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November 17, 2014

To: Board of Directors, Marina Coast Water District
From: Jeanine DeBacker, Special Legal Counsel
Subject: Director Comments Regarding Staff

Special Legal Counsel received a complaint regarding Director Peter Le's comments and conduct during a November 5, 2014 negotiation meeting between the District and the Monterey Regional Water Pollution Control Agency.

The following individuals were at the meeting: Director Peter Le, President Tom Moore, Interim General Manager Brian Lee, PCA Director Libby Downing (City of Monterey), PCA Director Ron Stefani (Castroville Community Services District), PCA General Manager Keith Israel, PCA DGM Paul Sciuto, and PCA employee Bob Holden.

I spoke with, or received an email response from, four attendees of the meeting – President Moore, IGM Lee, Director Downing and PCA General Manager Israel. Each attendee confirmed that during the meeting, IGM Lee sought to verbally correct a statement or assertion made by Director Le. In response, Director Le told IGM Lee to "Shut Up!" Three of the four attendees stated that Director Le also said, "You aren't even authorized to be here. I'm allowing you to be here!" and "I am a Director. You don't interrupt me." All of the witnesses said that the statements were yelled (or screamed) at IGM Lee.

I confirmed that on November 3, 2014, President Moore asked IGM Lee to attend the meeting.

On November 13, 2014, Special Legal Counsel emailed Director Le informing him that a complaint had been made about conduct at the meeting and possible noncompliance with the Board Procedure Manual regarding criticizing staff in public. Director Le was invited to provide his version of events. No response was received as of the date of this memorandum.

Rules Governing the Directors

Section 5 of the Board Procedures Manual provides that “The Board is committed to providing a work environment free of harassment, disrespectful or other unprofessional conduct.”

Section 13 of the Board Procedures Manual provides that “The Board and the individual board members will be committed to establishing and maintaining an environment that encourages the open exchange of ideas and information among Board members, the staff and the public, that is positive, honest, respectful, concise, understandable, responsive and cost-efficient.”

Section 15 of the Board Procedures Manual states: “Board members shall refrain from publicly censuring or criticizing members of the District staff, but shall instead relay any criticism or problems relating to staff members or the General Manager to the General Manager through private discussions.”

Potential Board Actions in Response

The Board may elect to take any, all, or none of the following options: additional training for all or some Directors; public censure of a Director; removal of a Director from committees and positions for a period of time; preventing a Director from placing items on the agenda without authorization for a period of time.

The Board may elect to publicly censure a Director for his conduct, as well as removing him from committees and positions for a limited period of time and/or limiting his ability to place items on the meeting agenda for a limited period of time.

The Board Procedures Manual provides that “If a Director breaches any of the policies contained in Sections 5 [Harassment-Free Work Environment] . . . 13 [Communications]. . . [and] 15 [Comments by Directors Concerning Staff Members]. . . the Board may, in addition to any other consequences provided by law, publicly censure the offending Director and may as part of the censure take any or all of the following other actions, to be effective for a time determined by the Board: (a) remove the offending Director from committees and representative positions to which the Director has been appointed or designated by the Board, and/or (b) prevent the offending Director from placing items on the agenda without the specific, advance authorization of the Board. (Section 43)

Conclusion

When considering the options above, please recall past presentations regarding the obligation of each Director to protect staff privacy, to undertake reasonable care to prevent and promptly correct harassment, and to act with professionalism and respect.

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