

Minutes of the Special Board Meeting

Thermalito Water and Sewer District
Minutes of the Special Board Meeting
February 4, 2021 – 3:00 pm

1. CALL TO ORDER

The meeting was called to order by President Hatley at 3:06 pm

1.1 Flag Salute

Manager Boucher led the flag salute

1.2 Roll Call

Present were President Hatley, Vice President Wristen, Director Taggart, Director Latulippe and Director Reynolds. Also present were Attorney Carter, Office Manager Padilla and Manager Boucher.

Chuck Reynolds, Oroville City Mayor and a commissioner of SC-OR, also attended.

2. SC-OR ACTION TO ENGAGE COLE HUBER AS ITS ATTORNEY TAKEN AT ITS MEETING ON JANUARY 27, 2021:

- a. Clarification and possible reversal or rescission of District's Commissioner's vote to engage Cole Huber;
- b. Consideration and possible action to replace District's Commissioner to SC-OR; and,
- c. Consideration and possible action to arbitrate SC-OR's selection and engagement of Cole Huber as its attorney due to its conflict of interest.

Attorney Carter reported that at its meetings in December and January, the Board considered engagement by SC-OR of the law firm of Cole Huber. Concern was expressed about its representation of SC-OR due to the fact Cole Huber is attorney for the City and thus was in a potential conflict of interest in representing SC-OR of which the City is a member. The Board voted unanimously on both occasions to oppose the engagement of Cole Huber as attorney for SC-OR. Carter further noted that the District's opposition to SC-OR's engagement of Cole Huber was presented and thoroughly discussed at the SC-OR meeting that was held on Wednesday, January 27, 2021. He noted, however, that when the matter was called for a vote by SC-OR's commissioners, TWSD's voting Commissioner Susan Latulippe voted to approve Cole Huber as SC-OR's attorney, along with the City and LOAPUD.

Director Latulippe clarified her vote by stating that she had had extensive dental work done that day and was not feeling well. She explained that when the motion was made and the vote called, she voted "yes" thinking that the motion was to not engage Cole Huber and that she felt she was voting consistent with the Board's direction to vote "no" and to look for outside counsel. She confirmed her loyalty to TWSD and acknowledged that while she is honored that Scott Huber represents the City of Oroville, she was concerned as to whom will he be more loyal, the City or SC-OR.

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Attorney Carter stated that the District did not have to act to reverse its vote, given that the “aye” votes of the City and LOAPUD would have been enough to carry SC-OR’s action. He noted, however, that Robert’s Rules of Order allows a member of a body who cast a vote mistakenly or inadvertently to change his or her vote if it is the consensus of the body that they can do such. He had heard from Director Latulippe that her mind was elsewhere during the vote and therefore, if, she wants to change her vote, she can ask to do so on her own volition, but it will require SC-OR Commission consensus for her to do so. If it allows her to change her vote, then her vote would be changed from a “yes” to a “no”. The outcome of the measure would still be the same, namely, two votes to one to engage Cole Huber as the attorney for SC-OR. Nonetheless, it would allow the record to be corrected to reflect the true intention of Commissioner Latulippe.

President Hatley discussed his dilemma with Latulippe seeking to change her vote. First, SC-OR had determined that it is not “illegal” for Cole Huber to represent the City of Oroville and the JPA and secondly, that a Commissioner of the JPA can vote against the wishes of his or her Board if he or she wishes, albeit with possible repercussions from the body he or she represents in so doing. He mentioned that the vote at the TWSD and SC-OR meetings was to be a “no” vote and when it came time to vote, Latulippe’s vote was “yes”. He mentioned that as a matter of law, Director Latulippe is allowed to vote as she wishes.

Director Taggart stated that to represent TWSD on the SC-OR Board, our Commissioner must be responsible and do his or her due diligence. He felt that the SC-OR Commission as a whole could have done a little more research for legal counsel.

Director Wristen concurred with Director Taggart.

Chuck Reynolds then began to speak on the matter. Attorney Carter cautioned him that because he was a Commissioner to SC-OR, as were Directors Latulippe and Hatley, three of the six Commissioners of SC-OR, comprising two of the three voting Commissioners, were present and that while the Brown Act allowed him to attend and observe the Board meeting, it prohibited his participation in its discussion due to the fact that in so doing, a majority of SC-OR’s voting Commissioners would be discussing a matter involving SC-OR in violation of the Brown Act. Reynolds professed his knowledge of the Brown Act informed him he could participate in the debate and not be violation of the Brown Act. Carter advised him that he could do what he wished, but that the Board and particularly its two Commissioners to SC-OR should not respond or otherwise engage in any such discussion with him and that were they to do so, they too would be in violation of the Brown Act since SC-OR had not noticed a meeting for such discussion.

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Reynolds then went on to discuss SC-OR's engagement of Cole Huber. At times his remarks became contentious and personal, prompting similar responses from certain Directors. Chair Hatley then called a recess.

Upon resumption of the meeting, Chair Hatley asked that all present act civilly. After further discussion, it was the consensus of the Board that if Director Latulippe wanted to correct her vote at SC-OR, it was up to her. President Hatley emphasized that this was solely in her discretion with no pressure from the Board. President Hatley stated that no other action was taken on this item.

The Board then agreed that after hearing clarification from Director Latulippe regarding her position at the January 27th SC-OR meeting, her "yes" vote did not constitute cause for removing her from the SC-OR Commission. However, Director Latulippe stated that she would prefer to be TWSD's alternate Commissioner to SC-OR. The Board unanimously agreed to have Director Latulippe remain on the SC-OR board as the alternate member, with Director Hatley being the voting member for TWSD.

Attorney Carter reported that if the Board were considering arbitration, the JPA allowed such if there are any disputes between the SC-OR agencies as to action taken by SC-OR. He mentioned, however, that after listening to the Board, it appeared that there was no desire to arbitrate the matter. The Board agreed to not move forward with arbitration.

3. **ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 4:39 pm.


Secretary of the Board


President of the Board