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March 9, 2018

VIA EMAIL, FACSIMILE: (760) 765-3786
AND CERTIFIED MAIL - RRR

Julian-Cuyamaca Fire Protection District
Board of Directors
c/o Jack Shelver, President
P.O. Box 33
Julian, CA 92036-1623

VIA EMAIL ONLY: CHIEFMARINELLI@JCFPD.COM

Rick Marinelli
Fire Chief

Re: Julian Volunteer Fire Company Association
Our File No. 6160

Dear Mr. Shelver:

Pursuant to Government Code § 54960.1(b), on behalf of the Julian Volunteer Fire Company Association ("Association"), we hereby formally demand that the Board of Directors of the Julian-Cuyamaca Fire Protection District ("Board"), cure the Board's actions taken in violation of §§ 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 of the Ralph M. Brown Act, Government Code §§ 54950 et seq. ("Brown Act" or "Act"). Also, pursuant to § 54960.2 of the Act, the Association demands an unconditional commitment to cease its past practices that constitute continuing violations of the Brown Act. **Further, the Board is reminded of its obligation to preserve all of its records, including outgoing and incoming communications, including emails, pursuant to its legal obligations.**

BROWN ACT VIOLATIONS

The Preamble to the Brown Act states:

Public commissions, boards, councils and other legislative bodies of local government agencies exist to aid in the conduct of the people's business. The people do not yield their sovereignty to the bodies that serve them.

The people insist on remaining informed to retain control over the legislative bodies they have created.

Gov. Code § 54950

That central premise of the Brown Act was reiterated in one of the opinions of California Attorney General (“AG”) on the Act, in which the AG stated:

The purposes of the Brown Act are to allow the public to attend, observe, monitor, and participate in the decision-making process of government. Not only are the actions taken by the legislative body to be monitored by the public but also the deliberations leading to the actions taken...” The term ‘deliberation’ has been broadly construed to connote ‘not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision.’” [citations omitted]

84 Ops.Cal.Atty.Gen 30 (2001)

The actions of the Board of Directors of the Julian-Cuyamaca Fire Protection District over the past several months have completely and utterly failed to follow the purpose of the Brown Act and the Legislature’s intent behind its enactment. This demand is based on the following violations of the Act by the Board:

1. On or about January 30, 2018, a majority of the board members e-mailed each other to develop a collective concurrence as to action to be taken by the Board which is a violation of § 54952.2(b). 84 Ops.Cal.Atty.Gen 30 (2001). The matter at issue was to restrict a Board member from his right to fully participate in Board decisions. **Attached hereto as Exhibit 1 and Exhibit 2, respectively, are the email exchange containing the January 30, 2018 email, and the Attorney General Opinion.**
2. The Agenda for Regular Meeting of the Julian Cuyamaca Fire Protection District Board of Directors for February 13, 2018 contained Item 14 – “San Diego Fire Authority-LAFCO negotiation/application for dissolution Presenter - Jack Shelver.” The item was put on the Agenda without any discussion or public input, which circumvented and violated the Brown Act requirement of the public participation in the decision-making process of government as required under California law. This was an especially egregious violation of the Brown Act as the Board had already voted against the dissolution of the District back in September of 2017 with a huge input from the members of the public. Then the Board voted two more times to stay independent.

Item 14 was misrepresented by the Board President, Jack Shelver, as a motion to continue or resume negotiations with the County to understand the terms and conditions of the dissolution of the District as evidenced by the transcript of the minutes from the February 13 meeting:

“...motion before us is that we enter negotiations with the county no we don't know we don't I'll call for the vote to enter negotiations with the county so that we know what we're dealing with we can have another meeting then once we know what the information that we have which we don't know right now all those in favor of the motion say aye i motion posed the motion carries we will learn what the conditions of dissolution no we're not no we are not we have we're going to move the agenda long....”

After the motion passed, Mr. Shelver stated the following:

“...just so you all understand the action that was taken it was to inform LAFCO that we intend to consider dissolution and want to negotiate the conditions so we can decide whether we want to or not is that clear enough.”

Either the other Board members knew what they were voting on through prior discussions without a public meeting in violation of § 54953(a), or they believed they voted on a different motion. But whether the Board voted to negotiate conditions of the dissolution, or to “just” inquire about the terms and conditions of a possible dissolution before deciding to dissolve, the public was neither informed of the deliberation on either issue, nor participated in the decision-making process. By making the decision to reconsider dissolution behind the public’s back (without discussion), the Board committed a serious violation of the Brown Act, and it needs to void the action taken. If the Board members were misled as to what they were voting on, the Board likewise has the duty and obligation to cure this violation with the public input and involvement after it voids the action taken.

3. The minutes from the regular Board meeting held on December 12, 2017 reflect that the Board had a closed session vote on a general employment matter – whether a paid Paramedic/EMT could also work as a volunteer. A general employment policy such as this, versus, for example, a discussion about a specific employee is not a closed session matter under the Personnel Exemption (§ 54957), and thus constitutes a violation of § 54953(a). The Board must cure this by voiding the action, allowing public discussion and comment, and voting on it in an open session. **Attached hereto as Exhibit 3 are the December 12, 2017 meeting Agenda and minutes.**
4. In a January 7, 2018 San Diego Union Tribune article, the reporter stated that, “The Julian District did opt to remain with CalFire’s dispatching service.” However, the Agenda item to approve Cal Fire dispatch was not on until the January 9, 2018 Board meeting, which was after the article was published. This is yet another serious violation of the main purpose of the Brown Act to “allow the public to attend, observe, monitor, and participate in the decision-making process of government,” and violation of §§ 54954.2, and 54954.3 pertaining to posting of agendas at least 72 hours prior to meeting, and giving the public an opportunity to address the legislative body on any agenda item of interest to the public. **Attached hereto as Exhibit 4 is the January 7, 2018 San Diego**

Union Tribune article, and January 9, 2018 meeting Agenda and minutes.

5. At the October 10, 2017 Board meeting, the Board approved a new “Agenda Policy,” which requires that any Board member who wishes to place an item on the Agenda must have the concurrence of one other Board member, with a written request then submitted to the Board President for approval. This requirement is virtually tantamount to a Brown Act violation as it forces the Board members to violate the Act by forcing them into having private discussions prior to a meeting to secure another Board member’s support in placing the item on the Agenda. **Attached hereto as Exhibit 5 is the Agenda Policy approved on October 10, 2017.**

DEMAND

The Association demands that, pursuant to § 54960.1(b) of the Brown Act, the Board correct the violations of §§ 54953 and 54954.2 within 30 days. The Association also demands from the Board, pursuant to § 54960.2, an unconditional commitment to cease, desist from, and not repeat the past violations of the Brown Act as described above.

The Association is ready and fully prepared to commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping and preventing the Board’s violations of the Brown Act, or to invalidate the Board’s past actions pursuant to § 54960, if the Board fails to correct the violations and resolve to adopt an unconditional commitment not to repeat the past violations.

Sincerely,



Marek Pienkos, Esq.

cc: Julian Volunteer Fire Company Association

EXHIBIT 1



Brian Kramer <colobiker@gmail.com>

Agenda Item

Chief Marinelli@JCPFD.com <ChiefMarinelli@jcpfd.com>

Sat, Feb 3, 2018 at 9:08 AM

To: Jack Shelver <jackshelver@outlook.com>, Aida Tucker <grammaaida@gmail.com>, Kirstin Starlin <k5starlin@att.net>,

Brian Kramer <colobiker@gmail.com>, 71jvf <bseifert71@mindspring.com>

Cc: Jennifer Lyon <jlyon@mcdougallove.com>

Board members,

Please see the email from Jennifer pertaining to emails between Board members.

Chief

----- Forwarded message -----

From: **Jennifer Lyon** <jlyon@mcdougallove.com>

Date: Sat, Feb 3, 2018 at 8:23 AM

Subject: RE: Agenda Item

To: Rick Marinelli <chiefmarinelli@gmail.com>

Cc: "Chief Marinelli@JCPFD.com" <ChiefMarinelli@jcpfd.com>, Gena Burns <gburns@mcdougallove.com>

Hi Chief, We will have some advice for you early this week, but it seems like the email chain below includes more than 2 boardmembers. It is fine for you to send emails to more than 2 boardmembers, but they should not respond and copy other boardmembers. I can't tell from the email addresses below, but it seems like there was a reply by a boardmember which included other boardmembers. Please caution them about this. Thanks.

Jennifer

MCDUGAL LOVE BOEHMER
FOLEY LYON & CANLAS |||||

Jennifer M. Lyon

Partner

619.440.4444 p | 619.440.4907 f

La Mesa Village Plaza

8100 La Mesa Boulevard, Suite 200

La Mesa, CA 91942

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From: Rick Marinelli [mailto:chiefmarinelli@gmail.com]
Sent: Tuesday, January 30, 2018 4:01 PM
To: Jennifer Lyon
Cc: Chief Marinelli@JCPFD.com; Gena Burns
Subject: Re: Agenda Item

Correct on the date but cut off for agenda topics is close of business on the 6th so missy can finalize and post on the 8th since she is off on Friday's

Sent from my iPhone

On Jan 30, 2018, at 3:47 PM, Jennifer Lyon <jl Lyon@mcdougallove.com> wrote:

Chief, We will look into the conflict of interest aspect. Your next board meeting is not until 2/13, right? I assume that means the agenda will be posted on 2/9, is that right?

Jennifer

<image001.gif>

Jennifer M. Lyon

Partner

619.440.4444 p | 619.440.4907 f

La Mesa Village Plaza

8100 La Mesa Boulevard, Suite 200

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From: Chief [Marinelli@JCPFD.com](mailto:ChiefMarinelli@jcpfd.com) [<mailto:ChiefMarinelli@jcpfd.com>]
Sent: Tuesday, January 30, 2018 3:27 PM
To: Jennifer Lyon; Gena Burns
Subject: Fwd: Agenda Item

Hi Jennifer and Gena,

This seems to never stop. Please see the string of emails above. Kirsten is also a District Board member. She feels its a conflict for Brian (District Fire Board Member, volunteer firefighter and Volunteer Firefighter Association Board member) to take part in this topic because of the action the Volunteer Firefighter Association took against the District.

Kirsten is asking for attorney advice.

Thanks,

Rick

----- Forwarded message -----

From: Kirsten <k5starlin@att.net>
Date: Tue, Jan 30, 2018 at 3:00 PM
Subject: Re: Agenda Item
To: "Chief [Marinelli@JCPFD.com](mailto:ChiefMarinelli@jcpfd.com)" <ChiefMarinelli@jcpfd.com>
Cc: 71jvf <bseifert71@mindspring.com>, Aida Tucker <grammaaida@gmail.com>, Jack Shelver <jackshelver@outlook.com>

My feeling is that he should not be allowed to have any part in any discussion considering this subject. He should not be allowed to add any item to the agenda concerning said subject. It is a MAJOR conflict of interest as he is part of the claim by being on the JCF association board. Do we need to seek legal advice on this and instruction on banning him from said discussions? I honestly don't know what to do with him but I have major issues with this whole thing!

Kirsten

----- Original Message -----

From: Chief Marinelli@JCPFD.com

Cc: 71jvf ; Aida Tucker ; Kirstin Starlin ; Jack Shelver

Sent: Tuesday, January 30, 2018 2:29 PM

Subject: Re: Agenda Item

This is not a surprise. Brian has been harassing me ever since this fire authority thing started. He has been working with employees, Pat Landis and the Firefighter Association to try and harass me as much as possible. Since Brian is both a volunteer and fire association board member that claims to have written the vote of no confidence letter he should not be involved with and litigation between the District and the Firefighter Association because he is biased. Now he is pushing for me to be on admin leave while an investigation is launched. The same thing Pat Landis was going to post but no reputable paper posted.

I am looking for some support from the rest of the board. I do not want to seek legal counsel and I have never had to do it before but this needs to stop. Launching some crazy investigation will just result in more lies about me from the same people who started spreading them in the first place.

Just a word of caution because I have seen this before. The BOD (You) is in control of the District, not the Julian Volunteer Firefighter Association. What is happening now with Jack and I is nothing more than extortion. If you submit to their demands they will be in control and every time you make a decision they do not agree with this type of thing will happen. I say, let them file their law suits and let a judge decide.

Chief

On Tue, Jan 30, 2018 at 2:09 PM, BKramer@JCPFD.com <bkramer@jcpfd.com> wrote:

I would like to add an agenda item-

Discussion of the other/new claim against JCPFD and Chief Marinelli from Grady and Associates with regards to the VONC and the Fire Fighter Association. This item is pertinent to discussions about the job of Chief Marinelli and if he should continue in the position while under investigation.

--

Brian Kramer

JCPFD Board Member

Volunteer Firefighter

www.JCFPD.com



EXHIBIT 2

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

BILL LOCKYER
Attorney General

OPINION	:	No. 00-906
	:	
of	:	February 20, 2001
	:	
BILL LOCKYER	:	
Attorney General	:	
	:	
CLAYTON P. ROCHE	:	
Deputy Attorney General	:	
	:	

THE HONORABLE WESLEY CHESBRO, MEMBER OF THE STATE SENATE,
has requested an opinion on the following question:

May a majority of the board members of a local public agency e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board?

CONCLUSION

A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board.

ANALYSIS

The Ralph M. Brown Act (Gov. Code, §§ 54950-54962; "Brown Act")¹ generally requires the legislative body of a local public agency to hold its meetings open to the public. (§§ 54951, 54952, 54953, 54962.) Agendas of the meetings must be posted (§§ 54954.1, 54954.2), and members of the public must be given an opportunity to address the legislative body on any agenda item of interest to the public (§ 54954.3).

The purposes of the Brown Act are thus to allow the public to attend, observe, monitor, and participate in the decision-making process at the local level of government. Not only are the actions taken by the legislative body to be monitored by the public but also the deliberations leading to the actions taken. (See *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 373, 375; *Frazer v. Dixon Unified School Dist.* (1993) 18 Cal.App.4th 781, 795-797; *Stockton Newspaper, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 100; *Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs.* (1968) 263 Cal.App.2d 41, 45.) "The term 'deliberation' has been broadly construed to connote 'not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision.' [Citation.]" (*Rowen v. Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234; see *Roberts v. City of Palmdale, supra*, 5 Cal.4th at p. 376.)

The question presented for resolution concerns e-mail messages between members of the board of a local public agency. May a majority of the members e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Brown Act if the e-mails are sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the agency? We conclude that such conditions would not be sufficient to prevent a violation of the Brown Act.

The statute governing our discussion is section 54952.2, subdivision (b), which

¹ All references hereafter to the Government Code are by section number only.

provides:

“Except as authorized pursuant to Section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.”

Section 54953 concerns the use of teleconferencing procedures and has no application to the situation presented herein.

In analyzing the language of section 54952.2, we may apply well recognized principles of statutory construction. We are to “ascertain the intent of the Legislature so as to effectuate the purpose of the law.” (*DuBois v. Workers' Comp. Appeals Bd.* (1993) 5 Cal.4th 382, 387.) “The words of the statute are the starting point.” (*Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 977.) “Words used in a statute . . . should be given the meaning they bear in ordinary use. [Citations.] If the language is clear and unambiguous there is no need for construction, nor is it necessary to resort to indicia of the intent of the Legislature” (*Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735.)

Applying these rules of construction to the terms of subdivision (b) of section 54952.2, we find that the sending of e-mails would be the “use of . . . technological devices.” The statutory prohibition applies to such use “by a majority of the members of the legislative body.” Anything less than a majority is not covered by the statute. (See *Roberts v. City of Palmdale*, *supra*, 5 Cal.4th at pp. 375-377; *Frazer v. Dixon Unified School Dist.*, *supra*, 18 Cal.App.4th at p. 797.) Here, we are given that a majority of the board members are sending e-mails to each other.

As for the requirement that the e-mails be employed “to develop a collective concurrence as to action to be taken on an item,” we note that such activity would include any exchange of facts (see *Roberts v. City of Palmdale*, *supra*, 5 Cal.4th at pp. 375-376; *Frazer v. Dixon Unified School Dist.*, *supra*, 18 Cal.App.4th at p. 796) or, as we have previously explained in our pamphlet on the Brown Act, substantive discussions “which advance or clarify a member’s understanding of an issue, or facilitate an agreement or compromise amongst members, or advance the ultimate resolution of an issue” (Cal. Dept. of Justice, *The Brown Act, Open Meetings For Local Legislative Bodies* (1994), p. 12) regarding an agenda item.

We find no distinction between e-mails and other forms of communication such as leaving telephone messages or sending letters or memorandums. If e-mails are employed to develop a collective concurrence by a majority of board members on an agenda item, they are subject to the prohibition of section 54952.2, subdivision (b). Application of the statute

in such circumstances furthers the “broad policy of the act to ensure that local governing bodies deliberate in public.” (*Roberts v. City of Palmdale*, *supra*, 5 Cal.4th at p. 373; see *Frazer v. Dixon Unified School Dist.*, *supra*, 18 Cal.App.4th at pp. 794-795; *Stockton Newspapers, Inc. v. Redevelopment Agency*, *supra*, 171 Cal.App.3d at p. 100; *Sacramento Newspaper Guild v. Sacramento County Board of Suprs.*, *supra*, 263 Cal.App.3d at p. 45).

We recognize that the three conditions of (1) concurrently sending copies of the e-mails to the secretary and chairperson of the agency, (2) concurrently posting the e-mails on the agency’s Internet website, and (3) reporting the contents of the e-mails at the agency’s next public meeting would allow the deliberations to be conducted “in public” to some extent. Nevertheless, the deliberations would not be conducted as contemplated by the Brown Act. Members of the public who do not have Internet access would be unable to monitor the deliberations as they occur. All debate concerning an agenda item could well be over before members of the public could be given an opportunity to participate in the decision-making process. (See *Frazer v. Dixon Unified School Dist.*, *supra*, 18 Cal.App.4th at p. 794; Cal. Dept. of Justice, *The Brown Act, Open Meetings For Local Legislative Bodies*, *supra*, p. 12.) Subdivision (b) of section 54952.2 is straightforward and unambiguous. The proposed conditions satisfy neither the specific language nor all the critical purposes of the statute.

We thus conclude that a majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency’s Internet website, and a printed version of each e-mail is reported at the next public meeting of the board.

EXHIBIT 3

**WELCOME TO THE JULIAN CUYAMACA FIRE PROTECTION DISTRICT
BOARD OF DIRECTORS MEETINGS**

**Regular Meeting of the Julian Cuyamaca Fire Protection
District Board of Directors**

Tuesday, Dec.12th, 2017 at 10:00 A.M.

Amended Minutes

Date changed 1.9.18 by Marcia Spahr, District Secretary

**Julian Cuyamaca FPD
Station 56
3407 Hwy.79 South
Julian CA 92036**

CALL TO ORDER/ROLL CALL

Meeting called to order @ 10:05 AM

Roll call: Jack Shelver. Buddy Seifert. Brian Kramer. Kirsten Starlin. Aida Tucker
Staff: Rick Marinelli. Marcia Spahr

PROCEDURES FOR ADDRESSING THE BOARD

Each speaker is allowed three (3) minutes to address the Julian Cuyamaca Fire Protection District Board of Directors. There are three major components of the Agenda:

ORAL COMMUNICATIONS: 15 minutes are set aside at each meeting for citizens who wish to address an issue not on the agenda. The law precludes the Board from taking action upon such non-agenda items. These items will be referred to the Fire Chief. Time donations are not permitted during Oral Communications. Please submit a speaker slip to the District Secretary prior to the Board meeting.

CONSENT CALENDAR: Items on each Consent Calendar are matters which are routine. and it is anticipated they will not be discussed separately. With a motion "to adopt the Consent Calendar" the Julian Cuyamaca Fire Protection District Board of Directors approves all Consent Calendar Staff recommendations. as shown on the agenda. Items may be removed for discussion by submitting a speaker slip to the District Secretary. NOTE: A MAXIMUM OF TWO TIME DONATIONS PER SPEAKER (9 MINUTES TOTAL)

REGULAR AGENDA ITEMS: If you wish to address any item on the Regular agenda. please submit a speaker slip to the District Secretary prior to the Chair announcing the agenda title. NOTE: A MAXIMUM OF TWO TIME DONATIONS PER SPEAKER (9 MINUTES TOTAL)

A Copy of the board meeting packet may be viewed by the public at the Julian Cuyamaca Fire Protection District.

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT LAWS: Government's duty is to serve the public. reaching its decisions in full view of the public. Commissions. boards. councils and other agencies of the District exist to conduct the people's business in accordance with the Brown Act and other State laws.

Any writings or documents provided to a majority of the Julian Cuyamaca Fire Protection District Board of Directors regarding any item on this agenda received within 72 hours prior to the meeting will be available for public inspection at the Julian Cuyamaca Fire Protection District office during normal business hours.

The above-mentioned agency is an equal opportunity public entity and does not discriminate on the basis of race. color. national origin. sex. religion. age or disability in employment or the provision of service. In compliance with the Americans with Disabilities Act. if you need special assistance to participate in these meetings. please contact the Fire Protection District office at 760-765-1510

The Julian Cuyamaca Fire Protection District Board of Directors welcomes you and encourages your continued interest and involvement in the town's decision-making process.

ORAL COMMUNICATIONS (15 MINUTES)

(A Maximum of 3 minutes per speaker)

Toni Harden
Steve Austin
Thayer Brehm
Monica Gallina
Ingrid Englund
Bob Redding
Bill Everett
Heather Rowell

CHANGES TO THE AGENDA

(Items removed by the public will be heard immediately after the adoption of the consent calendar)

CONSENT CALENDAR

Brian Kramer motion to approve consent calendar. 2nd by Aida tucker. All Ayes/No Nays

AGENDA TITLE	STAFF RECOMMENDATION
1. Approval of Minutes Nov 14th.2017 meeting Contact Person: Marcia Spahr	Approve Meeting Minutes
2. Approval of Financial Report as of Oct.31st. 2017 Contact Person: Marcia Spahr	Approve Financial Report
3. Communications Report Contact Person: James Stowers	Report Included
4. Training Report Contact Person: James Stowers	Monthly Calendar/ Report Included
5. Reserve Report Contact Person: Nathan Duggie-Carr	Monthly Calendar/ No Report Submitted
6. EMS Report Contact Person: Karen Kiefer	Monthly Calendar/ Report Included
7. Explorer Report Contact Person: Jason Kuiper	No Report Submitted
8. CERT Report Contact Person: Sheana Fry & Brian Kramer	No Report Submitted

CONSENT CALENDAR ITEMS REMOVED BY THE PUBLIC

CONSENT CALENDAR ITEMS REMOVED BY BOARD MEMBERS

Chief and Board Reports

<p>9.Chief's Report</p>	<p>1.Annual boot drive was successful. Shopped at Walmart. which includes a 10% discount. Equivalent to approximately 100.00 per child for total of 40 kids.</p> <p>2.Well Shed- Volunteer Association did not get built but did purchase/donate materials. Contractor had to be hired to finish shed due to the weather and more materials were needed additionally. Still needs electrical.</p> <p>3.Hired new Battalion Chief and went over new staffing plan. Dry run in December. Duty Chief every day. 24 hr. shift. includes Chief Rick Marinelli. Battalion Chief James Stowers and Battalion Chief Mike Van Bibber. Duties divided.</p> <p>4.Staffing plan- Hard covered and soft covered. Did good thus far in December.</p> <p>5.First Responder Medical Course mandatory to all personnel. Jason Kuiper heading it up and it covers a lot of material.</p> <p>6.GEMT Grant- Applied for new fiscal year to recover approximately \$35,000.00 for costs not paid for by Medical/Medicare</p> <p>7.Final on Construction-Grading/Landscaping Engineer would not sign off. Had to pay County another \$2500.00 for inspection. Think we are done now.</p> <p>8.Recycling plan at new station implemented by Missy.</p> <p>9.Camp Cuyamaca- Rick on site to review Shelter-in-place strategies. Suggested contingency plans since they really do not have any in place and got them in touch with Cal-Fire for assistance.</p> <p>10.VFA grant- Approved to purchase 4 new hose packs.</p> <p>11.Homeland Security Grant- In process of applying for. Pat Vanetta volunteered to look into FEMA Grant.</p> <p>12. Kumeyaay Tribe- Place set at new station for Mosler Memorial Boulder</p> <p>13.Chief Marinelli on vacation Dec.21-28th. During</p>
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(9. continued)	<p>that time Battalion Chief Stowers will be in charge.</p> <p>14. Workers Compensation- Rebecca Luers. JCFPD's CPA. reported on addressing with the County for reimbursement of the portion they owe JCFPD for 2015.2016.2017 Fiscal Years. 2017 had to be projected since County contracts end with us 12.31.17 at midnight and we won't have had Workers Compensation Audit by then for that fiscal year. Opened back up 2015 Audit for requested reclassification for County Employees that are paid and reimbursed for by County. County eager to receive the invoice and get it paid to us. \$17,000.00 is County portion of the \$31,000.00 that we were under paid. Modification rate for volunteers and/or reserves is around \$850.00 per year regardless if work 1 day or more days. It does affect our overall budget of many volunteers/reserves we have. hire. train. That and any injuries that could and do occur.</p>
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New Business

<p>10. Letter of Intent for dispatch service Presenter- Chief Marinelli</p>	<p>1. Brian made motion to approve amended consent calendar. Buddy 2nd. Amendment as follows: Have Chief Marinelli to write Letter of Intent to negotiate with Monte Vista while we look into other dispatch services and form a committee to get the evidence together and present it to the Board. All Ayes -Jack Shelver. Kirsten Starlin. Buddy Seifert. Brian Kramer. No Nays/1 Absent. Aida Tucker. Motion carries</p>
<p>11. San Pasqual potential Water Tender donation Presenter- Chief Marinelli</p>	<p>1. Brian made motion to approve amended consent calendar. Buddy 2nd. Amendment as follows: Have Chief Marinelli move forward and talk to San Pasqual about the \$40,000.00 donation. see if we can earmark for water tender and hold it until a later time when budget can afford a water tender or until we can find a suitable one. All Ayes- Jack Shelver. Kirsten Starlin. Buddy Seifert. Brian Kramer. No Nays/1 Absent. Aida Tucker. Motion carries.</p>

OLD BUSINESS

<p>12. Discussion of meeting minutes- Presenter- Brian Kramer</p>	<p>1. Missy has been instructed- No Action Taken</p>
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PUBLIC HEARING

<p>13. Adopt Ordinance to move location of BOD meeting. Presenter: Chief Marinelli</p>	<p>1. Public Hearing- Motion to Adopt Ordinance. Buddy Seifert close Public Hearing. 2nd Kirsten Starlin. All Ayes/No Nays. Motion carries. Buddy Seifert motion to Adopt Ordinance. 2nd Aida Tucker. All Ayes/No Nays. Motion carries.</p>
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CLOSED SESSION

14.CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)-1 case Existing facts and circumstances pursuant to Government Code section 54956.9(e)(1)	1.Closed Session at 12:30 pm. Out of closed session and opened back up at 1:11 pm. Buddy Seifert Motion to discontinue old policy and implement new policy of Volunteer/Reserve OR part-time paid Medic/EMT. Can not be hired for both. 2 nd Aida Tucker. All Ayes/No Nays. Motion carries.
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Kirsten Starlin motion to adjourn meeting. 2nd Buddy Seifert. Meeting adjourned at 1:14 pm

ADJOURNMENT

Next meeting to be held at 10:00 AM on Jan.9th, 2018

Items for Future Agenda

- 1.
- 2.
- 3.
- 4.
- 5.

EXHIBIT 4

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Julian fire department rebuffs county's offer, opts to remain independent



The Julian-Cuyamaca Fire Protection District has once again opted not to join the county's Fire Authority and will lose a fire engine, paramedics and other benefits it has enjoyed the past two years as a result. (J. Harry Jones /U-T)



By **J. Harry Jones**

JANUARY 7, 2018, 1:55 PM

On Jan. 1, the Julian-Cuyamaca Fire Protection District — the county's last independent volunteer fire department — gave up the only fully staffed paramedic fire engine based in its 87-square-mile coverage area.

That leaves just one ambulance to service the popular tourist destination, leaving open the potential for no immediate medical coverage for up to an hour in an area that attracts thousands of visitors eager to sample the town's signature apple pies, shop and hike the trails.

It's a risk that a majority of the members of the fire department, and many in the rural community, say they are willing to take to maintain local control of the volunteer department, which has been an integral part of the Julian area since its formation in the 1970s.

For the past two years, the San Diego County Fire Authority staffed the paramedic engine at its station next to a new volunteer station off state Route 79. It was part of an agreement under which the Julian fire district said it would seriously consider being absorbed by the county by the end of 2017.

But the fire district's board of directors, by a 4-1 vote, rejected the authority's overtures, opting instead to remain on their own. That means they will have to ask the district's 2,500 residents to vote this year to triple their fire taxes so the district can provide adequate coverage.

Many in the community support remaining independent. They said they don't trust the county to do what it says it will do.

But Tony Mecham, the head of the county's Fire Authority and chief of Cal Fire in the San Diego, expressed disappointment with the decision.

"I think that board is looking out for their own self-interest and not doing what they were elected to do, and that is look out for the community," Mecham said. "I have very strong feelings on that. They see their power and their position and authority being taken away if the county comes in. It's very selfish. I'm very disappointed."

While Cal Fire is responsible for wildland fire response in the area, it is the volunteer department that responds to structure fires and medical emergencies, including car accidents.

The area is served now by one ambulance. When it responds to a call, it can be away from Julian for three or four hours at a time while taking patients to Palomar Medical Center in Escondido. For the past two years, if the ambulance was in use, the paramedic engine would respond to any other emergency in the area and provide basic life-saving help while an ambulance from as far away as Alpine or elsewhere responded.

Julian Fire Board President Jack Shelver, the only director who voted last year to dissolve the district and join the county, said on average the ambulance responds to 50 or 60 calls each month. Of those, about 70 percent end up with a patient being transported to Escondido.

"Statistically, they were out of the district quite a bit of the time," he said. "That means about 400 times a year they were out of service." When another call came in, the paramedic engine would respond.

But no longer. "Now we'll just cover those with the volunteers" who do not have specialized medical training, Shelver said.

Mecham said instances when the ambulance is out of the district happen "frequently." He said Julian meets its ambulance response times only about 75 percent of the time, while county compliance is 90 percent.

Mecham said the county will provide mutual aid. "We just won't be responding automatically," he said.

In addition to pulling the paramedic engine, the county also ended a \$60,000 subsidy and removed a water tender truck. The Julian district did opt to remain with Cal Fire's dispatching service.

The situation has caused a split in the community. At the most recent meeting of the fire district directors, several dozen people with widely differing opinions attended.

Some, like the majority of the directors, say it's important for the community to retain its independence from the county. They have spent decades raising funds to support the volunteers and even built them a fire station.

To abandon that independence would mean handing everything over to the county. The volunteers would go away and be replaced by Cal Fire personnel — firefighters the county says will be much better trained and more physically fit.

"I don't want to be disparaging of the volunteers," Mecham said, "but there's a reason the county is converting to career staff. It is very hard to maintain 24/7 coverage with volunteers."

Pat Landis is a member of a group calling itself the "Committee of 100," which is committed to an independent Julian department. She says the group opposes the authority for two main reasons.

"It's our fire department," she said. "It's ours. It belongs to us and we are proud of it and of our community."

Because Julian isn't an incorporated city, the fire department is sort of what holds the community together, she added.

The second reason, Landis said, is the Fire Authority's track record in other communities where volunteer departments have disappeared.

"I have contacted a dozen of the other fire stations," she said. "I can say Pine Valley is happy and every single other station is unhappy." She said there are too many days each year when the rural stations are left unstaffed and the engines assigned to the stations often are in disrepair and break down.

Bill Everett, another Committee of 100 member who volunteered for the Julian department for 15 years until hanging up his boots last year, said distrust of the county providing what it says it will provide is a serious concern.

"It's all about local control," Everett said. The reason the fire department was formed in the 1970s was because the county decided it would no longer provide fire protection in the backcountry. He said some feel they might do so again should they take over.

He said 95 percent of what the department does is provide medical services.

“It’s comforting up here to have a face that they know show up at their house when they’re having a crisis,” Everett said. “Unfortunately, we’ve had some instances with that paramedic engine where they simply weren’t able to find the place they were being called to.”

He said that’s understandable, because Cal Fire is always transferring new people to the station who don’t know the area or the people.

Seventeen of the 18 volunteer departments in the county have been absorbed into the county system in the past 10 years since the authority was formed after the firestorms of the last decade. Julian is the only true volunteer-based holdout.

Mecham said criticism that the rural stations go unstaffed or are poorly equipped is unfounded.

“Sixteen of the 17 stations now have 24/7 career firefighter/paramedics,” he said.

The only exception is in Ranchita, which is covered about 80 percent of the time. Annually, Mecham said, Ranchita gets about 50 calls. “There is no fire department in California that would spend \$1.2 million to fully staff a fire station for 50 calls a year.”

Supporters of independence say they will go to voters in 2018 and ask them to triple their fire benefit tax from \$50 to \$200 to properly fund the department. A similar vote failed in 2014, but Everett said he is confident people will support the department this time around.

The committee recently submitted a letter demanding the removal of Chief Rick Marinelli and suggesting they would mount a recall of Board President Jack Shelver, saying both of them have been pushing for consolidation.

Marinelli has never advocated going with the county. He said he wants only the best possible coverage for the community. Mecham said Marinelli has been taking a lot of unfair criticism.

“He’s caught in the middle, because he lives in the community and suffered a lot of personal attacks,” Mecham said. “He wasn’t pushing to go to the county. He’s just a realist. When you look at what the county was offering compared to what Julian is trying to do — asking the resident to tax themselves — it just makes sense.”

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This article is related to: San Diego County, Escondido

**WELCOME TO THE JULIAN CUYAMACA FIRE PROTECTION DISTRICT
BOARD OF DIRECTORS MEETINGS**

**Regular Meeting of the Julian Cuyamaca Fire Protection
District Board of Directors**

**Agenda
Tuesday, Jan. 9th, 2017 at 10:00 A.M.**

**Julian Cuyamaca FPD
Station 56
3407 Hwy.79 South
Julian CA 92036**

CALL TO ORDER/ROLL CALL

PROCEDURES FOR ADDRESSING THE BOARD

Each speaker is allowed three (3) minutes to address the Julian Cuyamaca Fire Protection District Board of Directors. There are three major components of the Agenda:

ORAL COMMUNICATIONS: 15 minutes are set aside at each meeting for citizens who wish to address an issue not on the agenda. The law precludes the Board from taking action upon such non-agenda items. These items will be referred to the Fire Chief. Time donations are not permitted during Oral Communications. Please submit a speaker slip to the District Secretary prior to the Board meeting.

CONSENT CALENDAR: Items on each Consent Calendar are matters which are routine, and it is anticipated they will not be discussed separately. With a motion "to adopt the Consent Calendar" the Julian Cuyamaca Fire Protection District Board of Directors approves all Consent Calendar Staff recommendations, as shown on the agenda. Items may be removed for discussion by submitting a speaker slip to the District Secretary. **NOTE: A MAXIMUM OF TWO TIME DONATIONS PER SPEAKER (9 MINUTES TOTAL)**

REGULAR AGENDA ITEMS: If you wish to address any item on the Regular agenda, please submit a speaker slip to the District Secretary prior to the Chair announcing the agenda title. **NOTE: A MAXIMUM OF TWO TIME DONATIONS PER SPEAKER (9 MINUTES TOTAL)**

A Copy of the board meeting packet may be viewed by the public at the Julian Cuyamaca Fire Protection District.

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT LAWS: Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the District exist to conduct the people's business in accordance with the Brown Act and other State laws.

Any writings or documents provided to a majority of the Julian Cuyamaca Fire Protection District Board of Directors regarding any item on this agenda received within 72 hours prior to the meeting will be available for public inspection at the Julian Cuyamaca Fire Protection District office during normal business hours.

The above-mentioned agency is an equal opportunity public entity and does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of service. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in these meetings, please contact the Fire Protection District office at 760-765-1510

The Julian Cuyamaca Fire Protection District Board of Directors welcomes you and encourages your continued interest and involvement in the town's decision-making process.

ORAL COMMUNICATIONS (15 MINUTES)
(A Maximum of 3 minutes per speaker)

CHANGES TO THE AGENDA

(Items removed by the public will be heard immediately after the adoption of the consent calendar)

CONSENT CALENDAR

AGENDA TITLE	STAFF RECOMMENDATION
1. Approval of Minutes Dec.12th,2017 meeting Contact Person: Marcia Spahr	Approve Meeting Minutes
2. Approval of Financial Report as of Nov 30th, 2017 Contact Person: Marcia Spahr	Approve Financial Report
3. Communications Report Contact Person: James Stowers	Attached
4. Training Report Contact Person: James Stowers	Attached
5. Reserve Report Contact Person: Nathan Duggie-Carr	None Received
6. EMS Report Contact Person: Karen Kiefer	Attached
7. Explorer Report Contact Person: Jason Kuiper	None Received
8. CERT Report Contact Person: Sheana Fry & Brian Kramer	None Received

CONSENT CALENDAR ITEMS REMOVED BY THE PUBLIC

CONSENT CALENDAR ITEMS REMOVED BY BOARD MEMBERS

Chief and Board Reports

9.Chief's Report	
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New Business

10.	
11.	

OLD BUSINESS

12.Letter of Intent Dispatch Service-Sign Contract Presenter-Jack Shelver	
13.San Pasqual Potential Water Tender follow-up Presenter Chief Marinelli	
14.Update on Workers Compensation Presenter Chief Marinelli	

PUBLIC HEARING

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CLOSED SESSION

15. Public Employee Performance Evaluation Government Codes Section 54957 TITLE- Fire Chief	
16. Conference with Legal Counsel-Anticipated Litigation Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)-1 case Existing facts and circumstances pursuant to Government Code section 54956.9(e)(1)	

ADJOURNMENT

Next meeting to be held at 10:00 AM on Feb.13th, 2018

Items for Future Agenda

- 1.
- 2.
- 3.
- 4.

WELCOME TO THE JULIAN CUYAMACA FIRE PROTECTION DISTRICT BOARD OF DIRECTORS MEETINGS

Regular Meeting of the Julian Cuyamaca Fire Protection District Board of Directors

Minutes

Tuesday, Jan. 9th, 2018 at 10:00 A.M.

**Julian Cuyamaca FPD
Station 56
3407 Hwy.79 South
Julian CA 92036**

CALL TO ORDER/ROLL CALL

Meeting called to order @ 10:00 AM

Roll call: Jack Shelver, Buddy Seifert, Brian Kramer, Kirsten Starlin
Absent- Aida Tucker
Staff: Rick Marinelli, Marcia Spahr

PROCEDURES FOR ADDRESSING THE BOARD

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ORAL COMMUNICATIONS (15 MINUTES)

(A Maximum of 3 minutes per speaker)

Toni Harter
Leslie McClellen
Anthony Masa

CHANGES TO THE AGENDA

(Items removed by the public will be heard immediately after the adoption of the consent calendar)

Closed Session Agenda item 15. and 16. were reversed so that item 16. was discussed before item 15.

CONSENT CALENDAR

AGENDA TITLE

STAFF RECOMMENDATION

1. Approval of Minutes Dec.12th,2017 meeting Contact Person: Marcia Spahr	Approve Meeting Minutes-Brian removed Minutes from consent calendar for correction to verbiage regarding item 10. and 11. Brian motion to approve consent calendar with amendment. Buddy 2 nd . All Ayes/No Nays/1 Absent
2. Approval of Financial Report as of Nov 30th, 2017 Contact Person: Marcia Spahr	Approve Financial Report
3. Communications Report Contact Person: James Stowers	Attached
4. Training Report Contact Person: James Stowers	Attached
5. Reserve Report Contact Person: Nathan Duggie-Carr	None Received
6. EMS Report Contact Person: Karen Kiefer	Attached
7. Explorer Report Contact Person: Jason Kuiper	None Received
8. CERT Report Contact Person: Sheana Fry & Brian Kramer	None Received

CONSENT CALENDAR ITEMS REMOVED BY THE PUBLIC

CONSENT CALENDAR ITEMS REMOVED BY BOARD MEMBERS

Chief and Board Reports

9.Chief's Report	<p>1.Small shed fire. Chief Marinelli was Incident Command on site. Mutual aid was requested. Damage to shed only.</p> <p>2.Memorial for Mosler moving forward and tribe was up to see area marked for memorial boulder on 1.4.18.</p> <p>3.Both sheds on fire station property remodeled. Mike VanBibber did a nice job with the Boy Scouts project.</p> <p>4.Medical training still going on. This was a requirement for all Volunteers when new staffing plan was implemented in December 2017.</p> <p>5.Quite a significant cost on Apparatus repairs as of lately.</p> <p>6.County wants \$1500.00 more before signing off on grading permit at new station.</p> <p>7.GEMT grant approved by Fed's. This is grant to subsidize Ambulance Dept.</p> <p>8.Jason Kuiper leading Explorers program and starting up this month.</p> <p>9.Fire Marshall services by SDCFA has no legal authority now that contract has ended. Rick drafted letter for them to provide services for plan checks, etc. They are send Memorandum of Understanding(MOU) to act on our behalf. Should see by next Board of Directors meeting. No longer will be a free service and is a service we can't provide due to lack of resources.</p>
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New Business

10.	
11.	

OLD BUSINESS

12.Letter of Intent Dispatch Service-Sign Contract Presenter-Jack Shelver	<p>1.Brian made motion to sign contract as long as committee formed to get other bids during 120-day opt. out period for review. Buddy 2nd. All Ayes/No Nays/1 Absent- Motion carries.</p>
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13.San Pasqual Potential Water Tender follow-up Presenter Chief Marinelli	1.Chief Marinelli called and San Pasqual opted to donate monies to Volunteer Fire Fighters Association -No action taken
14.Update on Workers Compensation Presenter Chief Marinelli	1.County paying \$22,000.00 of Workers Compensation owed and including accounting costs that we billed County for - No action taken

PUBLIC HEARING

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CLOSED SESSION

Closed session called @ 10:58 and back in open session at 12:34

15. Conference with Legal Counsel-Anticipated Litigation Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)-1 case Existing facts and circumstances pursuant to Government Code section 54956.9(e)(1)	1.Board of Directors discussed and Jack Shelver gave direction to Attorney.
16. Public Employee Performance Evaluation Government Codes Section 54957 TITLE- Fire Chief	1.Discussed Chief's contract- No Action taken

ADJOURNMENT

Brian made motion to adjourn meeting at 12:36 pm. Kirsten 2nd. All Ayes/No Nays/1-Absent

Next meeting to be held at 10:00 AM on Feb.13th, 2018

Items for Future Agenda
1.
2.
3.
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5.

EXHIBIT 5

Julian Cuyamaca Fire Protection District Agenda Policy

1. Deadline to submit Items for the Agenda.

All requests for items to be placed on the next regular meeting agenda should be given to the District Secretary no later than five p.m. on the seventh day prior to the meeting. (second Tuesday of the month) All reports, communications, ordinances, resolutions, contract documents, staff reports, or other matters to be submitted to the Board of Directors as backup information for an agenda item at a regular meeting will be delivered to the District Secretary no later than five p.m. on the seventh day prior to the meeting.

2. Publication and Distribution of the Agenda.

Barring insurmountable difficulties, the District Secretary will distribute and post the agenda for regular meetings by 5:00 p.m. on the Thursday prior to the regular meeting date. The District Secretary shall also post the agenda and agenda materials on the District website by the same deadline. In any event the agenda for the regular meeting shall be posted at least 72 hours prior to the regular meeting in accordance with the California Government code.

3. Agenda Item Requests.

A.) The Fire Chief shall be in charge of the placement of matters on the agenda. If there is a question regarding the legality of the placement of a proposed agenda item, the District General Counsel shall be consulted.

B.) Any Board member may place an item on an upcoming Board agenda by either (i) submitting a written request to the Fire Chief as described below or (ii) requesting at a Board meeting with the concurrence of one other Board member that an item be placed on a future agenda. If a Board member proceeds under option (i) above, the written request for the agenda item must be made to the Fire Chief no later than the agenda deadline discussed in Section 1 above (the Tuesday prior to the Tuesday meeting) with proof that one other Board member consented to the item being placed on the agenda. The written request shall include any proposed background material for the item. The Board members written request shall be submitted to the Board President. If the Board President approves the written request to place the item on the agenda, the item will be placed on the agenda as requested.

C.) The Board President may request an item be put on a future agenda by either (i) submitting a written request to the Fire Chief no later than the agenda deadline discussed in Section 1 above (Tuesday prior to the Tuesday meeting) which shall include any background material for the item or (ii) requesting at a Board meeting, with the concurrence of one other Board member, that an item be placed on a future agenda. If the Board President proceeds under option (i) above, the item will be placed on the agenda if the Fire Chief approves the written request to place the item on the agenda.

D.) Any background information for preparation for an item placed on an agenda by a Board member or the Board President is the sole responsibility of that Board member/Board President until such time as the full Board has considered the item and directed District staff to take action.

E.) Any member of the public can address the Board on an item during the "Public Comment" portion of the agenda. If two Board members concur that the item raised by the citizen be placed on a future agenda, then such item will be placed on a future agenda.

F.) The Fire Chief and the District Secretary have the discretion to limit reports and presentations to be made during Board meetings. The agenda shall conform to the applicable requirements of the California Government Code.

4. Location of Items on the Agenda.

Items of a routine nature that are not anticipated to be controversial or to require Board deliberation may be placed on consent calendar by the Fire Chief. If a Board member or the Board President has requested that an item be on the agenda as described above, then the Board member/Board President shall specify the location of the item for the agenda.

5. Special Meeting Agendas.

Special meetings may be called and noticed as specified in section 54956 of the California Government Code. Special meeting agendas shall be posted at least 24 hours in advance of the meeting pursuant to the California Government Code. The Fire Chief shall oversee the preparation of the special meeting agenda. The back up materials shall be provided as soon as is reasonably possible but in no event later than 24 hours prior to the meeting.

6. Governing Board Questions Regarding Agenda Items

Prior to the meeting, Board members should contact appropriate staff with questions on the agenda items so that staff can provide accurate and timely answers to the Board agenda.

7. Addendums to the Regular Agenda.

Due to the fact that the District Secretary will post the agenda five days prior to Board meeting, there may be a need to add additional items to the regular agenda that require immediate action. Such addendums, to be posted at least 72 hours in advance of the regular meeting shall be discouraged and limited to urgent matters only that require immediate action which is needed prior to the next regularly scheduled Board meeting. Such addendums will be allowed if approved by the Fire Chief and the Board President. This does not prohibit the Board from adding items to an agenda during a Board meeting if it meets the requirements of section 54954.2 of the California Government Code. 2