

January 23, 2017

**RECEIVED**

President Robert Puckett, Sr./Members of the Board of Directors  
Hornbrook Community Services District  
PO Box 29, Hornbrook, CA 96044

JAN 24 2017

BY: RS

Re: Brown Act Cure and Correct & Cease and Desist Notice; Violation of Govt Code section 1090;  
Supplemental CA Tort Claims Act Notice.

President Puckett, and Directors of the HCSD,

This letter is to call your attention to what I believe was a substantial violation conflict of interest laws, my statutory and constitutional rights, and of central provisions of the Ralph M. Brown Act, one which may jeopardize the finality of multiple actions taken by the board of Directors of the Hornbrook Community Services District. This letter is also a supplemental Tort Claims Notice to my Notice of October, 7, 2016.

The nature of the violations is as follows:

On January 3, 9, and 12, 2017, I received letters from attorney Robert Winston which stated in substance that he had been in communication with HCSD Board members, and that an agreement had been reached that provided he would be retained to represent the HCSD in Brown Act litigation I have filed as Siskiyou Superior Court case #SCCVPT 16-1293. I know for a fact that the summons and complaint in that matter were hand served to HCSD Secretary Patricia Slote at the last meeting of the HCSD Board, held on December 20, 2016, and that no discussion by the Board of that case occurred at that meeting, and that no public meeting of the Board since that time has addressed this matter, or his appointment thereto.

It is quite clear from Mr. Winston's letter that Secretary Slote and President Puckett have engaged in serial meetings, and agreed with each other, and Winston, to have the Board appoint him as counsel in that matter at the upcoming meeting. The actions taken were not in compliance with the Brown Act additionally due to the complete failure to have an open and public meeting concerning retention of Winston by the HCSD, and to describe in the Agenda for that meeting the action to be taken by the Board concerning the above-mention legal matter. Furthermore, this sort of corrupt behavior violates the provisions of Government Code 1090, is a waste of public funds, false claims for payment by Winston to the HCSD (since I see he regularly sends the Board "letter billing" for all such cases he self-assigns to), violates the Bylaws, and is a clear attempt to subvert the interests of justice and my constitutional rights in the proceedings related to this matter by lending your official *imprimatur* improperly to such conduct.

A "meeting" means "any congregation of a majority of the member of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body." Cal. Gov't Code § 54952.2 (West 2016). "Deliberation" refers to not only collective decision-making, but also the collective acquisition and exchange of facts preliminary to an ultimate decision. *Page v. Mira Costa Cmty. Coll. Dist.*, 180 Cal.App.4th 471, 502 (2009).

The California Supreme Court has stated that deliberative action includes a "collective decision-making



process” and “deliberative gathering .” *Roberts v. City of Palmdale* (1968) 5 Cal. 4th 363, 376 (1993), quoting *Sacramento Newspaper Guild*, 263 Cal. App. 2d, 47, 48. It also includes “informal sessions at which a legislative body commits itself collectively to a particular future decision concerning the public business.” *Roberts, supra*, 5 Cal.4th at 376, quoting *Stockton Newspapers, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 9 5,102. “Action taken” means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance. Cal. Gov’t Code § 54952.6 (West 2016).

This is clearly what has been done in regards to this case, and Winston's "upcoming appointment", or allegedly approved (by you) pre-authorizations for "self-assignment" via an illegal delegation of Legislative authority has already occurred outside of any public meeting, as Winston's own documents demonstrate. A majority of a board is prohibited from using “a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action” on business within its subject matter jurisdiction outside of a public meeting. Cal. Gov’t Code § 54952.2(b)(1) (West 2016).

A series of private meetings (known as serial or "spoke and wheel" meetings) by which a majority of the members of a legislative body commit to a decision or engage in collective deliberation concerning public business violates the Brown Act’s open meeting requirement. *Page v. Mira, supra*, 180 Cal.App.4th, 503 -04.

The California Supreme Court has emphasized that “the Brown Act cannot be avoided by subterfuge; a concerted plan to engage in collective deliberation on public business through a series of letters or telephone calls passing from one member of the governing body to the next would violate the open meeting requirement.” *Id.* at 504, quoting *Roberts, supra*, 5 Cal.4th at 376. This is what you and Winston are doing.

The Attorney General has opined that “while the Brown Act makes exceptions for specified matters – such as litigation, employee discipline, and negotiations for real estate transactions – these exceptions must be construed narrowly, in favor of the public's right of access to public information.” 94 Cal. Op. Att’y Gen. 82 (2011). There are no exceptions, however, for either ex parte meetings with one or two Board members with "anticipated counsel", nor for engaging in serial meetings relating to hiring lawyers.

Moreover, this is the latest of many clearly willful violations of the Brown Act, Government Code 1090, and the CPRA by the HCSD and individual Board members Pat Slote and Robert Puckett. It is clear from your ongoing pattern of behavior that your violations of these laws are willful, and intended to deprive me, and other members of the public, of the equal protection of the laws, and to do so without the due process of law. You are also now, and have been for the past six months, illegally and corruptly conspiring with, and instructing, Robert Winston to violate these laws, the HCSD Bylaws, as well as Business and Professions Code section 6104 in order for Winston and his law firm to engage in unfair business practices to my detriment and injury, causing general, and special, damages. I therefore intend to bring a legal action against each and all of you (including your agent, Winston) for these violations, as well as for injunctive relief, and such action will not be a "limited civil action". You may send notices and replies to the address below.

In the event it appears to you that the conduct of the BOD of the HCSD, and board members Slote and Puckett, as specified herein did not amount to the taking of action, I call your attention to Section 54952.6, which defines “action taken” for the purposes of the Act expansively, i.e. as “a collective decision made by a



majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.”

As you are aware, the Brown Act creates specific agenda obligations for notifying the public with a “brief description” of each item to be discussed or acted upon, and also creates a legal remedy for illegally taken actions. Further, each member of a legislative body who has taken action in violation of any provision of the Brown Act, and where there was willful deprivation of information to the public, is guilty of a misdemeanor (§ 54959). It should be noted that Patricia Slote has on several occasions at public meetings of the Board been notified by members of the public that her various improper actions violated the Brown Act, and she has stated in essence that she does not care, and willfully refuses, and fails, to follow the provisions of the law in that regard.

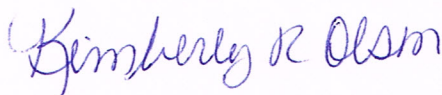
Pursuant to that provision (Government Code Section 54960.1), I demand that the BOD of the HCSD cure and correct the illegally taken action as follows: rescind the improper action taken at the non-public meeting(s) to agree to hire Robert Winston in case #SCCVPT 16-1293; and, to properly authorize the solicitation of legal services by Board action or as designated by the Board, at an open and public hearing, while also including any proposals by Winston or other responding attorneys in the Agenda packet provided to the Public; and, a written commitment by these Directors and the HCSD to following all provisions of law relating to the District, appointment of Winston and/or any other lawyer to legal matters, the Brown Act, and it’s own Bylaws.

Also, President Puckett, Secretary Slote, and each member of the Board participating in the above-described violations, must make a formal and explicit written and spoken withdrawal from any commitments made, coupled with a disclosure at a subsequent meeting of why individual members of the legislative body took the positions — by vote or otherwise — that they did, accompanied by the full opportunity for informed comment by members of the public at the same meeting, or in the case of closed meetings, by the affected employees - all notice of which is to be properly included on the posted agenda. Informed comment might in certain circumstances include the provision of any and all documents related to the action taken, with copies available to the public on request and also at the meeting at which reconsideration of the matter is to occur.)

As provided by Section 54960.1, you must cure and correct the challenged actions, or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me no recourse but to pursue legal action against you, in which case I would also ask the court to order you to pay my court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Finally, pursuant to Section 50960.2, I demand that president Puckett, Secretary Slote and the other members of the Board issue a written, unconditional commitment to cease, desist from, and not repeat the past actions outlined above which violate the Brown Act.

Yours truly,

 1-23-17

Kimberly R. Olson, PO Box 243, Hornbrook, CA 96044      kimberlyrenee@yahoo.com



January 23, 2017

President Robert Puckett, Sr./Members of the Board of Directors  
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PO Box 29, Hornbrook, CA 96044

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The nature of the violations is as follows:

In January, 2017, I received multiple letters from attorney Robert Winston which stated in substance that he had been in communication with HCSD Board members, and that an agreement had been reached that provided he would be retained to represent the HCSD in Brown Act litigation I have filed as Siskiyou Superior Court case #SCCVPT 16-1292. I know for a fact that the summons and complaint in that matter were hand served to HCSD Secretary Patricia Slote at the last meeting of the HCSD Board, held on December 20, 2016, and that no discussion by the Board of that case occurred at that meeting, and that no public meeting of the Board since that time has addressed this matter, or his appointment thereto.

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Roger Gifford, 15226 Hornbrook Rd., Hornbrook, CA 96044

bestwayb16@gmail.com