

December 29, 2021

Board of Directors  
San Simeon Community Services District  
111 Pico Avenue  
San Simeon, CA 93452  
County of San Luis Obispo

RE: Demand for Cure and Correct

Dear San Simeon Community Services District Board of Directors,

This letter is to call your attention to multiple and material violations of central provisions of the Ralph M. Brown Act. These violations jeopardize the finality of a number of actions taken by the San Simeon Community Services District (SSCSD) Board during the Special Meeting of December 21, 2021.

The first and most egregious violation is the mis-posting of the time of day the Special Meeting would be held. There are *two* times stated on the agenda. Please see the marked-up agenda attached. You will notice that the time of the meeting was posted as 1:00 PM, yet immediately contradicts itself with a "**NOTE:**" stating "On the day of the meeting, the virtual meeting room will be open beginning at 2:30PM. If you are unable to access the meeting please contact Cortney Murguia at (805) 400-7399 prior to the 3:00 PM meeting start time and staff can assist you in accessing the meeting." You may have noticed I was not in attendance at the meeting. This is because, I, as a regular attendee, was under the impression the meeting would start at 3:00PM as indicated on the agenda. Again, this violation in and of itself to cure, correct and set aside all decisions made in the December 21, 2021 Special Meeting.

After I learned I missed the meeting, due to the improper posting, I watched the video replay as posted on the district's website.

In watching the replay it became apparent Chair Kellas violated the Brown Act when she denied the public the right to speak to item 2. A. Approval of the Audit for Fiscal Year 2020/2021, when she cited and misrepresented Government Code Section 54954.3.

Chair Kellas relied on "Government Code 54954.3(a) Every agenda for **regular meetings** shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the

legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. ..." What Kellas failed to recognize is this section of code goes on to say, "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." As you are aware, the December 21, 2021 meeting of your Board was a **Special Meeting**.

Additionally, item 2. B. Approval of Town & Country Fencing, Inc. for Installation of a Fence on District Property not to exceed the amount of \$6,975.00. The bid as submitted, states, "Actual billed cost will be based on actual field measurements, unless otherwise stated." This statement implies the not-to-exceed amount may need to be increased, since no contingency was included in the approved price. Furthermore, during the Board discussion the board members agreed to change the material from rope to chain, which would significantly impact the price of the project. This item should have been continued until the quote could be amended and/or additional bids solicited to match the Board's revised scope and materials for the project.

Furthermore, during the discussion, General Manager Grace remarked that an additional bid had come in late the day before the meeting. It is not uncommon for your agency to "green-sheet" supplemental material within a few hours of a meeting. It is unknown as to why the Creative Fencing bid was not presented to the Board for consideration. Through the Public Record Act, I have obtained a copy of the Creative Fencing bid received by the District and its scope of work differs enough from Town & Country's bid to be considered superior due to its approach to installation and it is truly a not-to-exceed price of either \$7,700.00 or \$7,775.00 (there is an error in the written detail, both numbers are cited). If your Board was truly looking for the lowest price bid, they would need detailed specifications to compare quotes. For example 1½" verses 2" rope would vary in price greatly. Why weren't the bid specifications and due date included in the Board packet? Unfortunately for your Board and the ratepayers of the District, the Creative Fencing bid was not presented for comparison.

Lastly, item 2. D. Discuss and Consider Clerical Corrections to Contract with Grace Environmental Services, LLC **was not an action item**. Considering Mr. Grace's recent approved stipulation with the Fair Political Practices Commission, it is disturbing to learn that Mr. Grace wrote the description on this agenda item, relating to his own contract "clerical corrections". This is a blatant conflict of interest. Furthermore, nowhere on the agenda or in the staff report written by Mr. Grace does it imply that the Board would be

From the Desk of Julie Tacker

approving any changes to the contract, "clerical errors" or otherwise. The Board acted despite the fact the agenda item description only authorized discussion. This is sufficient for a Brown Act violation, but the staff report also did not authorize or recommend anything more than a "Discussion".

In accordance with the Brown Act, the decisions made at this Special Meeting must be cured and corrected. The simple fact that meeting was mis-noticed is in and of itself a Brown Act violation, each item on the agenda should be reheard. I look forward to participating fully when the board holds a properly agendized meeting so the public can fully participate in its local government.

Demand for Cure and Correct

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

The actions and decisions identified above that were made in violation of the Brown Act must be set aside.

Sincerely,



Attachment:

December 21, 2021 SSCSD Agenda markup