

BOARD OF DIRECTORS PROCEDURES



AUGUST 24, 2020
COSTA MESA SANITARY DISTRICT
290 PAULARINO AVENUE, COSTA MESA, CA 92626

Table of Contents

1. INTRODUCTION.....	4
1.1. Usage.....	4
1.2. Practices and Procedures.....	4
2. MEETING PREPARATION	4
2.1. Procedure for Placing an Item on the Agenda	4
2.2. Consent Calendar.....	5
3. AGENDAS.....	5
3.1. Agenda Posting.....	5
3.1.1. Physical Posting Locations.....	5
3.1.2. Internet Agenda Posting.....	5
3.1.3. Significant Issues Before Board.....	5
3.1.4. Agenda Packet Distribution	5
3.1.5. Order of Business.....	6
3.2. Adding Matters to an Agenda during a Meeting.....	7
3.3. Written Materials and Public Records.....	7
3.4. Submission of Materials by the Public for Board Consideration.....	8
4. MEETING PROCEDURES.....	8
4.1. Presiding Officer.....	8
4.1.1. President.....	8
4.1.2. Vice President.....	8
4.1.3. Succession to President and Vice President.....	8
4.2. Recording Votes	8
4.3. Disqualification for Conflict of Interest.....	9
4.4. Changing Votes	10
4.5. General Rule of Debate	10
4.6. Rosenberg’s Rules of Order.....	10
4.6.1. President and Board of Directors Authority over Procedural Rules.....	10
4.7. Types of Meetings.....	10
4.7.1. Regular Meetings.....	10
4.7.2. Special Meetings.....	10
4.7.3. Adjourned Meetings.....	11

4.7.4. Study Sessions.	11
4.7.5. Closed Sessions	11
4.7.6. Emergency Meetings.	13
4.7.7. Teleconferenced Meetings.	13
4.7.8. Public Hearings Required by Law.	13
4.7.9. Citizens Advisory Committee (CAC).	13
4.8. Security.....	13
4.9. Forms of Board Action.	13
4.9.1. Ordinances and Resolutions.	14
4.9.2. Proclamations	14
4.9.3. Minute Orders.	14
4.10. Voting	14
4.10.1. Quorum	14
4.10.2. Tie Votes	14
4.11. Minutes.	14
4.12. Public Participation.	14
4.13. Public Comment.	15
4.13.1. Time Limits.....	15
4.13.2. Pooling Time.	15
4.13.3. Board and Staff Response	15
4.14. Decorum and Rules of Conduct.....	15
4.14.1. Duty to Preserve Decorum.....	15
4.14.2. Disruption Prohibited.....	16
4.14.3. Electronic Devices.....	16
4.14.4. Signs	16
4.15. Quasi-Judicial Hearings.....	16
4.15.1. Overview	16
4.15.2. Generally.....	16
4.15.3. Applicability	16
4.15.4. Identification of Quasi-Judicial Matters on the Agenda	17
4.15.5. Policy to Avoid Ex Parte Contacts.....	17
4.15.6. Disclosure of Ex Parte Contacts.....	17

4.15.7. Ex Parte Contacts After the Hearing	18
4.15.8. Hearings De Novo	18
4.15.9. Burden of Proof	18
4.15.10. Rules of Evidence	18
4.15.11. Written Findings	18
4.15.12. Board members Who Are Absent During Part of a Hearing	18
4.15.13. Board Use of Electronic Communication Devices During Meetings.	19
4.16. Board Room Capacity.....	19
5. POWER OF CENSURE COSTA MESA SANITARY DISTRICT BOARD OF DIRECTORS PROCEDURES.....	19

1. INTRODUCTION

1.1. Usage. These Board of Directors Procedures (“Procedures”) are intended to guide the preparation for and conduct of Board of Directors regular and study session meetings, as well as Board of Directors Standing and Ad Hoc Committees, and joint meetings between the Board of the Directors and the Citizens Advisory Committee.

1.2. Practices and Procedures. These are the accepted practices and procedures adopted by the Board of Directors for the effective conduct of District business. No action of the Board of Directors shall be held invalid due to any failure to observe the provisions of these Procedures, nor shall any person have a claim or cause of action against the District or any of its officers or employees as a result of any such failure. If conflict(s) exist(s) between the Procedures and Operations Code, then the Operations Code will prevail.

2. MEETING PREPARATION

2.1. Procedure for Placing an Item on the Agenda. In accordance with Section 3.01.110 of the District’s Operations Code, the following procedures will be followed for placing an item on the agenda:

2.1.1. Any Board member may request that an item be placed on the Board of Directors regular meeting and/or study session agenda by requesting the item be placed on a subsequent agenda during the Oral Communications and Director Comments section of an open public meeting. The nature of the item must be within the subject matter jurisdiction of the Costa Mesa Sanitary District. A majority of the Board must approve or deny the request for the matters to be placed on a subsequent agenda during the meeting.

2.1.2. Any member of the public may request that an item be placed on an agenda. The individual can make this request during the Public Comment section of any Board meeting, and the item must be within the subject matter jurisdiction of the Costa Mesa Sanitary District. The request can also be made by completing the Request to Agendize an Item form along with pertinent back-up documentation. The complete package will be forwarded to the General Manager or designee to discuss with the Board President for a determination for inclusion on the agenda. The public does not have the right to demand that an item be placed on the agenda; the control of the agenda is a matter determined by the Board.

2.1.3. Public requests for placing an item on the agenda must be submitted by 12:00 noon, nine working working days prior to the first Monday of the month. An additional amount of time may be required if staff is expected to make an appropriate recommendation.

2.1.4. Once a determination has been made for inclusion on the agenda, the General Manager or designee will prepare a staff report based on the documentation received. The staff report will be forwarded to the Board of Directors for discussion at the predetermined date of the Board meeting.

2.2. Consent Calendar. The Consent Calendar shall be comprised of items which, in the General Manager's judgment, will not require discussion. A Consent Calendar item shall be open for discussion by the Board of Directors upon request of a Board member, District staff, or member of the public. Items on the Consent Calendar may be approved by a single motion of the Board of Directors. Items on the Consent Calendar will not be read unless the District Clerk is so directed by the President; and the approval of a motion of the Board of Directors to accept the Consent Calendar shall be deemed to have been preceded by a reading of each individual item by the District Clerk.

3. AGENDAS

3.1. Agenda Posting.

3.1.1. Physical Posting Locations. The District Clerk shall make available and post at District Headquarters the agenda for each Board of Directors, study session and committee meetings at least 72 hours before such meetings occur, or 24 hours before any other special meeting begins.

3.1.2. Internet Agenda Posting. All agendas for Board of Directors regular and study session meetings shall be posted to the District's website no later than 72 hours before the meeting or 24 hours before a special meeting. In addition to the website, notices shall be posted on social media including the District's Facebook and Twitter accounts, as well as on the District's email notification system (Govoutreach). In the event that the website goes down or otherwise is inaccessible for all or part of the 72 or 24 hours preceding the meeting due to technical difficulties or other factors not within the District's control, the meeting may proceed.

3.1.3. Significant Issues Before Board. The District Clerk shall develop and maintain an advance listing of significant issues that are likely to come before the Board. The advance listing of significant issues will be posted at the bottom of meeting agendas.

3.1.4. Agenda Packet Distribution. The District Clerk, or his/her designee, will send an electronic notification to subscribing members of the public, staff and the Board of Directors that the agenda is available on the District's website. The message will include a direct link to view and download the full agenda. Any person may have a copy of an agenda mailed by the District Clerk's Office by providing a self-addressed, postage pre-paid envelope of sufficient size to accommodate the agenda.

3.1.5. Order of Business. Board of Directors business at a regular or study session meeting shall be conducted in the following order except as otherwise directed by the Board of Directors or the General Manager, who is authorized to exercise flexibility in establishing the order of agenda items to be considered at each Board of Directors meeting:

STUDY SESSION

Roll Call

Public Comments on non-agenda items

Item of Study

Adjourn to Closed Session, if any

Oral Communications and Director Comments

Adjournment

Study session meetings are meant for discussion purposes only, but the Board of Directors may take action on agendaized items if the action is deemed necessary.

BOARD OF DIRECTORS REGULAR MEETING

Call to Order

Pledge of Allegiance

Invocation

Roll Call

Announcement of Late Communications

Ceremonial Matters and Presentations

Public Comments on non-agenda items

Consent Calendar

Public Hearings

General Manager's Reports

Engineer's Reports

Treasurer's Reports

Attorney's Reports

Local Meetings

Old Business

New Business

Oral Communications and Directors Comments

Adjourn to Closed Session, if any

Reconvene to Open Session

Adjournment

3.2. Adding Matters to an Agenda during a Meeting. Except as provided in this paragraph or as otherwise provided by law, no action shall be taken at a regular Board of Directors meeting, study session or committee meeting on any item which does not appear on the posted agenda. An item may be added to the agenda after the agenda has been published and posted upon a determination by a two-thirds vote of the Board of Directors (or a unanimous vote if less than two-thirds of the Board of Directors is present); the vote shall be on a motion stating and finding that there is a need to take immediate action and the need for action came to the attention of the District after the agenda was published and posted. Any such motion shall be accompanied by distribution of a written statement, to be included in the record, stating the facts upon which it can be determined that the need to take action arose after the agenda was published and posted. If it is infeasible to present such a written statement of reasons, the District Clerk shall include in the minutes of the meeting a statement of the reasons for the Board of Directors determination. In addition, action may be taken on an item not on the posted agenda under the circumstances stated in Government Code Sections 54954.2(b)(1) [emergency] and 54954.2(b)(3) [continued regular meetings].

3.3. Written Materials and Public Records.

3.3.1. Agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of the Board of Directors by any person in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are disclosable public records under the California Public Records Act.

3.3.2. If a writing that is a public record as provided above, and that relates to an agenda item for an open session of a regular meeting of the Board of Directors, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection at the time the writing is distributed to all, or a majority of all, of the members of the Board. The District Clerk may post the writing on the District's website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

3.3.3. Each member of the Board of Directors shall use their best efforts to forward to the General Manager and District Clerk any email received at an official District email address or on Board of Directors personal email address in connection with a matter subject to discussion or consideration at an open meeting when it is apparent from the address or Cc lines that the email has been distributed to a majority of the Board of Directors. Any writing described above shall be available for public inspection.

3.4. Submission of Materials by the Public for Board Consideration.

3.4.1. Members of the public who wish to submit written or other materials for consideration by the Board of Directors in connection with an agenda item should provide the material to the District Clerk 24 hours before the Board meeting start time. The District Clerk will distribute the material to the Board of Directors and make them available to the public.

3.4.2. The Board of Directors shall be under no legal obligation to review any written or other materials that are submitted the day of the Board meeting. The Board of Directors may, but need not, review and consider late-submitted materials if it chooses to do so.

4. MEETING PROCEDURES

4.1. Presiding Officer.

4.1.1. President. The President shall be the presiding officer at all meetings of the Board of Directors. The President may make and second motions and shall have a voice and vote in all its proceedings. He or she shall be the official head of the District for all ceremonial purposes. The President shall preserve strict order and decorum at all meetings of the Board, announce the Board's decisions on all subjects, decide all questions of order in accordance with these procedural rules, and announce the Board's vote on all actions or direct the District Clerk to do so. The President shall perform such other duties consistent with his or her office as may be prescribed by the District's Operations Code or as may be imposed by the Board of Directors.

4.1.2. Vice President. The Vice President shall perform the duties of the President during the absence or disability of the President.

4.1.3. Succession to President and Vice President. During the absence or disability of the President and the Vice President, the duties of the President shall be performed by the Board Secretary. During the absence or disability of the President, Vice President, and Secretary, a quorum will not exist and therefore the Board meeting will be canceled or rescheduled.

4.2. Recording Votes. The vote of each Board member shall be recorded for each item of business on the agenda. The Board of Directors shall publicly report any

action taken and the vote or abstention on that action of each Board member present for the action.

4.3. Disqualification for Conflict of Interest and Recusal. Pursuant to the regulations of the Fair Political Practices Commission, each Board member with a disqualifying conflict of interest shall, following the announcement of the agenda item to be discussed or voted upon but before either the discussion or vote commences, do all of the following:

(1) The Board member shall publicly identify:

(A) Each type of economic interest held by the public official which is involved in the decision and gives rise to the conflict of interest (i.e. investment, business position, interest in real property, personal financial effect, or the receipt or promise of income or gifts), and

(B) The following details identifying the economic interest(s):

(i) if an investment, the name of the business entity in which each investment is held;

(ii) if a business position, a general description of the business activity in which the business entity is engaged as well as the name of the business entity;

(iii) if real property, the address or another indication of the location of the property, unless the property is the public official's principal or personal residence, in which case, identification that the property is a residence;

(iv) if income or gifts, then identification of the source; and

(v) if personal financial effect, then identification of the expense, liability, asset or income affected.

(2) Form of Identification: If the governmental decision is to be made during an open session of a public meeting, the public identification shall be made orally and shall be made part of the official public record.

(3) The public official must not attempt to influence the decision in any way.

(4) After disclosure, the public official must recuse himself/herself and leave the room before the matter is considered. If the matter is on the consent calendar it is permissible for the official to step down from the dais and for the Clerk to simply record an abstention on the item.

(A) If an official has not yet joined the meeting after the vote, the official must identify the conflict upon joining the meeting. If the official

leaves the meeting before the vote, he/she must identify the conflict before leaving.

(B) If an official has certain “personal interests” (FPPC Regs. 18704(d)(2)) in the agenda item, the official may step down and address the Board or other body from the floor as a member of the public. Officials should seek advice early on such matters.

4.4. Changing Votes. Any Board member may change their vote only by announcing their request immediately after the vote in question and before the next agenda matter is announced for discussion.

4.5. General Rule of Debate. Each motion is to be clearly framed and stated. Each amendment to a motion shall be by separate motion. The following procedure shall be followed:

4.5.1. The item shall be presented by its proponent (Board member, staff, Citizens Advisory Committee member, public, etc.).

4.5.2. Board of Directors ask questions to the proponent.

4.5.3. District staff report and Board of Directors questions to District staff.

4.5.4. Public input from persons who wish to speak.

4.5.5 Motion and second/Amendments.

4.5.6. Board of Directors debate.

4.5.7. Call for the question and vote.

4.5.8 Announcement of result.

4.6. Rosenberg’s Rules of Order. The procedures of the Board of Directors shall be governed by Rosenberg’s Rules of Order, as the same may be revised, and these Procedures.

4.6.1. President and Board of Directors Authority over Procedural Rules. The President shall establish any procedural rule not specified in Rosenberg’s Rules of Order or these Procedures, subject to appeal by vote of a majority of those Board of Directors members present and voting.

4.7. Types of Meetings.

4.7.1. Regular Meetings. Regular meetings of the Board of Directors shall be held in the Board Room at District Headquarters (290 Poularino Avenue) on the fourth Monday of the month at 4:30 p.m. The notice shall be posted at least 72 hours prior on social media including the District’s Facebook and Twitter accounts, as well as on the District’s website and on the District’s email notification system (Govoutreach)

4.7.2. Special Meetings. A special meeting may be called at any time by the President or by a majority of the Board by notifying the General Manager. The notice shall be posted at least 24 hours prior on social media including the District's Facebook and Twitter accounts, as well as on the District's website and on the District's email notification system (Govoutreach). Notwithstanding any other law, the Board of Directors shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined in Government Code Section 3511.1(d).

4.7.3. Adjourned Meetings. The Board of Directors may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. If all members are absent from any regular or adjourned regular meeting the District Clerk may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

4.7.4. Study Sessions. Study session meetings of the Board of Directors shall be held in the Board Room at District Headquarters (290 Paularino Avenue) on second Tuesday of the month at 9:30 a.m. The notice shall be posted at least 72 hours prior on social media including the District's Facebook and Twitter accounts, as well as on the District's website and on the District's email notification system (Govoutreach)

4.7.5. Closed Sessions. The following policy and procedure shall govern the holding of closed sessions by the Board of Directors:

4.7.5.1. Each closed session of the Board of Directors shall be held in accordance with provisions of applicable law and these Procedures.

4.7.5.2. The subject to be discussed at each closed session shall be disclosed to the public in accordance with the provisions of the Ralph M. Brown Act.

4.7.5.3. The closed session shall not be held if the President determines that the closed session is inappropriate, unless that determination is overruled by a majority vote of the Board of Directors.

4.7.5.4. The President shall preside at meetings of the Board of Directors in closed session and shall terminate a closed session if the discussion departs from the announced subject.

4.7.5.5. A Board member may call for a vote to terminate a closed session at any time during the meeting.

4.7.5.6. Statements made and documents distributed or discussed in closed session are privileged from disclosure. No disclosure of any statement made in closed session or document protected from disclosure will be made by any Board member or by District staff, except as disclosure is authorized or required by applicable law.

4.7.5.7. If it is alleged that a Board member has violated these Procedures:

4.7.5.7.1. The President, a Board member, or the General Manager may request a formal public hearing be set at which the Board of Directors shall hear the allegations, take sworn testimony, and review such information and evidence as may be presented.

4.7.5.7.2. The hearing shall be presided over by the President, or, in the President's absence, by the Vice President; except that if the President or the Vice President shall be the individual charged, he or she shall not conduct the hearing. If both are charged, the duties of the President shall be performed by the Board Secretary. District Counsel shall serve as counsel for the hearing officer and shall advise Board of Directors on all procedural matters and may direct questions to any witness.

4.7.5.7.3. At the conclusion of the hearing, the Board of Directors, by majority vote, shall make a finding as to whether or not any individual has violated the rules against disclosure of closed session information.

4.7.5.7.4. If the Board of Directors finds that a violation has occurred, the Board of Directors may request District Counsel to prepare the appropriate document for transmittal to the District Attorney or Grand Jury of Orange County requesting the bringing of an accusation for willful misconduct in office under Section 3060 of the Government Code of the State of California or as otherwise provided by law. In addition, the Board of Directors may direct District Counsel to undertake an appropriate civil action against the person accused, including, but not limited to, an action for breach of fiduciary duty.

4.7.6. Emergency Meetings. The Board of Directors may conduct emergency meetings when authorized by The Ralph M. Brown Act under Government Code Section 54956.5. An emergency shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the Board of Directors.

4.7.7. Teleconferenced Meetings. The Board of Directors may conduct teleconferenced meetings pursuant to the Ralph M. Brown Act under Government Code Section 54953(b). If the Board of Directors elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the Board of Directors shall participate from locations within the District. The agenda shall provide an opportunity for members of the public to address the legislative body directly at each teleconference location.

4.7.8. Public Hearings Required by Law. A public hearing on a specific agenda item shall be set for a specified time, and each written or published notice regarding that hearing shall announce its date and time. A person who wishes to address the Board of Directors at a public hearing should first complete a "Request to Speak" form and deliver it to the District Clerk or to his/her designee prior to the time that the item on the agenda is read by the President.

The President may allot additional time to speak for more than three minutes for those persons who have filed a Request to Speak. The determination of the President to allot additional time to speak may be overruled by a majority vote of the Board of Directors.

4.7.9. Citizens Advisory Committee (CAC). The CAC was created as an advisory body to the Board of Directors. The Board President will designate one member of the Board of Directors to serve one year as a non-voting liaison to the CAC. No more than two members of the Board of Directors may attend a CAC; otherwise a joint meeting between the CAC and Board of Directors must be called and the joint meeting must be subject to the Ralph M. Brown Act.

4.8 Security. After consultation between the President and General Manager, Board of Directors meetings may institute protection security services from an experienced and qualified protective services agency. The level of protection needed will be determined on a case-by-case basis.

4.9. Forms of Board Action.

4.9.1. Ordinances and Resolutions. Ordinances will go into effect upon the expiration of the week of publication in a local newspaper pursuant to California Health and Safety Code Section 6490. The affirmative votes of at least three (3) members of the Board of Directors shall be required for the enactment of any ordinance. All ordinances and resolutions shall be signed by the President and Secretary and attested by the District Clerk.

4.9.2. Proclamations. Proclamations are ceremonial documents to honor, celebrate or create awareness of an event or significant issue. All proclamation requests will be reviewed on a case-by-case basis. They may be issued for:

- A. Public awareness
- B. Charitable fundraising campaigns
- C. Non-profit organizations
- D. Arts and cultural celebrations
- D. Special honors, determined by the President

4.8.2.1 The President will determine if the proposed request meets the intent of this policy and retains the right to decide if it will be issued. The President retains the right to modify, edit, or otherwise amend the proposed proclamation or letter of recognition.

4.9.3. Minute Orders. The Board may by minute order direct staff or take other actions authorized by law that do not require an ordinance or resolution.

4.10. Voting.

4.10.1. Quorum. A majority of the Board shall constitute a quorum for the purposes of transacting District business.

4.10.2. Tie Votes. A tie vote results in rejection of the motion or action in question.

4.11. Minutes. For every action taken by the Board, the vote or abstention of each member shall be recorded.

4.12. Public Participation. Any person wishing to address the Board of Directors should first complete and deliver to the District Clerk or to his/her designee representative a "Request to Speak" form. While the person's name and address is requested on the form, it need not be provided in order for a person to speak. For matters scheduled on the agenda, speakers shall be heard when an item is called. The "Public Comment" portion of the meeting shall be the time to speak on non-agenda items.

4.13. Public Comment. Soon after each regular Board of Directors and study session meetings begin, the Board of Directors shall allow any member of the public to address them on any matter of interest that is within the subject matter jurisdiction of the District and that is not on the scheduled agenda. The Board of Directors, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is not within the jurisdiction of the District. Any member of the public is allowed to speak on a specific item of business before or during the Board of Directors consideration of it.

4.13.1. Time Limits. No individual speaker may speak for more than 3 minutes, unless the President grants the speaker extra time, or as provided in 4.7.8, above. When a translator is required, individual speakers may speak up to 6 minutes, as per Section 54954.3(b)(2) of the Government Code of the State of California

4.13.2. Pooling Time. Persons who speak during the public comment portion of the agenda or during public participation on an individual agenda item may pool their time with others when to do so will allow a group of speakers to consolidate and shorten their remarks. Persons who wish to pool their time shall so indicate on their Request to Speak. Each person who is donating time shall be present in the Board Room to deliver the Request to Speak form and when the pooled-time speaker is heard. Time will be pooled up to a maximum of 10 minutes for any single speaker, regardless how many persons donate their time. A person may not donate only a portion of their time.

4.13.3. Board and Staff Responses on non-agenda items. No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of the Board or staff may briefly respond to statements made or questions posed by persons exercising their public comment testimony rights. In addition, on their own initiative or in response to questions posed by the public, a member of the Board or staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of the Board, or the entire Board itself, subject to rules or procedures of the Board of Directors, may provide a reference to staff or other resources for factual information, request staff to report back to the Board at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda. The Board may also direct that staff make a response to any question posed, before or after the meeting.

4.14. Decorum and Rules of Conduct.

4.14.1. Duty to Preserve Decorum. While the Board is in session, all persons shall observe order and decorum. If the President determines that the Board meeting has been disrupted, he or she may clear the Board room. Disruptions of meetings may be a violation of Penal Code §403 and peace officer

assistance may be called. Any member of the public who fails to comply with the rules of decorum and conduct after being warned by the President, thereby requiring the President to interrupt the meeting once again to restore order, shall be considered to be disrupting the Board meeting

4.14.2. Disruption Prohibited. No person shall disrupt the orderly conduct of the Board meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Board dais without consent. Individuals shall not be allowed to bring large items into the Board Room, or other items that might obstruct free passage within or ingress to or egress from the Board Room, or to place any such obstructions in Board Room aisles or passage ways.

4.14.3. Electronic Devices. All electronic devices, such as phones, tablets or computers, shall be used in a silent mode so as not to disrupt the meeting with beeping, rings or other noises. Board members shall refrain from communicating or receiving information by electronic device during a public meeting.

4.14.4. Signs. No sign shall be brought into the Board Room or displayed unless it can be held by one person without blocking the view of the dais by other persons seated in the Board Room. Signs shall not be affixed to poles or sticks. No sign or other material shall be affixed to the walls of the Board Room.

4.15. Quasi-Judicial Hearings.

4.15.1. Overview. It is the policy of the Board to avoid and discourage substantive oral communications or individualized written communications about quasi-judicial matters, except during a noticed public hearing. Written communications distributed to the Board shall be disclosed to the District Clerk and made public as required by the Ralph M. Brown Act. The following procedural guidelines are intended to implement this policy, but shall not be construed to create any remedy or right of action.

4.15.2. Generally. These procedures are intended to assure that the due process rights of all persons are protected during quasi-judicial District hearings. Quasi-judicial hearings require a higher level of procedural due process because of the potential impact on life, liberty or property.

4.15.3. Applicability. Quasi-judicial hearing procedures will apply to the following Board of Directors hearing matters:

4.15.3.1. Recouping abatement cost and/or cost from damaged sewer infrastructure and/or sewer overflows that occurred due to failure to maintain private sewer lateral.

4.15.3.2. Termination of a variance and/or orders that food service establishments install or retrofit grease interceptors.

4.15.3.3. Revocation of conditional waiver from installing a grease control device at food service establishments.

4.15.3.4. Recouping costs when abatement and enforcement efforts are required to abate violations or to correct violations pertaining to the District's sewer system.

4.15.3.5. Appealing District staff position to require CCTV inspection and repairs of private sewer lateral.

4.15.3.6 Amending permit terms to increase maintenance or otherwise limit the scope of the permit.

4.15.4. Identification of Quasi-Judicial Matters on the Agenda. The General Manager and District Clerk, in conjunction with the District Counsel, will identify agenda items involving quasi-judicial decisions on the Board agenda. This identification is intended to inform the Board, interested parties, and the public that this policy will apply to the item, but failure to identify an item shall not be cause for a continuance.

4.15.5. Policy to Avoid Ex Parte Contacts. Ex parte contacts are substantive oral or individual written communications concerning quasi-judicial matters that occur outside of noticed public hearings. Board of Directors members should avoid and discourage ex parte contacts if at all possible.

4.15.5.1 Disclosure of Ex Parte Contacts. If an ex parte contact does occur (which it might because the public has a hard time understanding that on quasi-judicial matters the Board's decision making is confined to the hearing), the Board member must disclose the contact and the substance of the information communicated on the record at the start of the public hearing. This disclosure allows people who may have a different point of view or contrary evidence to make their points during the hearing in response to the information you may have obtained through the ex parte contact. The disclosure might go something like this: "I was approached by the appellant last week and he told me that grease did not cause a sewer overflow at his establishment."

4.15.6 Site visits. Site visits and inspections by Board members that are not disclosed at the beginning of the hearing are also discouraged. While it is presumed that Board members are familiar with the District, specific site visits for determining facts in a quasi-judicial hearing may deny due process. Board

members should disclose any site visits made and what was observed at the beginning of the hearing.

4.15.7. Ex Parte Contacts After the Hearing. Ex parte contacts after a public hearing is closed and before a final decision is rendered are prohibited because there is no opportunity for rebuttal.

4.15.8. Hearings De Novo. Appeals to the Board shall be conducted de novo, meaning that new evidence and arguments may be presented and considered.

4.15.9. Burden of Proof. The applicant shall bear the burden of proof on all aspects of the action or relief they seek. If staff is seeking to terminate or revoke an existing permit or right, staff has the burden of proof. The party with the burden of proof must offer evidence to the Board to support his or her position.

4.15.10. Rules of Evidence. Board hearings need not be conducted according to formal rules of evidence. Any relevant evidence may be considered if it is the sort of evidence upon which responsible persons rely in the conduct of serious affairs. The presiding officer may exclude irrelevant or redundant testimony and may make such other rulings as may be necessary for the orderly conduct of the proceedings while ensuring basic fairness and full consideration of the issues involved. Evidentiary objections shall be deemed waived unless made in a timely fashion before the Board. District Counsel shall advise the presiding officer on evidentiary matters.

4.15.11. Written Findings. On any matter for which state law or District ordinance requires the preparation of written findings, the staff report and other materials submitted on the matter should contain findings proposed for adoption by the Board. Any motion directly or impliedly rejecting the proposed findings must include a statement of alternative or modified findings or a direction that the matter under consideration be continued for a reasonable period of time in order for staff to prepare a new set of proposed findings consistent with the evidence which has been presented and the decision which is anticipated.

4.15.12. Board members Who Are Absent During Part of a Hearing. A Board member who is absent from any portion of a hearing conducted by the Board may vote on the matter provided that he or she has watched or listened to a video or radio broadcast, or video or audio recording, of the entire portion of the hearing from which he or she was absent and if she or he has examined all of the exhibits presented during the portion of the hearing from which he or she was absent and states on the record before voting that the Board member is familiar with the record and with the evidence presented at the hearing as he or she would have been had he or she personally attended the entire hearing.

4.15.13. Board Use of Electronic Communication Devices During Quasi-Judicial Meetings. The Board's use of electronic communication devices, such as cell phones, during a quasi-judicial Board of Directors hearing may lead to the public's perception that a Board member is not paying attention to the subject matter at hand or that a Board member is receiving information relative to the subject matter at hand that other Board members and members of the public are not receiving. Therefore, the Board's use of electronic communication devices (including cell phones) is prohibited during quasi-judicial Board of Directors hearings.

4.16. Board Room Capacity. Board Room attendance is limited to the posted seating capacity. The General Manager or the District Clerk shall appropriately regulate entrance to the Board Room. Members of the public shall not remain standing in the seating area or aisles of the Board Room. Sitting on the floor is not permitted.

5. POWER OF CENSURE COSTA MESA SANITARY DISTRICT BOARD OF DIRECTORS PROCEDURES

The Board of Directors establishes and reserves the power to censure members of the Board of Directors who violate these Procedures. The Board of Directors may adopt supplemental procedures to govern censure proceedings upon the advice and counsel of District Counsel.