



February 13, 2018

TO: LOCSD Board of Directors

FROM: Roy Hanley, Legal Counsel

SUBJECT: Agenda Item 12E – 4/5/2018 Board Meeting
Discussion Regarding the Continuation of Emergency Services
Advisory Committee Meetings

President
Vicki L. Milledge

Vice President
Marshall E. Ochylski

Directors
Charles L. Cesena
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DESCRIPTION

This item requests that the Board of Directors to exercise its discretion as to whether or not to continue the use of an emergency services advisory committee. Additionally, if the Board decides to continue using such an advisory committee, the President of the Board may make an appointment of a Board member to the committee (subject to the usual rules regarding ratification) and the Board may discuss what issues to assign to that committee for the committee to address and make recommendations to the Board upon.

STAFF RECOMMENDATION

There is no recommendation from legal counsel on this matter. The Board of Directors is legally free to make any decision it wants to on this matter. No form of resolution is required for any decision. Legal counsel does recommend that in the event the Board desires to take action, a clear motion is made and voted upon.

DISCUSSION

The Board, at its February 1, 2018 Board meeting, discussed appointments of Board Members to the various advisory committees and other bodies to which appointments are regularly made. Board President Milledge did not make an appointment to the Emergency Services Advisory Committee. There was some brief discussion about making an appointment, or whether or not to consider not having the committee. The Board directed that the matter be put on the agenda at a future meeting for action.

Some brief history, at least from the perspective of legal counsel (the author of this staff report) is in order. This portion of the report is intended to address only the issue of how the issue of not continuing with the committee came about. The Board of Directors should bear in mind that although the reserve firefighters do indeed work for the Los Osos Community Services District, San Luis Obispo County Fire Department (SLOCFD)/Cal Fire employees do not. The LOCSD does indeed have the power as a community services district to provide fire services. The LOCSD has chosen to do so pursuant to a contractual relationship with the SLOCFD which in turn contracts for emergency services with Cal Fire.

The service area of what we commonly refer to as the Fire Department is much greater than the boundaries of the Los Osos Community Services District. This is not an unheard of approach to providing fire services. Avila Valley Community Services District also contracts with the SLOCFD/Cal Fire and the City of Pismo Beach currently contracts directly with Cal Fire.

At some point in time during the last fiscal year SLOCFD/Cal Fire expressed some concerns to the General Manager and to one or more Board members about the Emergency Services Advisory Committee, specifically the mandatory need to attend them. Either the General Manager or one or more Board members requested SLOCF/Cal Fire to put their request not to have to attend ESAC committee meetings in writing. Pursuant to that request a written request was submitted in letter form. The letter was mentioned at the February 1 Board meeting and is attached to this report as an exhibit.

The District By-Laws are clear. The Board of Directors is free to establish or abolish advisory committees at any time. Although formal action in either direction must be taken at a duly noticed meeting, there are no legal requirements that such advisory committees exist, continue and there are no formal requirements to follow if such a committee is abolished. The power to abolish necessarily implies the power to suspend as opposed to abolish as well.

The law is also clear that there is no mandate that the advisory committee be abolished or suspended. The Board of Directors is legally free to continue to have an emergency services advisory committee and may charge it with giving advice on any matters that the Board sees fit to assign it. The Board may direct District staff to administer the committee and may request Cal Fire to attend such committee meetings. The District may not compel employees of Cal Fire to attend such meetings.

FINANCIAL IMPACT

Legal Counsel has not quantified the monetary effect of having the Emergency Services Advisory Committee. Staffing the committee does take staff time, and does require overtime for any non-exempt employee that staffs the meeting. Independent Contractors such as the General Manager and Legal Counsel are not entitled to overtime, although Legal Counsel bills hourly. Legal Counsel is not qualified to evaluate the financial benefit of having the advisory committee.

Attachment – SLO County Fire Department Letter dated June 26, 2017



CAL FIRE
San Luis Obispo
County Fire Department

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Scott M. Jalbert, Unit Chief

June 26, 2017

John Eric Storm, President
Los Osos Community Services District
2122 9th St.
Los Osos, CA 93402

President Storm,

I would like request that the attendance of the North Coast Battalion Chief and/or the Coastal Division Chief at the Emergency Services Advisory Committee (ESAC) meetings be discontinued.

For the past 13 years, we have proudly served as your fire department and subject matter experts on public safety. We have demonstrated good operational and business practices along with having a positive working relationship with the general manager.

Our staff provides your board with recommendations, information, and guidance. I feel that the best model to provide this service is to solely work with the general manager. Face to face interaction can be done easily with the district general manager as the North Coast Battalion Chiefs Headquarters is at Station 15, less that a ¼ mile away. This allows direct communications to address our needs, or to receive direction that is related to the emergency service operations of the district, thus eliminating the additional process of the ESAC meetings.

As both the battalion chief and division chief have other CAL FIRE and County Fire responsibilities, time management is an issue. I feel that the ESAC meetings are a duplication of effort as the battalion chief, and or division chief also attend the monthly district board meetings. By eliminating the attendance of the ESAC meetings, we can reduce our time commitment and be more efficient as it pertains to governance.

Respectfully submitted,

Scotty Jalbert, Unit Chief
San Luis Obispo County Fire Department