws that determines the rotation of officers" (2:08:17). After further discussion, Director Gibson made the following statement: "I'll make a motion that [sic] Director Austin as President and Allene Villa as Vice-President." Director Austin queried "to go the rotation way – start the rotation?", and Director Gibson responded "yeah, we could start the rotation. So we'd start with [district] 1,2,3,4,5." Director Austin seconded the motion and then it went immediately to vote. When it was time for Director Joyce-Suneson to cast her vote, she asked for clarification with her question "Are we doing the rotation?" That was followed by a disjointed conversation between GM Clemens, Directors Gibson, Austin, Charles Varni AND Legal Council Minnery. When that discussion was completed, Director Joyce- Suneson stated her vote as "Yes, for the rotation. Yes."**

**The OCSD Board took "action" as defined in Govt. Code 54952.6 when the majority of the Directors took an actual vote and passed the motion to materially change the method in which the Board President and Vice-President are selected – to wit, "on a rotation basis", versus an annual at-large election.**



**This action violated the Brown Act because it was taken on a matter that was not properly described in the agenda (agendized) for the open meeting at which the action was taken, and it was a matter that is a direct change to policy, despite no staff report presented, no adherence to the current by-laws on the matter and not codifying this change for future adherence. In fact, the district is operating on by-laws that have not been modified since before the OCSD moved to "divisions" of voter representation.**

As you are aware, the Brown Act creates specific agenda obligations for notifying the public with a *"brief description" of each item to be discussed or acted upon* and creates a legal remedy for illegally taken actions — namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

Pursuant to that provision (Government Code Section 54960.1), I demand that the Board of the OCSD cure and correct the illegally taken action as follows:

Agendize the discussion and potential decision to adopt a by-law or make a codification which clearly outlines the decision to have a "rotating Board President and Vice-President, based on staying in order of the voting divisions" (ie, District 1 is President, District 2 is VP, followed by District 2 being President and District 3 being VP, etc.) as well as RE-agendize the election of Board Officers, and provide the public the awareness and opportunity to comment of which it was deprived, e.g. the formal and explicit withdrawal from any commitment made, coupled with a disclosure at a subsequent meeting of why individual directors of the legislative body took the positions — by vote or otherwise — that they did, accompanied by the full opportunity for informed comment by members of the public at the same meeting, notice of which is properly included on the posted agenda.

Informed comment might in certain circumstances include the provision of any and all documents in the possession of the local agency related to the action taken, with copies available to the public on request at the offices of the agency and also at the meeting at which reconsideration of the matter is to occur.

Oceano Community Services District  
Board Members  
December 14, 2022  
Page 3

As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me with no recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case I would also ask the court to order you to pay my court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Thank you in advance for your prompt attention to this matter.

Sincerely,

*April J. Dury*

April J. Dury  
Oceano

cc Will Clemens, OCSD General Manager  
Jeff Minnery, District Legal Council

December 18, 2022

Attention:

Will Clemens, General Manager, Oceano Community Services District

Linda Austin, Director

Allene Villa, Director

Shirley Gibson, Director

Beverly Joyce-Suneson, Director

Charles Varni, Director

Dear Mr. Clemens and Directors,

*This letter is to call your attention to and demand that the Board correct what I believe was a substantial violation of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of the action taken by **the Oceano Community Services District Board of Directors.***

*In its meeting of **December 14, 2022**, the **Oceano Community Services Council** took action to elect Council President and Vice President with the promise, motion and vote that all subsequent elections for President and Vice President of the Council would be cancelled and hereafter operate on a rotating basis through the Districts 1,2,3,4 &5. Codifying this action to institute a yearly rotation essentially nullifies the bylaws that President and Vice President would be voted on each December. Nowhere in the December 14<sup>th</sup> agenda was the agenda item to make changes to the bylaws or discuss a rotation. In so doing, the **Oceano Community Services Directors** took “action” as defined in Govt. Code 54952.6 because:*

- *A majority of the members made a collective decision*
- *A majority of the members made a collective commitment or promise.*
- *A majority of the members took an actual vote when sitting as a body or entity, upon a motion, or proposal.*

*The action violated the Brown Act because:*

- *It was taken on a matter that was not properly described in the agenda for the open meeting at which the action was taken, and none of the exceptions specified in [Gov. Code § 54954.2\(b\)](#) was satisfied.*

*As you are aware, the Brown Act creates specific agenda obligations for notifying the public with a “brief description” of each item to be discussed or acted upon, and also creates a legal remedy for illegally taken actions — namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.*

*Pursuant to that provision (Government Code Section 54960.1), I demand that the **Oceano Community Services District Council** cure and correct the illegally taken action as follows: **nullify the election of Linda Austin as President of the OCSD Council and election of Allene Villa as Vice President of the Oceano CSD Council. The OCSD will agendize new elections as soon as possible and hold new elections for the 2023 officers of President and Vice President. The council will also nullify any actions indicating such elections would be on a rotating basis for this year or the following years.***

*As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me with no recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case I would also ask the court to order you to pay my court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.*

*Included is a transcript of excerpts of the December 14th meeting that pertain to the motion in question.*

*Respectfully,*

*Bonita Ernst,*

*Oceano, CA 93445*

*cc **Jeff Minnery***

Transcript of selections of the December 14, 2022 OCSD meeting that pertain to item 9(d)

WILL CLEMMENS, General Manager (reading from Bylaws):

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CAREY CASCIOLA:

Director Gibson?

GIBSON:

yes

CASCIOLA:

Director Austin?

AUSTIN:

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VARNEY: no

CASCIOLA: Director Joyce Suneson?

BEVERLY JOYCE-SUNESON:

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BEVERLY JOYCE-SUNESON: **okay yes for the rotation yes**

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