



**Notice of Regular Meeting**  
**Oceano Community Services District - Board of Directors Agenda**  
**WEDNESDAY, OCTOBER 25, 2023 – 6:00 P.M.**  
**Oceano Community Services District Board Room**  
**1655 Front Street Oceano, CA**

All items on the agenda, including information items, may be deliberated. Any member of the public with an interest in one of these items should review the background material and request information on the possible action that could be taken.

All persons desiring to speak during any Public Comment period are asked to fill out a "Board Appearance Form" to submit to the Board Secretary prior to the start of the meeting. Each individual speaker is limited to a presentation time of THREE (3) minutes per item. Persons wishing to speak on more than one item shall limit their remarks to a total of SIX (6) minutes. This time may be allowed between items in one-minute increments up to three minutes. Time limits may not be yielded to or shared with other speakers.

1. CALL TO ORDER
2. ROLL CALL
3. FLAG SALUTE
4. AGENDA REVIEW
5. PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

*This public comment period provides an opportunity for members of the public to address the Board on matters of interest within the jurisdiction of the District that are not listed on the agenda. If a member of the public wishes to speak at this time, Public comment is limited to three (3) minutes.*

6. SPECIAL PRESENTATIONS & REPORTS:

A. STAFF REPORTS:

- i. Sheriff's South Station - Commander Keith Scott
- ii. FCFA Operations - Chief Steve Lieberman
- iii. Operations – Utility System Manager Tony Marraccino
- iv. OCSD General Manager – Will Clemens

B. BOARD OF DIRECTORS AND OUTSIDE COMMITTEE REPORTS:

- i. President Villa
- ii. Vice President Gibson
- iii. Director Austin
- iv. Director Joyce-Suneson
- v. Director Varni

C. PUBLIC COMMENT ON SPECIAL PRESENTATIONS AND REPORTS:

*This public comment period provides an opportunity for members of the public to address the Board on matters discussed during Special Presentations and Reports. If a member of the public wishes to speak at this time, Public comment is limited to three (3) minutes.*

7. CONSENT AGENDA ITEMS:

**Public comment** Members of the public wishing to speak on consent agenda items may do so when recognized by the Presiding Officer. If a member of the public wishes to speak at this time, Public comment is limited to three (3) minutes.

- A. Review the of Minutes for the Regular Meeting held on October 11, 2023
- B. Review of Cash Disbursements

**8. BUSINESS ITEMS:**

**Public comment** Members of the public wishing to speak on business items may do so when recognized by the Presiding Officer. If a member of the public wishes to speak at this time, Public comment is limited to three (3) minutes.

- A. Continuation of Item 8A from the Regular Meeting of September 27, 2023, and October 11, 2023 - Discussion and consideration of revisions to the bylaws regarding the Oceano Community Services District Board of Director's decision-making processes
- B. Continuation of Item 8A from the Regular Meeting of September 13, 2023, and 8B from the Regular Meeting of October 11, 2023 - Discussion and consideration of OPARC duties, governing policies and procedures, and committee membership, and proposed resolution and bylaws concerning the same

**9. HEARING ITEMS: None**

**Public comment** Members of the public wishing to speak on hearing items may do so when recognized by the Presiding Officer. If a member of the public wishes to speak at this time, Public comment is limited to three (3) minutes.

**10. RECEIVED WRITTEN COMMUNICATIONS:**

- A. Correspondence from Vice President Gibson
- B. Correspondence from Julie Tacker
- C. Correspondence from Deputy District Attorney, Kenneth Jorgensen

**11. LATE RECEIVED WRITTEN COMMUNICATIONS:**

**12. FUTURE AGENDA ITEMS:**

**13. FUTURE HEARING ITEMS:**

**14. CLOSED SESSION:**

- A. PUBLIC EMPLOYMENT pursuant to Gov. Code Sec. 54957(b)(1) -- Title: District Legal Counsel
- B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Gov. Code Sec. 54957(b)(1) -- Title: General Manager
- C. Authorization of Disclosure of Confidential Information pursuant to Section 54963 (a)

**15. ADJOURNMENT:**

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This agenda was prepared and posted pursuant to Government Code Section 54954.2. The agenda is posted at the Oceano Community Services District, 1655 Front Street, Oceano, CA. Agenda and reports can be accessed and downloaded from the Oceano Community Services District website at [www.oceanocsd.org](http://www.oceanocsd.org)

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**ASSISTANCE FOR THE DISABLED** If you are disabled in any way and need accommodation to participate in the Board meeting, please call the Clerk of the Board at (805) 481-6730 for assistance at least three (3) working days prior to the meeting so necessary arrangements can be made.



**Oceano Community Services District**  
**Summary Minutes**  
**Regular Meeting Wednesday, October 11, 2023 – 6:00 P.M.**  
**Location: OCSD BOARD ROOM**

1. **CALL TO ORDER:** Called at approximately 6:05 p.m. by President Villa
2. **ROLL CALL:** Board members present: President Villa, Vice President Gibson, Director Austin, Director Joyce-Sunesson and Director Varni.  
 Staff present: Will Clemens, General Manager, Carey Casciola, Business & Accounting Manager and Daniel Cheung, Legal Counsel.
3. **FLAG SALUTE:** Led by President Villa
4. **AGENDA REVIEW:**

Agenda accepted as presented with a motion by Director Varni with a second from President Villa and a 5-0 roll call.

Julie Tacker	Provided comment regarding the order of the agenda.
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5. **PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA:**

Julie Tacker	Provided comment regarding redactions.
April Dury	Provided comments regarding future agenda items.

6. **SPECIAL PRESENTATIONS & REPORTS**

**A. STAFF REPORTS:**

- i. **Sheriff’s South Station** – Commander Keith Scott  
 September 2023 report  
 Calls for Service 419 (385 previous year)  
 Assault & Battery 4 (domestic violence)  
 Disturbance Calls 42  
 Burglary 2  
 Thefts 5 / Mail Thefts 2  
 Vandalism 3  
 Assist other agencies 29  
 Suspicious Circumstances 6  
 Enforcement Stops 77  
 -0- Narcan use  
 Arrests 21
- ii. **Five Cities Fire Authority** – Steve Lieberman, Fire Chief - Absent
- iii. **Operations** - Utility Systems Manager - Tony Marraccino  
 Lopez 95.9% full (47,958 AF)  
 -0- SSO  
 Lopez water 58 AF Pumped 1 AF (for sample purposes only)  
 Continuing with weekly and monthly samples  
 21 work orders / 9 USAs / 8 Customer Service Calls  
 Completed first of the month equipment runs  
 Continuing with sewer jetting  
 SSMP is complete (preventative maintenance)  
 Valve turning / replacing meters and raising boxes / trash pick up  
 4 in valve separated and was rebuilt in place

**iv. OCSD General Manager – Will Clemens**

Hearing assistance devices have been installed in the Board Room and are available. Staff is looking into options for new director chairs in the board chamber. The District was not awarded a grant by Clean California, only 18% of applicants were awarded. Stormwater capture bids close this week. Met with the subcommittee for the State Water Subcontractors Advisory Committee to discuss opportunities for subcontractors to sell state water on a temporary basis.

**v. Legal Counsel – Daniel Cheung - Presentation from Legal Counsel Regarding Brown Act Requirements and Confidential Closed Session Communications**

Julie Tacker	Provided comments regarding 6v and past closed session items.
Clark D’Souza	Provided comments regarding item 10A.
April Dury	Provided comments regarding 6v and past closed session items.

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

- i. President Villa – None**
- ii. Vice President Gibson – None**
- iii. Director Austin – Reported on the South San Luis Obispo Sanitation District (SSLOCSD)10/4/2023 meeting.**
- iv. Director Joyce-Suneson – Read a statement regarding item 10A**
- v. Director Varni – Reported on an upcoming event, Dia de los Muertos.**

President Villa recessed the meeting at approximately 7:05 pm.  
President Villa reconvened the meeting at approximately 7:10 pm.

President Villa requested the Board move into the closed session at approximately 7:15pm.

**14. CLOSED SESSION ITEMS:**

**A. Conference with Real Property Negotiator (Gov. Code §54956.8)** It is the intention of the Board to meet in closed session to have a conference with its Real Property Negotiators concerning the following: Property Descriptions: APN 062-271-023:024; 062-051-021; 022, 062-271-006, 062-271-026, 062-271-001; 003; 027, and 062-261-022; 080. Agency Negotiators: Oceano Community Services District, Will Clemens. Parties with whom Negotiating: County of San Luis Obispo, John Nilon. Instructions to County Negotiator: Price, Terms, and Conditions.

**B. Pursuant to Government Code §54956.9 (d)(4):** Conference with District Counsel regarding initiation of litigation. Number of cases: one (1).

Julie Tacker	Provided comments regarding both closed session items. In support of a performance evaluation of the General Manager.
April Dury	In support of a performance evaluation of the General Manager.
Bonnie Ernst	Asked a point of clarification on the order of the agenda.

Director Austin made a motion to adjourn to closed session with a second from Vice President Gibson and a 3-2 roll call vote. Director Varni and Director Joyce-Suneson dissented.

President Villa announced the return from closed session at approximately 8:45pm.

District Legal Counsel, Daniel Cheung provided the following report out of closed session:  
 14A: The Board of Directors provided directions to staff.

14B: On July 22, 2022, District auditors discovered that sick and vacation leave had been modified by an employee. The District followed up on this discovery and took appropriate action. The employee referenced in the audit findings was placed on Administrative Leave on August 19, 2022, and terminated effective September 10, 2022. The board met in closed session and authorized a forensic auditor to assess the extent of the theft in its meeting on November 9, 2022.

The process for checks and balances at OCSD is to have the employee processing payroll prepare the leave accruals and then have the manager check and approve the leave accruals every two weeks with payroll. This process was always followed; however, the District financial software contained a weakness that allowed the employee to circumvent the process. It should be noted that the District experienced no financial loss as a result of the finding related to leave accruals.

As noted in the financial audit, District management worked with the software provider to install system requirements where one employee initiates the accrual and a second to approve within the system. The audit findings from June 28, 2023, were provided to the District on June 26, 2023, and posted on the following day as an addendum to the June 28, 2023, agenda making them available to the Board and the public. Physical copies were also available at the board meeting.

The forensic auditor concluded his report on August 22, 2023. On August 25, 2023, this information was provided to the District Attorney and the OCSD is cooperating with their investigation.

**RETURNED TO 6B. BOARD OF DIRECTORS AND OUTSIDE COMMITTEE REPORTS**

**v. Director Varni** – Reported on closed session.

President Villa recessed the meeting at approximately 8:50 pm.  
 President Villa reconvened the meeting at approximately 8:55 pm.

President Villa requested the Board move to Item 7.

<b>7. CONSENT AGENDA:</b>	<b>ACTION:</b>
<ul style="list-style-type: none"> <li>a) Review of the Minutes for the Special Meeting held on September 21, 2023</li> <li>b) Review of the Minutes for the Regular Meeting held on September 27, 2023</li> <li>c) Review of Cash Disbursements</li> <li>d) Adoption of Plans and Specifications and Authorization of Advertisement for Construction Bids for the Water Storage Tank Rehabilitation Project (Contract No. 2023-03)</li> <li>e) Recommendation to adopt a resolution entering the Joint Powers Agreement of the Fire Risk Management Services to provide health benefits to District Employees</li> <li>f) Approval of a budget expenditure request of \$1,175 by the Oceano Parks and Recreation Committee for a Dia de los Muertos event at the Oceano Community Center and acceptance of a \$99 donation from Walmart</li> </ul>	<p>After an opportunity for public comment, Board and staff discussion, a motion was made by President Villa to approve consent agenda 7A-7F items as presented with a second from Director Joyce-Sunesson and a 5-0 roll call vote.</p> <p>Public Comment:            Julie Tacker – Provided comment on minutes and future agenda items.            April Dury – Provided comments regarding legal costs.</p>

**RETURNED TO 6B. BOARD OF DIRECTORS AND OUTSIDE COMMITTEE REPORTS**  
**v. Director Varni – Reported on closed session.**

**RETURNED TO 6C. PUBLIC COMMENT ON SPECIAL PRESENTATIONS AND REPORTS:** None

Director Austin made a motion to continue the remaining agenda items to the next regularly scheduled Board meeting with a second from Vice President Gibson and a 5-0 roll call vote.

**Public Comment:**

Julie Tacker	In support of removing items 10A – 10C from the next agenda.
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<b>8A. BUSINESS ITEMS:</b>	<b>ACTION:</b>
Continuation of Item 8A from the Regular Meeting of September 27, 2023 - Discussion and consideration of revisions to the bylaws regarding the Oceano Community Services District Board of Director's decision-making processes	The item was continued and will be brought to the next Board Meeting.

<b>8B. BUSINESS ITEMS:</b>	<b>ACTION:</b>
Continuation of Item 8A from the Regular Meeting of September 13, 2023 - Discussion and consideration of OPARC duties, governing policies and procedures, and committee membership, and proposed resolution and bylaws concerning the same	The item was continued and will be brought to the next Board Meeting.

- 9. **HEARING ITEMS:** Continued to the next Board Meeting.
- 10. **RECEIVED WRITTEN COMMUNICATIONS:** Continued to the next Board Meeting.
  - A. Correspondence from Vice President Gibson
  - B. Correspondence from Julie Tacker
  - C. Correspondence from Deputy District Attorney, Kenneth Jorgensen
- 11. **LATE RECEIVED WRITTEN COMMUNICATIONS:** Continued to the next Board Meeting.
- 12. **FUTURE AGENDA ITEMS:**  
 Director Varni made a motion to place a performance evaluation for the General Manager on the next agenda under closed session with a second from Director Joyce-Suneson.
- 13. **FUTURE HEARING ITEMS:** Continued to the next Board Meeting.
- 15. **ADJOURNMENT:** President Villa made a motion to adjourn the meeting at 9:20 pm with a second from Director Austin and a 5-0 roll call vote.



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

PHONE(805) 481-6730 FAX (805) 481-6836

**Date:** October 25, 2023

**To:** Board of Directors

**From:** Carey Casciola, Business and Accounting Manager

**Subject:** **Agenda Item #7(B): Recommendation to Review Cash Disbursements**

**Recommendation**

It is recommended that your board review the attached cash disbursements:

**Discussion**

The following is a summary of the attached cash disbursements:

Description	Check Sequence	Amounts
	60501 - 60505	
<b>Disbursements:</b>		
Subtotal:		\$ -
<b>Reoccurring Payments for Board Review (authorized by Resolution 2020-06):</b>		
Payroll Disbursements - PPE 10/07/2023	N/A	\$ 34,412.28
Reoccurring Utility Disbursements - paid 10/20/2023	60501 - 60505	\$ 3,040.29
Subtotal:		\$ 37,452.57
Grand Total:		\$ 37,452.57

**Other Agency Involvement**

N/A

**Other Financial Considerations**

Amounts are within the authorized Fund level budgets.

**Results**

The Board's review of cash disbursements is an integral component of the District's system of internal controls and promotes a well governed community.

**Payroll Summary Report**  
**Board of Directors - Agenda Date October 25, 2023**

	(*)	
Gross Wages	9/23/2023	10/7/2023
Regular	\$29,604.85	\$29,565.47
Overtime Wages	\$444.14	\$343.76
Stand By	\$600.00	\$840.00
	<u>\$30,648.99</u>	<u>\$30,749.23</u>
Cell Phone Allowance	\$0.00	\$75.00
Total Wages	<u>\$30,648.99</u>	<u>\$30,824.23</u>

Disbursements		
Net Wages	\$23,923.22	\$20,293.99
State and Federal Agencies	\$5,284.45	\$4,090.37
CalPERS - Normal	\$4,874.26	\$9,874.26
SEIU - Union Fees	\$153.66	\$153.66
Total Disbursements processed with Payroll	<u>\$34,235.59</u>	<u>\$34,412.28</u>
Health (Disbursed with reoccurring bills)	\$6,483.63	\$6,483.63
Total District Payroll Related Costs	<u>\$40,719.22</u>	<u>\$40,895.91</u>

(\*) Previously reported in prior Board Meeting packet - provided for comparison.



COMPANY: 99 - POOLED CASH FUND  
 ACCOUNT: 1-1001-000 POOLED CASH OPERATING  
 TYPE: All  
 STATUS: All  
 FOLIO: All

CHECK DATE: 0/00/0000 THRU 99/99/9999  
 CLEAR DATE: 0/00/0000 THRU 99/99/9999  
 STATEMENT: 0/00/0000 THRU 99/99/9999  
 VOIDED DATE: 0/00/0000 THRU 99/99/9999  
 AMOUNT: 0.00 THRU 999,999,999.99  
 CHECK NUMBER: 060501 THRU 060505

ACCOUNT	--DATE--	--TYPE--	NUMBER	-----DESCRIPTION-----	----AMOUNT---	STATUS	FOLIO	CLEAR DATE
<b>CHECK:</b>								
1-1001-000	10/20/2023	CHECK	060501	AGP VIDEO INC.	1,570.00CR	OUTSTND	A	0/00/0000 01 5-4100-220 PROFESSIONAL SERVICES
1-1001-000	10/20/2023	CHECK	060502	DE LAGE LANDEN FINANCIAL SERVI	213.43CR	OUTSTND	A	0/00/0000 01 5-4100-220 PROFESSIONAL SERVICES
1-1001-000	10/20/2023	CHECK	060503	DIGITAL WEST NETWORKS, INC.	415.59CR	OUTSTND	A	0/00/0000 01 5-4100-110 COMMUNICATIONS
1-1001-000	10/20/2023	CHECK	060504	HIRIARTE'S INDOOR CLEANING SER	825.00CR	OUTSTND	A	0/00/0000 01 5-4100-173 MAINT.STRUCTURES/IMPROVE
1-1001-000	10/20/2023	CHECK	060505	SO CAL GAS	16.27CR	OUTSTND	A	0/00/0000 01 5-4100-290 UTILITIES
TOTALS FOR ACCOUNT 1-1001-0				CHECK	TOTAL:	3,040.29CR		
				DEPOSIT	TOTAL:	0.00		
				INTEREST	TOTAL:	0.00		
				MISCELLANEOUS	TOTAL:	0.00		
				SERVICE CHARGE	TOTAL:	0.00		
				EFT	TOTAL:	0.00		
				BANK-DRAFT	TOTAL:	0.00		
TOTALS FOR POOLED CASH FUND				CHECK	TOTAL:	3,040.29CR		
				DEPOSIT	TOTAL:	0.00		
				INTEREST	TOTAL:	0.00		
				MISCELLANEOUS	TOTAL:	0.00		
				SERVICE CHARGE	TOTAL:	0.00		
				EFT	TOTAL:	0.00		
				BANK-DRAFT	TOTAL:	0.00		



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730 FAX (805) 481-6836

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**Date:** October 25, 2023

**To:** Board of Directors

**From:** Will Clemens, General Manager

**Subject:** **Agenda Item #8(A)– Continuation of Item 8A from the Regular Meeting of September 27, 2023, and October 11, 2023 - Discussion and consideration of revisions to the bylaws regarding the Oceano Community Services District Board of Director’s decision-making processes**

## **Recommendation**

It is recommended that your Board review item 8A from the Regular Meeting of September 27, 2023, and October 11, 2023, to discuss and consider revisions to the bylaws regarding the Oceano Community Services District Board of Director’s decision-making processes and any necessary revisions thereto.

## **Discussion**

At the Regular Board meeting on September 13, 2023, your Board requested a discussion of the decision-making processes of the Board of Directors. Attached are the bylaws adopted on September 21, 2023. Then at the Regular meeting of September 27, 2023, and October 11, 2023, the Board continued item 8A and requested that the item be brought back to the Board for consideration.

## **Other Agency Involvement**

n/a

## **Other Financial Considerations**

n/a

## **Results**

Reviewing the Board Bylaws helps to promote a well governed community.

Attachments: By-Laws Redline

Rosenberg Rules of Order

**OCEANO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS — BYLAWS**

**1. OFFICERS OF THE BOARD OF DIRECTORS.**

1.1. The officers of the Board are the President and Vice President.

1.2. The President and Vice President shall be elected annually during a meeting in December, after any newly elected Board members are seated in conformance with Government Code Section 61043. The term of office for the President and Vice-President of the Board shall commence immediately after the election.

1.3. The President of the Board shall serve as presiding officer at all Board meetings. The President shall have the same rights as the other members of the Board in voting, introducing motions, resolutions and ordinances, and any discussion of questions that follow said actions.

1.4. In the absence of the President, the Vice-President of the Board shall serve as presiding officer over all meetings of the Board. If the President and Vice-President of the Board are both absent, the remaining members present shall select one of themselves to act as presiding officer of the meeting.

1.5. The Board may at any time determine, by majority vote of all members, that the President has demonstrated an inability to serve. Upon such determination, the Vice President shall preside instead of the President.

1.6. The Board may at any time determine, by majority vote of all members, that the Vice President, when acting as the presiding officer pursuant to Section 1.5 above, has demonstrated an inability to serve. Upon such determination, the Board shall, by majority vote, elect another member to be the presiding officer.

**2. MEETINGS.**

2.1. Regular meetings of the Board of Directors (the Board) shall commence on the second and fourth Wednesday of each calendar month in the Board room at the District Office currently located at 1655 Front Street, Oceano, CA, 93475. Regular meeting times shall be set annually pursuant to the current Director's schedules and/or preference with the consideration to the public's right to participate. Cancellation of a regular meeting shall require approval by a majority of the Board.

2.2. Members of the Board shall attend all regular and special meetings of the Board unless there is good cause for absence.

2.3. The General Manager, in cooperation with the Board at the prior meeting shall prepare an agenda for each regular and special meeting of the Board. Any Director, before or during a regular meeting, may request that the General Manager place an item on the agenda. The General Manager may also put emergent District business on the agenda. The President may, at any time and in accordance with the Brown Act, direct that an item be placed on a specific agenda. Items being placed on any agenda are subject to Brown Act regulations. All correspondence must list the individual's name to be placed in the agenda packet.

**2.4.** No action or discussion may be taken on an item not on the posted agenda. However, matters deemed to be emergencies or of an urgent nature may be added to the agenda of a regular meeting under the procedures of the Brown Act. Pursuant to the Brown Act and at regular meetings:

- a) Board Members may briefly respond to statements or questions from the public; and
- b) Board Members may, on their own initiative or in response to public questions, ask questions for clarification, provide references to staff or other resources for factual information, or request staff to report back at a subsequent meeting; and
- c) The President or no fewer than two members of the Board of Directors may direct the staff to place a matter on a future agenda. ~~The President shall have unilateral authority to place items on the agenda at any time in conformance with the Brown Act.~~

~~2.X The Board shall conduct its meetings in accordance with Rosenberg's Rules of Order. To the extent that the Rules of Order conflict with these bylaws, these bylaws shall supersede. To the extent state law conflicts with these bylaws or the Rules of Order, state law shall supersede.~~

**2.5.** The presiding officer shall conduct all meetings in a manner consistent with the policies of the District and the Brown Act. He/she shall determine the order in which agenda items shall be considered for discussion and/or actions taken by the Board. He/she shall announce the Board's final decision on all subjects. He/she shall vote on all questions; and on roll call his/her name shall be called last.

**2.6.** A majority of the Board shall constitute a quorum for the transaction of business. While a majority of the Board is sufficient to do business, motions must be passed unanimously if only three Board members are present. Only those Board members present at a meeting may vote on business conducted at that meeting.

**2.7.** If a quorum does not arrive within fifteen (15) minutes of the time the meeting has been scheduled, it shall be determined that a quorum is not present. When there is no quorum for a regular meeting, the President, Vice President, or any Board member shall adjourn such meeting or, if no Board member is present, the District secretary shall adjourn the meeting.

~~2.X The Board declares that it is the policy of the District that each business item should be considered for a first and second reading, except in cases of an urgent circumstance which meaning shall be determined solely by the Board. A motion for final approval of a business item without a first reading shall be presumed to be taken under urgent circumstances for the purpose of this bylaw. No action of the Board shall be made invalid for failure to consider the item for a first and second reading under this bylaw.~~

**2.8.** Roll call shall be taken on the passage of all business items before the Board. The roll call vote shall be entered in the minutes of the Board meeting showing those Board members voting aye, those voting no, and those not voting or absent. Unless a Board member states that he or she is not voting on an item because of a conflict of interest, his or her silence or abstention shall be deemed and recorded as an affirmative vote.

**2.9.** Any person attending a meeting of the Board may record the proceedings with an audio or video tape recorder or a still or motion picture camera unless the recording causes unreasonable noise, illumination, or obstruction of view that constitutes or would constitute a disruption of the proceedings or would impair the ability of the public to observe the proceedings. All video tape recorders, still, and/or motion picture cameras shall remain stationary and shall be located and operated from behind the public speakers' podium once the meeting begins.

**2.10.** During each meeting, time shall be set aside to receive public comment in accordance with the Brown Act and District policy. Public comment shall be directed to the Board as a whole and not to any member individually or to the public.

**2.11.** If an individual or group willfully interrupts a meeting, fails to adhere to the District's policies pertaining to public comment, or otherwise creates an unreasonable disruption to the proceedings, the meeting may be stopped and the room may be cleared. In such circumstances, members of the media must be allowed to remain and only matters on the agenda can be discussed.

**2.12.** No regular meeting will be conducted past 9:30p.m. At that time the meeting will be continued, to a time and place acceptable to a majority of the Board Members present, to consider any items where action is necessary prior to the next regular Board meeting. If a second meeting is held and continues until 9:30p.m., then the meeting will be adjourned and remaining agenda items continued to the next regular Board meeting. Adjournment at 9:30p.m. may be disregarded by means of a motion to suspend the rules, if seconded and approved by a vote of a majority of the Board Members present.

### **3. COMMITTEES.**

**3.1.** The Board may create Committees that are reflective of the District's business and its enumerated powers at its discretion. Committees shall be advisory committees to the Board and shall not commit the District to any policy, act or expenditure. The duties of the committees shall be outlined at the time of creation.

**3.2.** All committee meetings shall be conducted as public meetings in accordance with the Brown Act.

**3.3.** No committee shall include in its membership more than two (2) Board members.

**3.4.** An alternate member may be assigned by the Board in advance for those meetings where a regular member is unable to attend.

**3.5.** Committee assignments and District appointments will be coordinated with the election of the District officers annually. Upon a motion and a majority vote, committee assignments and appointments may be reconsidered at any time during the calendar year.

### **4. PREPARATION OF MINUTES AND MAINTENANCE OF TAPES.**

**4.1.** The minutes of the Board shall be kept by the District Secretary and shall be neatly produced and kept in a file created for that purpose, with a record of each particular type of business

transacted set off in paragraphs with proper subheadings. However, the District Secretary shall be required to make a record only of such business as was actually passed upon by a vote of the Board and, except as provided in Section 4.2 below, shall not be required to record any remarks of Board Members or any other person. The Minutes shall record all of the votes taken for the passage of all ordinances, resolutions or motions.

**4.2.** Any Director may request that brief comments pertinent to an agenda item be included in the minutes, but only at the meeting in which the item is discussed.

**4.3.** The District Secretary shall attempt to record the names and place of residence of persons addressing the Board, the title of the subject matter to which their remarks related, and whether they spoke in support or opposition to such matter.

**4.4.** Whenever the Board acts in a quasi-judicial proceeding, such as in assessment matters, the District Secretary shall compile a summary of the testimony of the witnesses.

**4.5.** Any audio or visual recording of a District meeting made for whatever purpose at the direction of the District shall be subject to inspection pursuant to the California Public Records Act. Audio and/or visual recordings will be posted on the District's website for 30 days before being taken down. Physical copies of the audio/visual recordings will be retained in the District archive for five (5) years and may be destroyed thereafter.

**4.6.** Nothing herein shall be deemed to create a requirement that minutes from the meeting be taken, or tape or film recordings be made, of any closed sessions of the Board.

**4.7.** All correspondence should have Name and Address of record to be entered in the minutes.

## **5. MEMBERS OF THE BOARD OF DIRECTORS.**

**5.1.** Directors shall at all times conduct themselves with courtesy to each other, to staff and to members of the audience present at Board meetings.

**5.2.** Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and options, but in a respectful manner.

**5.3.** Once the Board takes action, Directors should commit to supporting the action and should not obstruct implementation of the action.

**5.4.** Any vacancy in the office of a member elected to the Board shall be filled pursuant to Government Code Section 1780.

## **6. AUTHORITY OF DIRECTORS.**

**6.1.** The full Board of Directors, in actions taken pursuant to The Brown Act, retain absolute power to set policy, direct staff, and conduct the business of the District.

**6.2.** The Board is the unit of authority within the District. Apart from their normal functions as a part of the Board, Directors have no individual authority. As individuals, Directors may not commit the District to any policy, act or expenditure.

**6.3.** Directors represent and act for the community as a whole.

**6.4.** The primary responsibility of the Board is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are the responsibility of the professional staff members of the District. Directors should not obstruct the professional staff in the performance of their duties.

**6.5.** The Board at a regular or special meeting may authorize a Director or staff to speak or communicate on behalf of the District or represent the District at a meeting or related function. Otherwise, Board members attending such events as described above shall make it clear that they are speaking on their own behalf and not representing the District or its Board of Directors.

## **7. DIRECTOR GUIDELINES.**

**7.1.** It is the intent of the Board of Directors to:

- a)** Maintain control and direction of the District by action of the Board of Directors taken pursuant to the Brown Act;
- b)** Allow Board Members access to information relative to the running of the District;
- c)** Protect staff from undue influence, threats, harassment, and/or pressure from individual Board Members or members of the public; and
- d)** Allow staff to execute priorities given by the Board of Directors and management without fear of reprisal.

**7.2.** Individual Board members, by making a request to the General Manager shall have access to information relative to the operation of the District, including but not limited to statistical information, information serving as a basis for certain actions of staff or as justification for staff recommendations. Board Members shall receive the cooperation and candor of the General Manager in being provided with the requested information. If the General Manager cannot timely provide the requested information because it is not presently available or its production would cause an interruption in work schedules or workloads, then the General Manager shall inform the Board member why the information is not available or cannot be made available in a timely manner, and when it may be made available.

**7.3.** If the information still cannot be provided the General Manager shall, or the Board Members shall direct the General Manager to, place an item on the Board agenda for direction as to the Board's desire and method of providing the information.

**7.4.** In handling complaints from residents, property owners within the District or other constituents, Directors are encouraged to listen carefully to the concerns, but the complaint should be referred to the General Manager for processing and appropriate response.

**7.5.** Directors, when seeking clarification of policy-related concerns, especially those involving personnel, legal action, land acquisition and development, finances, and programs, should refer said concerns directly to the General Manager.

**7.6.** When approached by District personnel concerning specific District policy, Directors should direct inquiries to the General Manager.

**7.7.** Directors and the General Manager should develop a working relationship so that current issues, concerns and District projects can be discussed comfortably and openly.

**7.8.** When responding to constituent requests and concerns, Directors should respond to individuals in a positive manner and route their questions to the General Manager.

**7.9.** Sitting Directors should not enter into Litigation against the District. Should a Director enter into litigation against the District, it will be presumed that said Director has a conflict of interest on all matters presented to the Board for discussion and action.

## **8. DIRECTOR COMPENSATION.**

**8.1.** Each Director is authorized to receive one hundred dollars (\$100.00) as compensation for each regular or special meeting of the Board and fifty dollars (\$50.00) for each committee meeting attended by him or her as the appointed Board representative or as the alternate. An alternate will be compensated only if attendance of the alternate at a committee is required because

- 1) the appointed representative is unable to attend or
- 2) the Board has directed the alternate to attend

**8.2.** In no event shall Director compensation exceed one hundred dollars (\$100.00) per day.

**8.3.** Director compensation shall not exceed six hundred (\$600.00) in any one (1) calendar month.

## **9. EXPENSE REIMBURSEMENT.**

**9.1.** Each Board Member is entitled to reimbursement for their actual and necessary traveling and incidental expenses incurred in the performance of the duties required and authorized by the Board. Personal phone calls are not reimbursed.

**a)** It is the policy of the District to exercise prudence with respect to hotel or motel accommodations. It is also the policy of the District for Board members and staff to stay at the hotel or motel location of a conference, seminar, or class to gain maximum participation and advantage of interaction with others whenever possible.

**b)** Any Director traveling on District business shall receive transportation and lodging expenses, and ordinary expenses such as meals and tips. If a Director is called upon to personally pay District business expenses during travel, the Director shall maintain all receipts from any such District business trips. Such receipts will be used to calculate the amount of reimbursement.



- c) Mileage reimbursement for use of privately-owned vehicles used for District business shall be as established by the Internal Revenue Service.

## **10. CORRESPONDENCE DISTRIBUTION POLICY.**

**10.1.** The following letters and other documents shall be accumulated and delivered to the Board on Friday of each week.

- a) All letters approved by the Board and/or signed by the President on behalf of the District.
- b) All correspondence received by the District that are of District-wide concern as reasonably determined by the General Manager.

## **11. CONFLICTS OF INTEREST AND RELATED POLICY.**

**11.1.** State laws exist which attempt to eliminate any action by a Board Member or the District which may reflect a conflict of interest. The purpose of such laws and regulations is to ensure that all actions are taken in the public interest. The following provides a brief policy summary of various conflict related laws. Directors are encouraged to consult with the Fair Political Practices Commission (the "FPPC") at (916) 322-5660, prior to the day of the meeting if they have a question about a particular agenda item.

**11.2.** Each Director is encouraged to review the District's Conflicts of Interest Code on a regular basis. The general rule is that an official may not participate in making a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on the official or a member of his or her immediate family or on an economic interest of the official, and the effect is distinguishable from the effect on the public generally. If real property in which the Director has an interest is located within 500 feet of the boundaries of the property affected by decision, that interest is deemed to be directly involved in the decision. Additionally, FPPC rules generally require a disqualified Board member to leave the room during the discussion of the matter.

**11.3.** The prohibitions of Government Code Section 1090 provide that the District may not contract with any business in which a Board member has a financial interest.

**11.4.** The basic rule is that public policy requires that when the duties of two offices are repugnant or overlap so that their exercise may require contradictory or inconsistent action, to the detriment of either public office, the discharge of the duties of the two offices by one person is incompatible with the affected office and the official must step down from one of the offices.

## **12. EVALUATION OF CONSULTANTS.**

The District Consultants, including the District's Legal Counsel and Consulting Engineer, shall be evaluated as needed.

## **13. CONTINUING EDUCATION.**

**13.1.** Board Members are required to attend training on ethics and sexual harassment every other year on an alternating schedule. Board members are also required to attend training on the National Incident Management System (NIMS).

**13.2.** Members of the Board and the General Manager are encouraged to attend educational conferences and professional meetings to improve District operation, such as Special District Administration, Finance and Governance, and other programs that emphasize employee relationships.

**13.3.** Subject to budgetary constraints, there is no limit on the number of Directors attending a particular conference or seminar when their attendance is beneficial to the District and in compliance with the Brown Act.

#### **14. RELATIONSHIP AND CONDUCT BETWEEN BOARD MEMBERS AND STAFF.**

**14.1.** The Board of Directors recognizes that the primary function of staff is to execute Board policy and to keep the Board of Directors informed.

**14.2.** Members of the Board of Directors shall not attempt to pressure and/or influence staff decisions, recommendations, workloads, schedules, and priorities.

**14.3.** Staff shall take guidance and direction only from action taken by the Board of Directors or from appropriate management supervisors as may be the case. Staff shall reject any attempts by an individual Board Member to influence or otherwise pressure them into making, changing or otherwise affecting staff decisions or recommendations, or changing work schedules and priorities. Staff shall report such attempts, without fear of reprisal, to the General Manager, or to the President or the Vice President of the Board of Directors, who shall take appropriate action.

**14.4.** In the event that an employee has been the subject of any unlawful conduct from a Board Member, the employee shall report such conduct in writing and without fear of reprisal to the President or the Vice President of the Board of Directors, or to the Grand Jury directly, who shall investigate the complaint and take further necessary action.

#### **15. FIDUCIARY RESPONSIBILITY.**

**15.1.** No member of the Board of Directors shall serve as the District treasurer.

**15.2.** The General Manager shall be responsible for supervision of the District's finances.

**15.3.** The Board of Directors shall adopt by resolution a system of accounting and auditing that shall completely and at all times show the District's financial condition. The system of accounting shall adhere to generally accepted accounting principles (Government Code Section 61053). The Board will ensure that generally accepted accounting principles (Government Code Section 61053) are being adhered to by annually hiring an independent auditor to perform such audit.

**15.4.** The District's money shall be deposited in conformance with the District Investment Policy.

**15.5.** The General Manager shall make quarterly or more frequent written reports to the Board of Directors, as the Board shall determine, regarding the receipts and disbursements and balances in the accounts of the District.

**15.6.** The Board will review and approve the District Investment Policy on an annual basis.

**15.7.** The budget shall be prepared annually for Board approval by the following procedures:

**a)** On or before June 1st of each year, the Board of Directors should adopt a preliminary budget that conforms to generally accepted accounting procedures applicable to special districts. The preliminary budget shall be prepared by the General Manager.

**b)** On or before July 1st of each year, the Board of Directors shall publish a notice in a newspaper of general circulation stating the date, time, and place when the Board will meet to adopt the final budget, and that the preliminary budget is available for inspection at the District office.

**c)** On or before September 1st of each year, the Board of Directors shall adopt a final budget that conforms to generally accepted accounting procedures applicable to special districts.

**d)** The procedures for adopting a budget shall comply with Government Code Section 61110.

**15.8.** Audits shall be conducted as soon after the end of the Fiscal Year as possible, preferably within 120 days.

## **16. PUBLICATION OF POLICY.**

**16.1.** Copies of this Policy shall be distributed to:

**a)** All current District employees and new employees at the time of hire.

**b)** All current Directors of the District and new Directors at the time they take office.

**c)** Staff will provide orientation for new Directors.

**16.2.** The General Manager shall be available to answer questions of District employees regarding the District Policy on relationship and conduct between Board Members and staff.

## **17. RESTRICTIONS ON BYLAWS.**

These Bylaws shall govern the Board in all cases to which they are applicable and not otherwise inconsistent with State and Federal laws.



# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

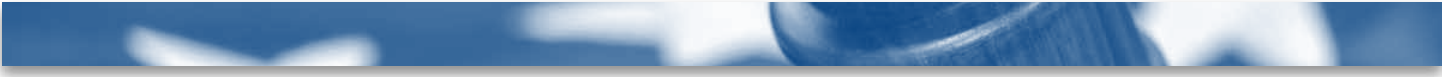
### About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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### ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

- 1. Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
- 2. Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
- 3. Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
- 4. Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

**First**, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

**Second**, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

**Third**, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

**Fourth**, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

**Fifth**, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

**Sixth**, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

**Seventh**, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

**Eighth**, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

**Ninth**, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

**Tenth**, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

## Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . .”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”



**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

**First**, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

**Third**, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

### Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

### Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?*

*Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

## The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

## Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

**Order.** The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

## Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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# Rosenberg's Rules of Order at a Glance

## The Three Basic Motions

*Simple majority to pass / open to debate*

**Basic Motion:** "I move that we..."

**Motion to Amend:** suggests changes to the basic motion.

**Motion to Substitute:** replaces the basic motion entirely.

## Special Motions

*Simple majority to pass / no debate, goes directly to vote*

**Motion to Adjourn:** ends the meeting.

**Motion to Fix a Time to Adjourn:** ends the meeting at a set time.

**Motion to Recess:** break in the meeting. Chair sets length of the break.

**Motion to Table:** defers the motion under discussion to a future date.

## Motions that Permanently Close Discussion

*2/3 majority to pass / no debate, goes directly to vote*

**Motion to Limit Debate:** stops debate. "I move the question."

**Motion to Close Nominations:** stops new nominations for a position.

**Motion to Object to the Consideration of a Question:** rare, stronger form of tabling. Used before debate has begun.

**Motion to Suspend the Rules:** temporarily changes meeting rules. Cannot be used to suspend non-parliamentary bylaws. Can be debated.

## Meeting Interruptions

*May be used at any time. Chair responds by asking you to state your point.*

**Point of Privilege:** points out uncomfortable surroundings, like a cold room or being unable to hear a speaker.

**Point of Order:** points out failure to follow correct meeting procedures.

**Call for Orders of the Day:** points out that the discussion has strayed from the agenda.

**Appeal:** reverses a Chair's ruling when passed by simple majority. Requires a second and can be debated.

**Withdraw a Motion:** used by the person making the motion. Others may immediately reintroduce the motion if they wish.

## Motion to Reconsider

*Simple majority to pass / open to debate*

May only be made by a member who previously voted in the majority for the item. Must be made during the same meeting (or at the very next meeting, assuming it's been added to the agenda).

## Voting:

Public Comment must be heard before votes are cast. See "Life of a Motion" for process relating to motions, public comment and votes.

## Life of a Motion

1. Chair announces item subject and number
2. Sponsor introduces item
3. Board asks technical questions for clarification purposes
4. Public comment on the item
5. Chair asks for motion
6. Chair asks for second
7. Board debates motion
8. Board votes
9. Chair announces result

## Notes:

- All motions require a second before they can be voted upon.
- You must be recognized by the Chair before speaking.
- Chair may set limits on debate time or number of speakers.
- Abstentions don't count in vote tally.
- A tie vote fails to pass.
- To recuse, publicly state reason for recusal and leave room during debate and vote.



# Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730 FAX (805) 481-6836

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**Date:** October 25, 2023

**To:** Board of Directors

**From:** Will Clemens, General Manager

**Subject:** **Agenda Item #8(B): Continuation of Item 8A from the Regular Meeting of September 13, 2023, and 8B from the Regular Meeting of October 11, 2023 - Discussion and consideration of OPARC duties, governing policies and procedures, and committee membership, and proposed resolution and bylaws concerning the same**

## Recommendation

It is recommended that your Board review Item 8A from the Regular Meeting of September 13, 2023 and 8B from the Regular Meeting of October 11, 2023, and either adopt the proposed resolution and bylaws formalizing the operating procedures of the OPARC or, if proposed changes are required to those documents, direct staff to make changes approved by the Board and to return the documents for the Board's consideration at a future meeting.

## Discussion

At the Regular meeting of September 13, 2023, the Board continued item 8A, and at the Regular Meeting of October 11, 2023, continued item 8B and requested that the item be brought back to the Board for consideration after the Oceano Parks and Recreation Committee reviewed the proposed resolution and bylaws.

With the activation of the parks and recreation power and allocation of funds to that power in the 2023-2024 Budget for the current fiscal year, the Board should consider formalizing the OCSD Parks and Recreation Committee's policies and procedures. Doing so will increase Board involvement with, and oversight of, the OPARC and allow staff to assist OPARC with standardizing the committee agendas and recommendations to the Board.

Presented to the Board for its consideration this evening are two documents. The first is a resolution recognizing the Board's activation of the parks and recreation power and adopting a proposed set of bylaws pertaining to the OPARC. The resolution also directs the General Manager or their designee to work with the OPARC on preparing and posting that committee's agendas.

The second document is the proposed bylaws applicable to the OPARC describing the proposed duties, procedures, and membership of the committee. These proposed bylaws were largely taken from suggestions made by Director Varni and Director Joyce-Suneson with some changes for clarification and formatting made by District Legal Counsel.



# Oceano Community Services District

Board of Directors Meeting

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The Board is encouraged to review both documents and direct questions pertaining to them. Staff is also prepared to revise both documents at the Board's direction.

## **Other Agency Involvement**

Lucia Mar Unified School District, Oceano Elementary School Parent Teachers Association, and a Regional Advisory Committee representing the community of Oceano.

## **Financial Considerations**

N/A

## **Results**

Establishing OPARC duties, governing policies and procedures, and cooperation with other local agencies promotes a livable and well governed community.

Attachment: Resolution



OCEANO COMMUNITY SERVICES DISTRICT

RESOLUTION NO. 2023 - \_\_\_\_

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OCEANO COMMUNITY  
ADOPTING THE BYLAWS OF THE OCEANO PARKS AND RECREATION COMMITTEE

WHEREAS, the California Community Services District Law, Cal. Gov. Code § 61000 *et seq.*, which enumerates the types of services and facilities that may be provided by a community services district, specifically authorizes a district’s exercise of a Parks and Recreation power to:

- (1) “Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district... [and]
- (2) Organize, promote, conduct, and advertise programs of community recreation, in the same manner as a recreation and park district...”;

WHEREAS, the Board of Directors (“Board”) of the Oceano Community Services District (the “District”) desires to exercise these powers in a manner that is transparent, collaborative, and accountable to the residents of Oceano;

WHEREAS, the District’s Bylaws allow the Board to, “...create Committees that are reflective of the District's business and its enumerated powers at its discretion [which] shall be advisory committees to the Board and shall not commit the District to any policy, act or expenditure”;

WHEREAS, the Board, in its regular meeting on February 22, 2023, authorized the creation of “a parks and recreation advisory committee to advise the Board of Directors on projects and programs relevant to recreation and parks in Oceano”;

WHEREAS, the Ralph M. Brown Act, Gov. Code § 54950 *et seq.*, requires “[a] commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body...” to comply with certain requirements regarding open and public meetings;

~~WHEREAS, the District’s Bylaws specify that, the full Board of Directors, in actions taken pursuant to The Brown Act, retain the sole discretion and authority “to set policy, direct staff, and conduct the business of the District”; and~~

WHEREAS, the Board desires to ~~enumerate~~clarify the duties and policies of the Oceano Parks and Recreation Committee.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Oceano Community Services District adopts Bylaws for the Oceano Parks and Recreation Committee, which are attached as Exhibit A to this resolution.

BE IT FURTHER RESOLVED that the District General Manager or their designee is directed to assist the chair and members of OPARC to allow the committee to conduct its work as described in this resolution and to ensure compliance with all applicable requirements under the committee bylaws adopted by this resolution.

**PASSED AND ADOPTED** by the Board of Directors of the Oceano Community Services District on September 13, 2023, by the following vote:

**AYES:**

**NAYES:**

**ABSENT:**

**ABSTAIN:**

---

President, Board of Directors of the  
Oceano Community Services District

**ATTEST:**

---

Board Secretary of the  
Oceano Community Services District

**APPROVED AS TO FORM:**

---

Chase Martin, District Counsel

**EXHIBIT A-**  
**BYLAWS FOR THE PARKS AND RECREATION ADVISORY COMMITTEE**  
**OF THE OCEANO COMMUNITY SERVICES DISTRICT (“OPARC”)**

**SECTION I. DUTIES OF THE COMMITTEE**

1. The purpose of the Oceano Parks and Recreation Committee (“OPARC” or “Committee”) is to advise the Board of Directors of the Oceano Community Services District (“District”) regarding the exercise of the District’s Parks and Recreation powers as those powers are enumerated in state law.
2. Pursuant to state law and the District’s Bylaws, OPARC is an advisory committee to the District’s Board of Directors (“Board”), and therefore shall not commit the District to any policy, act or expenditure; ~~has no independent decision-making authority.~~
3. Within 30 days after the appointment of Directors from the Board to serve on the OPARC, or no less than annually, OPARC shall submit a brief description of its proposed activities for the year to the Board for its approval. These activities may include:
  - a. Making suggestions regarding the planning and design process for proposed programs for parks and recreation within Oceano and presenting related recommendations to the Board;
  - b. Researching grants related to the District’s parks and recreation power and, at the direction of the Board, preparing applications for grants, recommending contracting with grant writers, and other funding sources;
  - c. Meeting with other public and private not-for-profit organizations to explore offering events or activities for Oceano, or to apply for grant funding; ~~at the direction of the Board;~~
  - d. Advising the Board on proposed policies and guidelines for use of District resources, including property owned by the District, for parks and recreation; and
  - e. Proposing programs that provide physical, cultural, and educational opportunities for residents of Oceano to the Board.

## SECTION II. POLICIES & PROCEDURES

1. In accordance with state law and the District's Bylaws, OPARC shall ~~at all times,~~ operate as a standing committee for purposes of the Brown Act and shall conduct all meetings of the committee as public meetings in accordance with all applicable requirements of the Brown Act.

2. OPARC shall coordinate with the District's General Manager, or the General Manager's designee, to prepare agendas and related materials for all committee meetings, which shall be posted on the District's website and physically posted at the District office.

~~3.~~ OPARC shall maintain minutes for each of the committee's meetings ~~which shall be taken by a member of the committee~~ and included with the meeting materials for the next regular meeting of the Board of Directors for its review; this shall be in addition to the verbal report which will be made by a Director-committee member at that meeting.

~~3.4.~~ OPARC may receive funding for its operations from the OCSD General fund, from appropriate Enterprise accounts, from grants, and from private or public donations, as approved by a majority of Directors.

~~4. OPARC may not commit the District to any policy, act, or expenditure; this includes, but is not limited to, any of the following actions before obtaining approval from the Board: taking a publicized position on behalf of the District, submitting applications for a program or grant, directing action by District employees (except as provided in this Section), or taking steps to arrange an event or activity.~~

## SECTION III. COMMITTEE MEMBERSHIP

1. Membership of the Committee shall consist of the following:

a. Two ~~(2)~~ members of the Board, one of whom shall be designated by the Board of to serve as chair of the Committee;

~~b.~~ One ~~(1)~~ individual representing the Lucia Mar Unified School District;

~~b.c.~~ One individual from the San Luis Obispo County Parks and Recreation Commission

~~e.d.~~ One ~~(1)~~ individual representing the Oceano Elementary School Parent Teacher Association;

e. ~~One (1)~~ representative from ~~the local County regional~~ Advisory Council for the residents of Oceano; ~~and~~

f. One representative from the Oceano Beach Community Association

g. One representative from the South County Boys and Girls Club

~~h.~~ One representative from the South County Senior Center

e.i. Four at-large (4) residents of the District.

2. The Board shall accept applications for membership on the committee in January of each year and shall approve the appointment of any Committee members no later than March of each year. Organizations may designate an alternate who can serve as a replacement in the absence of the designated Committee member.

3. The Board may remove a member of the Committee at any time, with or without cause, by a majority vote of the Board.

4. Members of the Committee may not receive compensation from the District for their service on the Committee, except that members of the Board may receive compensation for their service in accordance with applicable state law and District policy.

## Carey Casciola

---

**From:** SHIRLEY GIBSON [REDACTED]  
**Sent:** Thursday, October 5, 2023 1:36 PM  
**To:** Carey Casciola  
**Cc:** Will Clemens  
**Subject:** Notice of Violation  
**Attachments:** Notice of Violation 10052023.pdf

OCSD,

Please place this Notice of Violation with attached letter, on the October 11 agenda as late received written communication.

Best,  
Shirley Gibson, V.P.

Sent from my iPhone



## Oceano Community Services District

1655 Front Street, P.O. Box 599, Oceano, CA 93475

(805) 481-6730 FAX (805) 481-6836

---

October 5, 2023

Beverly Joyce-Suneson  
[REDACTED]

**Subject: NOTICE OF VIOLATION**

Ms. Joyce-Suneson,

We received the enclosed Notice of Violation from the County of San Luis Obispo. In addition to the violation of the County Code referenced in the Notice, the connection of the Recreational Vehicle (RV) to the District water and sewer systems is a violation of District Ordinances.

To avoid further District action, you are required to remove the water and sewer connections and return the RV to a state of storage and obtain a demolition permit from the County for the unpermitted sewer connection used by the RV. This must be completed in the timeframe provided in the enclosed Notice of Violation.

Sincerely,

[REDACTED]

**Will Clemens**

General Manager

Cc: Daniel Cheung

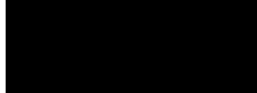
Enclosure: Notice of Violation 09/20/2023



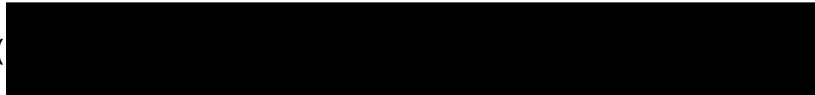
## NOTICE OF VIOLATION

09/20/2023

Beverly Suneson



RE: **CODE2023-00151** - (



Dear Property Owner,

The San Luis Obispo County Planning and Building Department Code Enforcement Unit has received complaints and verified violations of County Code on the property you either own or are responsible for. County Code violations make your property a public nuisance and are misdemeanors, so please take this notice seriously. We will assist you as much as we can, but it is your responsibility to resolve these violations.

Listed below are the violations and the resolution describing how to bring your property into compliance.

### Violation(s):

**SLOCC 22.30.040E** limits outdoor storage of recreational vehicles to **1** per site. **No human habitation of recreational vehicles is allowed.**

Please properly store your recreational vehicle(s) or dependent trailer(s) and do not use it for sleeping or housekeeping purposes while stored. RVs must be stored outside of the front setback of the property (usually the first 25'), the exception is one self-propelled RV may be stored in the driveway. The County considers recreational vehicles to include trailers, boats, RV equipment (ie) motor homes or camper, 5<sup>th</sup> wheel trailers, or other dependent vehicles. There is no limitation on the number of RV's, RV equipment or other vehicles listed in this section when stored within a closed building.

**SLOCC 19.02.030 (2) - Prohibited Structures.** It shall be unlawful and a violation of this code for any person to:

(2) Use a travel trailer or recreational vehicle for residential purposes, except in an approved campground or recreational vehicle park, or in other situations allowed by Titles 22 or 23 of this code.



**19.02.020 (b) 105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

**SLOCC 22.01.080** - Penalty for Violation. It is unlawful for any person to erect, construct, enlarge, alter, repair, move, use, occupy or maintain any building, structure, equipment, or portion thereof in the county of San Luis Obispo or cause the same to be done contrary to or in violation of any provision of this Title or any provisions of the codes, rules or regulations adopted in this Title.

**Resolution(s):**

1. You must cease the use of the RV for habitation.
2. Remove sewer and water connections and return the RV to a state of storage.
3. Obtain a demolition permit for the unpermitted sewer connection used by the RV

**Please complete the above tasks by 10/06/2023.** This is the only notice you will receive. If you do not voluntarily correct this matter, one or all of the following may be assessed:

1. You may be administratively fined.
2. You could be ordered to an Abatement Hearing in front of the County Hearing Officer.

In addition to the above, we are also notifying you that the adopted County Fee Ordinance requires our department to recover costs associated with the investigation and administration of nuisances. If you do not comply by the deadline, you will be charged either a minor or major cost recovery fee (fees currently in effect are \$642.00 or \$1,775.00 respectively). Additional required inspections will be billed at \$133.00/hour for building code violations and \$142.00 for land use violations. Also, if this matter is a repeat violation or is related to unpermitted (as-built) grading or construction, these fees cannot be waived.

In order to avoid these fees and legal action, you must either take action to bring your property into compliance or contact us to request additional time. You **MUST** make your

request before the compliance date. Please contact me either by phone or email when you have adhered to the requirements of this notice.

**IMPORTANT: If you need an as-built permit, you will need to submit it first to an intake planner. Walk-in clients for as-built construction/grading are not served at the Permit Center without an appointment. Please call the receptionist at (805) 781- 5600 to schedule an appointment to submit the application.**

Respectfully,

*Brad Farr*

Brad Farr  
Resource Protection Specialist  
bfarr@co.slo.ca.us  
805-788-2084





To the Board of Directors of the OCSD,

With respect, Wednesday October 25th would be the appropriate time for Director Beverly Joyce-Suneson to resign from the Board of Directors of the OCSD.

She has brought shame and embarrassment to the OCSD, when she received a Notice of Violation from County Code Enforcement regarding a trailer on her property that was illegally connected to the sewer line, to avoid payment to the district. As the owner of record, she is responsible for the action taken.

Director Joyce-Suneson stated at the last OCSD meeting, that the notice was just like a fixit ticket for a car and that she was “not stealing from the district.” However, California penal codes take a different stance:

“In California, stealing power, water, gas, or other resources from the utility company is a crime. Under California Penal Code section 498, unauthorized diversion, tampering with, connection, reconnection, or use of utility services is illegal. Depending on the circumstances, specifically, the alleged monetary value of the utility services taken or whether the person accused has a prior conviction for the same offense, California Penal Code section 498 can be charged as a misdemeanor or felony.”

Director Joyce-Suneson has made several conflicting excuses for her criminal behavior. As a Director on the board of the OCSD, she should be held to a higher standard, that excludes illegal activity. If she chooses to remain on the board, that would indicate to the public that she is receiving special treatment. What consequence would the average ratepayer receive for the same act?

She has violated the trust of the board, the G.M., the staff, and the Oceano community. Director Joyce-Suneson has shown herself to be unfit to hold office. She was appointed to fill a seat then no one ran for director and she has no constituency. The Board of Directors and the people of Oceano deserve someone that hasn't committed an illegal act.

And has code enforcement been able to find her plumber yet?

Resign - Beverly - Resign

Shirley D. Gibson  
Board V.P. OCSD

September 15, 2023

Julie Tacker

Oceano Community  
Services District

VIA EMAIL

**SUBJECT: CEASE AND DESIST DEMAND**  
**RE: RALPH M. BROWN ACT (§§ 54960, 54960.2)**

Dear Board of Directors,

I, Julie Tacker, pursuant to government code section 54960.2, demand the Oceano Community Services District (OCSD) cease and desist the following practice which violates provisions of California's open meeting laws (California Government Section 54950 et seq.) to wit, the Ralph M. Brown Act that the Council make an unconditional commitment as prescribed in subdivision (c) of section 54960.2 not to repeat such practices in the future:

This violation infringes upon the people's right to remain informed and retain control over the people's business and directly address their public servants. Furthermore, this violation may jeopardize the ongoing business and finality of actions taken by the OCSD.

On September 5, 2023, the OCSD Board of Directors were to meet in Closed Session pursuant to:

- A. §54956.9 (d)(4): Conference with District Counsel regarding initiation of litigation. Number of cases: one (1).
- B. §54957: Performance evaluation – General Manager

Prior to adjourning to the Closed Session, Board President, Allene Villa, announced that they were going into the closed meeting by reading the Closed Session agenda items verbatim. President Villa then offered to open the floor to the public. It was then that the Brown Act was violated when District Legal Counsel, Daniel Cheung, stopped President Villa from taking public comment on the Closed Session agenda items saying, "As the Board has already taken public comment on all items on the agenda, you may adjourn to closed session."

In this regard, California Code, Government Code §54957.7(a) states: "*Prior to holding*

any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.”

The right to public comment includes the public's right to comment on Closed Session agenda items **prior to** the board going into closed session. The board must inform members of the public that they are adjourning to closed session and must state or refer to the closed session agenda items so that the public has a general understanding of the topics that will be covered in closed session. (Gov. Code § 54957.7.) **The board must then permit members of the public to comment on closed session agenda items before convening into closed session.**

Additionally, in the header of the agenda, second paragraph, states that “Each individual speaker is limited to a presentation time of THREE (3) minutes per item.” See blue underline below:



**NOTICE OF SPECIAL MEETING**  
**Oceano Community Services District - Board of Directors Agenda**  
**WEDNESDAY, September 6, 2023 – 2:00 P.M.**  
Oceano Community Services District Board Room  
1655 Front Street, Oceano, CA

All items on the agenda, including information items, may be deliberated. Any member of the public with an interest in one of these items should review the background material and request information on the possible action that could be taken.

All persons desiring to speak during any Public Comment period are asked to fill out a "Board Appearance Form" to submit to the Board Secretary prior to the start of the meeting. Each individual speaker is limited to a presentation time of THREE (3) minutes per item. Persons wishing to speak on more than one item shall limit his/her remarks to a total of SIX (6) minutes. This time may be allocated between items in one-minute increments up to three minutes. Time limits may not be yielded to or shared with other speakers.

1. CALL TO ORDER:
2. ROLL CALL:
3. FLAG SALUTE:

4. PUBLIC COMMENT FOR ITEMS ON THE AGENDA:

*This public comment period for a special meeting provides an opportunity for members of the public to address the Board directly regarding items that are described in the notice for the meeting. If a member of the public wishes to speak at this time, Public comment is limited to three (3) minutes.*

5. BUSINESS ITEMS:

- A. Discussion and consideration of authorization for Oceano Parks and Recreation Committee Grant Application

6. CLOSED SESSION:

- A. Pursuant to Government Code §54956.9 (d)(4): Conference with District Counsel regarding initiation of litigation. Number of cases: one (1).
- B. Pursuant to Government Code §54957: Performance evaluation – General Manager

7. ADJOURNMENT:

This agenda was prepared and posted pursuant to Government Code Section 54956. The agenda is posted at the Oceano Community Services District, 1655 Front Street, Oceano, CA. Agenda and reports can be accessed and downloaded from the Oceano Community Services District website at [www.oceanocsd.org](http://www.oceanocsd.org).

**ASSISTANCE FOR THE DISABLED** If you are disabled in any way and need accommodation to participate in the Board meeting, please call the Clerk of the Board at (805) 481-6730 for assistance at least three (3) working days prior to the meeting so necessary arrangements can be made.

**ASISTENCIA A DISCAPACITADO** Si usted está incapacitado de ninguna manera y necesita alojamiento para participar en la reunión de la Junta, por favor llame a la Secretaria de la Junta al (805) 481-6730 para recibir asistencia por lo menos tres (3) días antes de la reunión para que los arreglos necesarios puedan ser hechos.

It appears Mr. Cheung relied on the statement on the agenda under item "4. PUBLIC COMMENTS FOR ITEMS ON THE AGENDA" (indicated by red box above) to prevent the President of the Board from allowing comment on the Closed Session items.

As is the norm in OCSD meetings, there were very few attendees. To open the floor to public comment for closed session not only would have been prudent, the comments, even if *all* members of the public in attendance had spoken, would have taken very little of the board's time and may have provided valuable information for the Board's consideration. Without that input, should there have been any, the closed session discussion occurred in a vacuum, without the benefit of public input.

The intent of this Cease and Desist is to bring this Brown Act violation to your attention and ask that your district cease, desist from, and not repeat the practices identified.

The district has 30 days from receipt of this letter to provide me with an unconditional commitment to cease, desist from, and not repeat the practices noted above. The district's failure to do so will entitle me to file an action for legal remedy, including attorney's fees and costs.

Please do not hesitate to contact me with any questions you may have.

Sincerely,

A handwritten signature in cursive script that reads "Julie Tacker".

Julie Tacker



## Carey Casciola

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**From:** Will Clemens  
**Sent:** Friday, October 6, 2023 10:03 AM  
**To:** Carey Casciola  
**Subject:** FW: [EXT]RE: Cease and Desist

### Will Clemens

General Manager  
[will@oceanocsd.org](mailto:will@oceanocsd.org)

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/>



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**From:** Kenneth Jorgensen  
**Sent:** Friday, September 15, 2023 4:36 PM  
**To:** Daniel Cheung <cheung@ammcglaw.com>; julie Tacker [REDACTED]  
**Cc:** Dan Dow <ddow@co.slo.ca.us>; Chase Martin <cmartin@ammcglaw.com>; Will Clemens <will@oceanocsd.org>  
**Subject:** RE: [EXT]RE: Cease and Desist

All,

I agree with Mr. Cheung that there was no Brown Act violation relating to one public comment period at the beginning for all items at a special meeting. Government Code section 54954.3(a) provides, “*Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.”*”

But I wanted to point out something else. It seems like the time limitations for public comment could be clearer. Below is portion from Ms. Tacker’s complaint. The section she highlights in blue limits a speaker to 3 minutes per item. But the next sentence allows for six minutes per speaker if that speaker

wishes to discuss more than one item on the agenda. However, the time limitation provided under item 4, within the red box, seems to limit public comment to a total of 3 minutes per speaker, regardless of the number of items that they wish to discuss.

All persons desiring to speak during any Public Comment period are asked to fill out a "Board Appearance Form" to submit to the Board Secretary prior to the start of the meeting. Each individual speaker is limited to a presentation time of THREE (3) minutes per item. Persons wishing to speak on more than one item shall limit his/her remarks to a total of SIX (6) minutes. This time may be allocated between items in one-minute increments up to three minutes. Time limits may not be yielded to or shared with other speakers.

1. CALL TO ORDER:
2. ROLL CALL:
3. FLAG SALUTE:

**4. PUBLIC COMMENT FOR ITEMS ON THE AGENDA:**

*This public comment period for a special meeting provides an opportunity for members of the public to address the Board directly regarding items that are described in the notice for the meeting. If a member of the public wishes to speak at this time, Public comment is limited to three (3) minutes.*

**5. BUSINESS ITEMS:**

- A. Discussion and consideration of authorization for Oceano Parks and Recreation Committee Grant Application

**I recommend this form be updated so that both instructions on the agenda are more consistent with one another.** I believe adding some more clarity will avoid any issues as to how much time is permitted to a speaker, thereby furthering this board's policy of valuing public comment and engagement.

Sincerely,

Ken Jorgensen  
Deputy District Attorney  
San Luis Obispo County  
[1035 Palm Street | San Luis Obispo, CA 93408](https://www.sloco.org/1035-Palm-Street-San-Luis-Obispo-CA-93408)  
(805) 781-5800 | [kjorgensen@co.slo.ca.us](mailto:kjorgensen@co.slo.ca.us)



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**From:** Daniel Cheung <[cheung@ammcglaw.com](mailto:cheung@ammcglaw.com)>  
**Sent:** Friday, September 15, 2023 3:01 PM  
**To:** julie Tacker [REDACTED]  
**Cc:** Dan Dow <[ddow@co.slo.ca.us](mailto:ddow@co.slo.ca.us)>; Kenneth Jorgensen <[kjorgensen@co.slo.ca.us](mailto:kjorgensen@co.slo.ca.us)>; Chase Martin <[cmartin@ammcglaw.com](mailto:cmartin@ammcglaw.com)>; will\_oceanocsd.org <[will@oceanocsd.org](mailto:will@oceanocsd.org)>  
**Subject:** [EXT]RE: Cease and Desist

**ATTENTION:** This email originated from outside the County's network. Use caution when opening attachments or links.

Ms. Tacker:

Thank you for your email and interest in the Oceano CSD. Your letter will be shared with the Board of Directors as received written correspondence at its next regular meeting.

I have reviewed your letter and argument in detail. However, the District complied fully with all applicable requirements of the Brown Act regarding public comment at the September 5, 2023, Special Meeting. The Board values comment and engagement from the public and is committed to compliance with the Brown Act.

If you have any further questions, please contact the District's General Manager.

Sincerely,  
Daniel Cheung

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**From:** julie Tacker [REDACTED]  
**Sent:** Friday, September 15, 2023 1:42 PM  
**To:** Will Clemens ([will@oceanocsd.org](mailto:will@oceanocsd.org)) <[will@oceanocsd.org](mailto:will@oceanocsd.org)>  
**Cc:** Daniel Cheung <[cheung@ammcglaw.com](mailto:cheung@ammcglaw.com)>; Dan Dow <[ddow@co.slo.ca.us](mailto:ddow@co.slo.ca.us)>; Kenneth Jorgensen <[kjorgensen@co.slo.ca.us](mailto:kjorgensen@co.slo.ca.us)>; Chase Martin <[cmartin@ammcglaw.com](mailto:cmartin@ammcglaw.com)>  
**Subject:** Cease and Desist

 **CAUTION: EXTERNAL SOURCE**

Good afternoon,

Please see that all Board members receive the demand cease and desist letter included below.

The intent of this Cease and Desist is to bring this Brown Act violation to your attention and ask that your district cease, desist from, and not repeat the practices identified.

The simplest response would be to provide me, on behalf of the public, with an unconditional commitment to cease, desist from, and not repeat the practices noted in the attached letter.

Have a nice weekend.

Julie Tacker