

**Board of Directors
San Simeon Community Services District**



**SPECIAL BOARD MEETING
PACKET**

February 8, 2022

Meeting Start Time 4:00 pm

Virtual Board Meeting via Zoom Webinar

Prepared by:



GRACE
ENVIRONMENTAL SERVICES

AGENDA
SAN SIMEON COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS SPECIAL BOARD MEETING
Tuesday, February 8, 2022
4:00 pm

Pursuant to San Simeon CSD Resolution 22-439 and incompliance with AB 361 this meeting shall occur as a virtual teleconference using the Zoom app.

Internet Meeting Location – Via ZOOM

Join Zoom for Special Board Session:

<https://us02web.zoom.us/j/89334961643?pwd=NWx2V3lKaUdTTml2RmVVaGpBYk5hQT09>

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 9128

The following commands can be entered via DTMF tones using your **phone's** dial pad while in a **Zoom meeting**: *6 - Toggle mute/unmute. *9 - **Raise hand**.

Meeting ID: 893 3496 1643

Passcode: 972125

NOTE: On the day of the meeting, the virtual meeting room will be open 30 minutes prior to the meeting start time. If you wish to submit public comment in the written format you can email Cortney Murguia at admin@sansimeoncsd.org. Members of the public can also contact the District office at (805) 927-4778 or (805) 400-7399 with any questions or concerns related to this agenda or accessing the meeting.

1. OPEN SESSION: 4:00 PM

A. Roll Call

2. CLOSED SESSION:

This public comment period provides an opportunity for members of the public to address the Board on Closed Session Agenda Items. Public Comment is limited to three (3) minutes.

The Board will adjourn to Closed Session to address the following items:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section §54956.9

One (1) Potential Case – Cease and Desist from Julie Tacker

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section §54956.9 – Ron Hurlbert

******Reportable action from Closed Session will occur at the 5 PM Regular Session******

3. ADJOURNMENT –

All staff reports or other written documentation, including any supplemental material distributed to a majority of the Board within 24 hours of a special meeting relating to each item of business on the agenda are available for public inspection during regular business hours in the District office, 111 Pico Avenue, San Simeon. If requested, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. To make a request for a disability-related modification or accommodation, contact the District Administrator at 805-927-4778 as soon as possible and at least 48 hours prior to the meeting date. This agenda was prepared and posted pursuant to Government Code Section 54954.2.

CEASE AND DESIST FROM JULIE TACKER

January 21, 2022

Adamski Madded Cumberland & Green LLP
Jeffrey A. Minnery
1948 Spring Street
Paso Robles, CA 93446-1620

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 dated December 29, 2021 converted to Cease and Desist

Dear Mr. Minnery,

Thank you for your response dated January 17, 2022 and the schooling you provided relative to the Brown Act. Nevertheless, the items brought to your attention on November 29, 2021 were wrong in the eyes of the law; my preferred chosen remedy would have been to redo the meeting for its many flaws. But, since you are unwilling to rehear the items that may have been missed by citizens that might have been confused by the primary and most egregious violation in the "clerical error" mis-posted time of day the Special Meeting would be held (not just me).

As you will recall, there were **two** times stated on the agenda. The time of the meeting was posted as 1:00 PM, yet immediately contradicts itself within the "**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." I brought this to your attention, not so much for my inability to participate, as you suggest I am "acutely familiar" with District agenda's and their many "clerical errors." This one was material in nature and likely disenfranchised members of the public who may have wanted to participate, but the meeting was over well before 3:00pm that day. Pursuant to Government Code Section 54960.2, I demand the SSCSD cease and desist making clerical errors that jeopardize the right of the public to participate in business of the people.

Additionally, when Chair Kellas violated the Brown Act by citing Government Code Section 54954.3, it was she that made a "clerical error" invoking this section of code during a special meeting. You will recall, Government Code 54954.3(a) states, "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. ..." While 54954.3 is

not enumerated an enumerated in 54960.1 which identifies provisions subject to a cure and correct, it is in 54960.2 that provides that your agency cease and desist the practice of prohibiting the public from speaking at a special meeting “on an item that may have been considered by a committee...”

Relative to the Town & Country fence bid, you are correct I disagree with the District’s handling of the Procurement Procedure. While Town & Country may have had the lowest bid – without the second bid presented from Creative Fence Co. the Board was unable to make a fully informed decision.

Lastly, relative to item 2. D. the Board acted despite the fact the agenda item description only authorized discussion. While under the heading of “Business Action Items” no other items on this portion of the agenda was described as “discussion” and there was no verb in the agenda item suggesting there would be “adoption”, “approval” or some other such “action” taken. It’s difficult to know if this was another “clerical error” amid a whole host of “clerical errors” needing “clerical correction” in this District. Per Government Code Section 54960.2 I demand you cease and desist the practice of acting on an agenda item identified as a “discussion item.”

Furthermore, your response of January 17, 2022, it appears that you would rather point out my “clerical errors” than cure or correct yours (i.e. the District work product). As provided by Section 54960.2, upon receipt of the cease and desist letter, you have 30 days to respond with the required “unconditional commitment” as set forth in the statute.

Sincerely,



Julie Tacker



CORRESPONDENCE FROM RON HURLBERT

District Encroachment Letter

Ron Hurlbert <[REDACTED]>

Sun 1/16/2022 7:30 AM

To: San Simeon CSD <admin@sansimeoncsd.org>

Courtney. I have not heard anything back from the District on my letter asking for the Encroachment of District facilities built in the Pico Ave street right away to removed.

These actions affect the value of my property without just compensation.

Be advised that unless this encroachment is not cured by the District I will proceed with legal action against the District to preserve my property rights.

Please forward the letter to all Board members and District Counsel.

Thank You.

Ron Hurlbert

RECEIVED

December 3, 2021

DEC - 9 2021

San Simeon CSD General Manager Charles Grace
111 Pico Avenue
San Simeon, CA 93452

BY: CAM

RE: Cease and Desist Demand encroachment on APN 013-091-027 and Removal of improperly/ illegally located district buildings.

Dear Sir,

This letter is to put the San Simeon Community Services District on Notice. The district has constructed its office and Reverse Osmosis Unit in the Pico Avenue road right-of-way and has installed gravel on my private property, APN 013-091-027. As a result my property is now being used for vehicle parking and turnaround traffic. In doing so, the San Simeon CSD has reduced the value of my real property.

I demand:

- 1) Cease and desist the district's encroachment on my property and prevent vehicle use of my property caused by the placement of district facilities in the Pico Avenue public road right-of-way.
- 2) Remove or relocate the district office and Reverse Osmosis facility buildings from the Pico Avenue road right-of-way and the unintended consequence of creating a cul-de-sac for vehicle turnaround use on my property.

A recent survey conducted on behalf of the district by MBS Survey (attached) confirms the encroachments and these improper and illegal property uses by the district.

The highest and best use of my property lies in its zoning for multi-family. It is my desire to build condominiums. Proper ingress and egress will be required on Pico Avenue for any development. The districts two buildings protrude well into the road. If these buildings remain in place, my future development's parking lot may be seen as the only way for nonresident vehicles to turn around at the end of Pico Avenue. This is not acceptable.

Additionally, I object to the district use of its multifamily zoned parcel for public facilities. My development will face the road and the district office and reverse osmosis facility, with its busy activity of trucks and noise, is also detrimental to my property.

It is unclear if the District's obstructions protruding into the road has caused narrowing, which may cause permitting problems, especially in light of the need for emergency vehicles to be able to turnaround at the end of Pico Avenue.

You are in receipt of an email dated May 3, 2021 requesting written acknowledgement of my property rights to APN 013-091-027 and release of any district claims to that land. The district has failed to honor and execute that request. Additionally two telephone calls occurred wherein it was believed a verbal commitment was made to prevent district and vehicle use of my property. The agreement included installing posts and heavy chain along the roadside of my northerly property line. The request to release and the low-cost post and chain barrier were considered reasonable steps to address the physical encroachment of the district on my property. To date, the release letter has not been signed nor has the post and chain barrier been constructed.

The post and chain barrier should be erected immediately by the district and remain in place until the road encroachments have been cured and a turnaround cul-de-sac installed at the end of Pico Avenue.

Additional matters that need to be addressed are related to the encroachment of the district office and the reverse osmosis unit on land that is designated multi-family residential and well into a public road right-of-way. The aesthetics and impacts of these commercial buildings reduce property values in the neighborhood and would not be allowed if Coastal Development Permit/ Minor Use Permits had been required. These structures would not be permitted in residential multi-family zoning land use category and certainly not in a road right-of-way.

More than six months has lapsed since our communications. Nothing has been done and there has been little communication of any value.

I have waited for over 35 years to make use of this property. The district was offered a fair price and financing arrangements to acquire my property. This property could have been rezoned and used for the district office and the desalination building.

It was particularly unnerving to hear the Chair of your Board state, "we will just take my property when we need it," implying the district would use its power of eminent domain to obtain my property.

In closing, consider this a cease and desist demand to vacate APN 013-091-027, install a post and chain barrier and remove the improperly/illegally located district buildings from Pico Avenue.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Minnery', with a long horizontal flourish extending to the right.

Cc: District Legal Counsel, Jeffrey A. Minnery
Board of Directors