

From: <Eyeongovernment@aol.com>
To: <Eyeongovernment@aol.com>
Date: Tue, Oct 18, 2005 4:34 PM
Subject: Taxpayer Watch Alert 10.18.05

For those of you going to the CSD meeting tonight, here is a few questions to ask:

1. What is our current financial situation?
2. Can we now see the alternate plan promised before the election?
3. Ho much do we currently owe our project contractors?

Also, I sent this a few minutes ago:

October 18, 2005

Lisa Schicker, President
Los Osos Community Services District
2122 9th Street
Los Osos, CA 93402

VIA FACSIMILE: 528-9377

Subject: Brown Act Violation Complaint / October 15, 2005 LOCSO Board Special Meeting

President Schicker and Honorable Board,

Congratulations to you on your election to serve as President of the Board and your colleagues on their recent election to the Board.

The task you have taken on is very large and all of our community is depending on you to represent us. However, the public has also been very explicit regarding how an elected body must conduct themselves and prescribed the boundaries of when and how the business of the public is to be conducted. In that regard I am writing to question what appears to be violations of the Brown Act on October 15, 2005. It also appears Board direction from that meeting and the discussion requested for tonight's agenda further compounds that violation.

On behalf of Taxpayers Watch, I therefore urge your Board to correct the violation of October 15, 2005, rescind the action directed during that meeting, and cancel the Special Meeting for tonight.

Our request is based on the following:

The October 15, 2005 Closed Session was Improperly Noticed.

The District Notice (attached) indicated only that the Board would meet for the purpose of a closed session: "Anticipated Litigation - Conference with District Legal Counsel re Significant Exposure to Anticipated Litigation Pursuant to Government Code Section 54956.9b (4 cases)."

The courts have held, the purpose of the Brown Act is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies. (Cohan v. City of Thousand Oaks (1994) 30 Cal.App.4th 547, 555.) To these ends, the Brown Act imposes an "open meeting" requirement on local legislative bodies. (§ 54953 (a); Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109, 1116.) While the Act contains specific exceptions from the open meeting requirements where government has a demonstrated need for confidentiality, these exceptions have been construed narrowly. Thus if a specific statutory exception authorizing a closed session cannot be found, the matter must be conducted in public regardless of its sensitivity. (§ 54962; Rowen v. Santa Clara Unified School District (1981) 121 Cal.App.3d 231, 234; 68 Ops.Cal.Atty.Gen. 34, 41-42 (1985).)

Unfortunately, the report out of Closed Session, and Item 1, LOCSD Special Meeting Agenda for October 18, 2005 demonstrate the inadequacy of the notice of October 15. (See attached article, SLO Telegram Tribune, October 16, 2005). Clearly, the Notice of October 15 as posted does not provide the public with sufficient information to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting. Since it was unclear to the public that your Board intended to initiate administrative action against the State Water Board, Taxpayers Watch urges that you rescind all action from the October 15 meeting, cancel tonight's Special Meeting and re-notice and agendaize an appropriate public hearing.

Government Code Section 54956.9b was Misapplied on October 15, 2005.

The code section used to call the meeting (Government Code Section 54956.9b) is specific to situations where the Board believes it is itself subject to significant exposure to litigation. It is clear that the Direction from the October 15, 2005 Closed Session meeting was exposure to litigation, but to initiate action against the State Water Board.

I therefore request your Board to immediately direct steps to correct the violation of October 15, 2005, rescind actions directed during that Closed Session meeting, and cancel the Special Meeting for October 18, 2005.

Sincerely,

Gordon R. Hensley

Cc: San Luis Obispo County District Attorney

Keep up the Good fight!

Gordon

Taxpayers Watch is an unincorporated association dedicated to protecting the quality of life in Los Osos.

Contact: Gordon Hensley, X-director
Email: Eyeongovernment@aol.com
Phone and Fax: 805-781-9384
Mail: P.O. Box 6884 Los Osos, CA 93412