



## UTILITIES ADVISORY COMMITTEE MEETING

Thursday, February 16, 2017 at 5:30 p.m.  
Los Osos Community Services District Office  
2122 9<sup>th</sup> Street, Suite 106, Los Osos, CA

### COMMITTEE MEMBERS

Chuck Cesena, Chairperson  
Vicki Milledge, Alternate Chairperson  
Jan Harper, Member  
Lee Harry, Member  
Gene Heyer, Member  
Leonard Moothart, Member  
Ron Munds, Member

### STAFF

Renee Osborne, General Manager  
Roy Hanley, District Counsel  
Rob Miller, District Engineer  
Margaret Falkner, Utility Compliance Technician III  
Ann Kudart, Administrative Services Manager

## AGENDA

1. **Opening – 5:30 p.m.**
  - A. Call to Order
  - B. Flag Salute
  - C. Roll Call
2. **Introduction of 2017 Utilities Advisory Committee and a Review of Brown Act Guidelines**  
Presented By: Chairperson Cesena and District Counsel Hanley
3. **Update Regarding Status of Bayridge Estates and Vista de Oro**  
Presented By: District Counsel Hanley
4. **Approval of UAC Meeting Minutes of October 26, 2016**  
Presented By: Administrative Services Manager Kudart
5. **Review of 2017 UAC Work Plan**  
Presented By: Chairperson Cesena and General Manager Osborne
6. **Water Rate Subcommittee Update**  
Presented By: Committee Member Munds
7. **Public Comments on Items NOT on this Agenda:** At this time, the public may comment on items not on this agenda. Each commenter is limited to 3 minutes and shall address the Chairperson.
8. **Schedule UAC Meeting** – Unless otherwise noted, the next UAC meeting will be held Thursday, April 20<sup>th</sup>.
9. **Closing Comments by UAC Committee Members**
10. **Adjournment**

**UAC ITEM 2**

**REVIEW OF BROWN ACT GUIDELINES**

## 2017 BOARD BYLAWS AND RULES OF DECORUM

(Amended February 2, 2017)

### 11. COMMITTEES

#### 11.1 Standing Committees.

The Board of Directors may create and abolish Standing Committees at its discretion. Standing Committees shall be advisory committees to the Board of Directors and shall not commit the District to any policy, act or expenditure. Each Standing Committee shall consider District related issues assigned to it by the Board of Directors.

(a) Standing Committees shall conduct business at all times in a manner consistent with these Bylaws, applicable laws, and Board Policy.

(b) The General Manager, in cooperation with the Committee Chairperson, shall prepare the agenda for each Standing Committee meeting. Nothing may be placed on the agenda of any Committee that is not included in that Standing Committee's Work Plan or in other separate direction from the Board of Directors. Consideration of any other matters are *ultra vires* and void acts.

(c) Each Standing Committee shall meet at most monthly as determined by the Committee Chairperson, provided there is pending consideration of something within the Committee's Work Plan or specific direction from the Board of Directors. There are no quorum requirements for Standing Committee meetings. Recommendations to the Board of Directors shall include all opinions of members of the Standing Committee on each issue raised for their recommendation and shall include the number of members concurring in each opinion. The opinion receiving the most concurrence is the majority report. Other opinions are minority reports.

(d) Subject to the availability of public membership, Standing Committees shall be comprised of up to five public members, none of whom shall be Directors; and one Director appointed by the President as the non-voting Chairperson and one Director appointed by the President as Alternate. The Alternate only needs to attend if the Chairperson is unable to attend. In the absence of both Chairperson and Alternate the President may assign a Board Member to temporarily act as the Committee Chairperson in order that the Standing Committee may meet as established by the previously adopted schedule.

Depending on the number of applications, the Board of Directors retains the discretion to alter Standing Committee membership on a case-by-case basis.

(e) The General Manager shall be an ex-officio member of all Standing Committees. The Committee Chairperson and Committee Alternate are non-voting members appointed for the sole purpose of conducting the meeting, enabling conversation, facilitating discussions, and forwarding recommendations to the Board of Directors.

(f) Each Director shall appoint one voting member to each Standing Committee. The appointee shall serve at the pleasure of the Director who appointed them. The Board of Directors may also remove any Standing Committee member with or without cause.

(g) On or before January 31<sup>st</sup> or as otherwise established by the Board of Directors of each year, members of the public who reside within the boundaries of the District are invited to apply for specific Standing Committee assignments by completing an application. Members of the public shall be eligible to serve on only one Standing Committee at a time. Members of the public who reside within the boundaries of County Service Area No. 9, Zone I are eligible to apply to the Emergency Services Advisory Committee (ESAC) only.

The General Manager shall prepare an appointments list of all Standing Committees. This list shall be known as the local appointment list and will be provided to the Board of Directors at the first meeting in February or other date established by the Board of Directors.

(h) The local appointment list shall be made available to the members of the public and shall be posted at the District office and the District's web site.

(i) Whenever an unscheduled vacancy occurs on a Standing Committee, a special vacancy notice shall be posted at the District office, the public library, the District's web site, and other places as directed by the Board of Directors, not earlier than twenty days before, or not later than twenty days after the vacancy occurs inviting the public to apply for appointment as a committee member.

Final appointment of Standing Committee members shall not be made by the Board of Directors for at least ten working days after the posting of the Notice at the District's office.

(j) Notwithstanding Section 11.1(g), above, the Board of Directors may, if it finds an emergency exists, fill the unscheduled vacancy immediately. The person appointed to fill the vacancy shall serve only on an acting basis until final appointment is made pursuant to Sections 11.1(f) and (g), above.

(k) A Standing Committee member will automatically be removed if he/she has three unexcused absences or misses four meetings in one calendar year.

(l) All Standing Committee members will receive Brown Act training and all meetings shall be conducted as public meetings in accordance with the Brown Act. Summary notes for each meeting of each Standing Committee shall be forwarded to the Board of Directors as a public record.

(m) The Board President may appoint persons to a subcommittee to assist a Standing Committee in making recommendations to the Board of Directors. The duties of the subcommittee shall be outlined at the time of appointment and the subcommittee shall be considered dissolved when its final report has been made to the Standing Committee.

11.2 Ad Hoc Committees. The Board President shall appoint such *ad hoc* committees comprised of two or less Directors as may be deemed necessary or advisable by himself/herself and/or the Board of Directors. The duties of the *ad hoc* committees shall be outlined at the time of appointment, and the committee shall be considered dissolved when its final report has been made. *Ad hoc* committees shall timely provide the District General Manager with their recommendations and/or reports.

**The Brown Act**  
California's Open Meeting Law

- The law designed to guarantee the public's right to attend and participate in meetings of local public legislative bodies is the Ralph M. Brown Act

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**WHO IS SUBJECT TO THE BROWN ACT?**

- Governing Bodies and their members (e.g. Board of Directors)
- Subsidiary Bodies and their Members (e.g., standing committees)
- Private Corporations (publicly created)
- Private Corporations funded by District and board member is appointed by Board of Directors
- Successful candidates and nominees to one of the above

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**SCOPE OF BROWN ACT**

- What constitutes a "meeting"
- Notice Requirements for Meetings
- Agenda Requirements
- Public Participation at Meetings
- Recording of Meetings
- Disclosure of Written Materials
- Closed Sessions

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**What is a Meeting?**

- Majority of members of board present
- Members present at same time and place to hear, discuss or deliberate
- Item of discussion within subject matter jurisdiction of Board
- Serial Meeting

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**KEY CONCEPT:  
SERIAL MEETING**

- Use of consecutive or serial communications, each of which involves less than a quorum of the public body but which taken as a whole involve a majority of the body's members, either directly or indirectly through intermediaries, in person or by telephone, e-mail, or other electronic means, to develop collective concurrence or consensus on action to be taken
- Types: Hub-and-Spoke, Daisy Chain
- Think about social media, chat rooms and blogs as well

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**Individual Contact Distinguished**

- A member of a legislative body may contact an individual including another member of the same legislative body without an illegal meeting occurring
- BUT there is always a risk that one participant in the communication will disclose the views of the other participant to a third member, creating the possibility of achieving collective concurrence outside a public meeting

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**Three Common Serial Meeting  
Scenarios**

- Staff Briefings
- Constituent or Lobbyist as Intermediary
- Deal Making/Shuttle Diplomacy

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**An Ounce of Prevention!**

- Virtually all serial meeting violations can be prevented by following two simple rules of conduct:
  - Avoid discussing District business with a quorum of the Board outside a public meeting
  - Avoid soliciting, communicating, or hearing the views of other board members outside a public meeting

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### WHAT'S NOT A MEETING SUBJECT TO BROWN ACT?

- Individual contacts (unless serial)
- Conferences
- Community meetings
- Another body of agency (but don't participate)
- Social or ceremonial events

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### NOTICE REQUIREMENTS

- Notice must include time, place and business to be discussed
- Regular Meetings: notice and agenda posted at least 72 hours in advance
- Special Meetings: notice and agenda posted at least 24 hours in advance
- Emergency Meetings

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### MEETING AGENDAS

- Post in freely accessible location
- Brief description of each item to be discussed or transacted
- NO ACTION OR DISCUSSION ON SUBJECT OR ITEM NOT DESCRIBED IN AGENDA (w/very limited exceptions)

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### PUBLIC PARTICIPATION

- General Rule: At regular meetings members of the public must be given an opportunity to address Board on any item within subject matter jurisdiction of Board, whether on the agenda or not, and, if on the agenda, whether demarcated a public hearing or not, and whether on the regular or closed portion of the agenda

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## OTHER BROWN ACT ISSUES

- Public has near-absolute right to record meetings
- Recordings of meetings by public agency are public records
- Written materials distributed to all or a majority of Board are, subject to very narrow exceptions, public records and must be made available for inspection and copying

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## Remedies for Violation of the Brown Act

- Criminal
  - Misdemeanor (fine of not more than \$1000 and/or imprisonment of not more than 1 year)
  - Specific Intent Required: member must have intended to deprive public of information or right to participate
- Civil
  - Action by DA or by other interested party to invalidate action at improper meeting, costs, and attorneys' fees
  - Potential to infect decisions by other boards/councils

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**UAC ITEM 4**

**APPROVAL OF UAC MEETING  
MINUTES OF OCTOBER 26, 2016**

**Los Osos Community Services District  
DRAFT Minutes of the Utilities Advisory Committee Meeting  
October 12, 2016 at 5:30 p.m. at the District Office**

| AGENDA ITEM   | DISCUSSION  | FOLLOW-UP   |
|---|---|---|
| <p><b>1. Call to Order, Flag Salute and Roll Call</b></p>               | <p>Chairperson Wright called the meeting to order at 5:31 p.m. and Committee Member Moothart led the flag salute.</p> <p><u>Roll Call:</u><br/>           Jan Harper, Committee Member – Present<br/>           Lee Harry, Committee Member – Absent<br/>           Gene Heyer, Committee Member – Present<br/>           Leonard Moothart, Committee Member – Present<br/>           Ron Munds, Committee Member – Present<br/>           Linde Owen, Alternate Member – Absent<br/>           Chuck Cesena, Vice Chairperson – Present<br/>           Mike Wright, Chairperson – Present</p> <p><u>Staff:</u><br/>           Rob Miller, District Engineer<br/>           Ann Kudart, Administrative/Accounting Assistant III</p>   |   |
| <p><b>2. Approval of UAC Meeting Minutes for September 14, 2016</b></p> | <p>Committee Member Munds moved to approve the minutes as presented. The motion was seconded by Committee Member Harper.</p> <p>Public Comment: None.</p> <p>Seeing no objections, the motion passed unanimously.</p>   | <p><b>Action – File approved minutes.</b></p>   |
| <p><b>3. Discussion of Water Revenue Shortfalls</b></p>                 | <p>District Engineer Miller reported that current revenue and the water sales dropped more than predicted in the last adopted rate study; that the recent reserve statement provided more detailed information and that reserves available in the water fund are sufficient to fund the projects at 8<sup>th</sup> Street and the Inter-tie project. He informed the Committee that the summer period activities have resulted in more water sales due to septic tank decommissioning and re-establishing plant materials however this uptake in water sales may not persist into future fiscal years.</p> <p>Chairperson Wright announced that President Ochylski, with Board approval, appointed District Engineer Miller, UAC Member Munds, and Public Member Richard Margetson, to an Ad Hoc committee to conduct an internal review of the water fund in regard to sales, budget, and current water rates and to bring back specific recommendations to the Board.</p> <p>Public Comment – Richard Margetson, Jeff Edwards, Lynette Tornatzky spoke.</p> |   |
| <p><b>4. Discussion of Disputed Wastewater Fund</b></p>                 | <p>Chairperson Wright reported that he would like to begin a discussion on the use of funds of approximately \$103,000, which was from the bankruptcy in which claimants had already written off the loss and returned the checks or checks never cashed. The time set by the court has expired and the funds are available for District use.</p> <p>The Committee discussed using the funds to pay down the bond or that it be used District-wide in support of the Basin's management.</p>  | <p><b>Action – Members will consider additional recommendations for further discussion.</b></p> |

| AGENDA ITEM   | DISCUSSION  | FOLLOW-UP |
|---|---|-----------|
| <b>4. Discussion of Disputed Wastewater Fund (continued)</b>  | Public Comment – Jeff Edwards and Richard Margetson spoke.  |           |
| <b>5. Utilities Department Updates</b><br><b>A. Update on Bayridge Estates and Vista de Oro easements</b><br><br><b>B. Update on unrestricted funds available in Fund 500</b> | District Engineer Miller reported that this is moving forward and that District Legal Counsel is currently working with the County on these easements.<br><br>No further update as the Committee discussed this item earlier in the meeting.  |           |
| <b>3. Public Comments on Items NOT on this Agenda</b>   | Jeff Edwards commented on achieving additional conservation in the community through the Title 19; the SRF interest rate reduction request; and grants.   |           |
| <b>4. Schedule Next UAC Meeting</b>   | The next meeting of the Utilities Advisory Committee is scheduled to be held on Wednesday, November 9, 2016 at 5:30 pm unless otherwise noticed.  |           |
| <b>5. Closing Comments by UAC Committee Members</b>   | Committee Member Moothart asked if the District has received any IRWM funding and Mr. Miller reported that the District did not rank high enough. Committee Member Munds reported that more funding will soon be available. Mr. Miller announced that the District has applied for Prop funds.<br><br>Chairperson Wright reported that the Inter-Tie project was approved by the Board and that it is going out for bids. |           |
| <b>6. Adjournment</b>   | The meeting adjourned at 6:14 p.m.  |           |

**UAC ITEM 5**

**REVIEW OF 2017 UAC WORK PLAN**



## UTILITIES ADVISORY COMMITTEE (UAC) 2017 WORK PLAN

**President**

Jon-Erik G. Storm

**Vice President**

Vicki L. Milledge

**Directors**

Charles L. Cesena  
Marshall E. Ochylski  
Louis G. Tornatzky

**General Manager**

Renee Osborne

**District Accountant**

Robert Stilts, CPA

**Unit Chief**

Scott M. Jalbert

**Battalion Chief**

Josh Taylor

Recommendations for Utilities Advisory Committee in 2017:

1. Produce an updated Water Rate Study to assist with upcoming Capital Improvement Projects (CIP).
2. Periodically review and revise CIP plan with staff.
3. Review Utilities Budgets for 2017/2018 fiscal year.
4. Review and provide recommendations and improvements to the Water Conservation Plan.

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