



February 17, 2022

The Honorable Jill C. Fannin
Judge of the Superior Court
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

Re: Response to the 2020-2021 Contra Costa County Civil Grand Jury Report
No. 2103 Titled: "West County Wastewater District"

Dear Judge Fannin:

On February 16, 2022, the Board of Directors of the West County Wastewater District (Board) approved this response to the above-referenced Civil Grand Jury Report (Report). The Report listed eight Findings and four Recommendations. In accordance with California Penal Code Section 933 *et seq.* and the Civil Grand Jury's instructions, West County Wastewater District's (WCW) response to the Findings and Recommendations follow below.

INTRODUCTION

Pursuant to Resolution 2020-53, the Board found that Director Sherry Stanley improperly handled and reported a money transaction by misrepresenting the timing of an expenditure and requesting a reimbursement prior to the time the expenditure was made, in violation of the WCW's Fraud in the Workplace Policy. In its censure of Director Stanley, the Board directed the General Counsel to refer the above described fraud allegation to the District Attorney for investigation.

On January 28, 2021, the WCW's General Counsel referred the matter to the Contra Costa County District Attorney for investigation. The District Attorney declined to file criminal charges, but noted the concerning nature of Director Stanley's conduct and referred the matter to the Civil Grand Jury for review. Following referral by the District Attorney, the Civil Grand Jury conducted an investigation and developed the Report. The Report states that issues related to Director Stanley were not investigated because the Grand Jury "considered these issues to have been resolved internally by the censure votes" and goes on to say that the Grand Jury independently opted to "investigate whether irregularities or significant omissions in Board operations and procedures existed." The Report states that the Grand Jury "found no evidence of serious irregularities in the operations and procedures of the WCWD." The Grand Jury then recommended the Board consider changes to alleviate the concerns some members had about procedural confusion and financial transparency by implementing specific written procedures and clarifications which are the subjects of the Grand Jury's Findings and Recommendations.

BOARD OF DIRECTORS

Cesar Zepeda, President
Cheryl Sudduth, Vice President

David Alvarado, Director
Sherry Stanley, Director
Harry Wiener, Director

GENERAL MANAGER

Lisa K. Malek-Zadeh

GENERAL COUNSEL

Claire H. Collins

In the Report, the Civil Grand Jury made eight Findings and four Recommendations. In accordance with California Penal Code Section 933.05, the West County Wastewater's response to each of the Findings and Recommendations is provided below.

West Count Wastewater seeks to ensure that its policies align with best practices for public agencies and principals of good and efficient government. There will always be room for improvement. Furthermore, WCW acknowledges the Civil Grand Jury's comment that the Board is divided. However, the central tenet of democracy is that the majority rules. This foundational tenet ensures both adequate representation of the WCW's constituents and the efficient conduct of WCW business.

With the above prefatory comments in mind, WCW now describes its specific responses to the Report's Findings and Recommendations.

RESPONSE TO FINDINGS

Finding 1: Board members are prohibited by WCWD Policies and Procedures from communicating directly with District staff other than the GM.

Response: WCW disagrees with the finding.

Additional Comments/Explanation: There is no blanket prohibition against communications between Directors and staff. Board members routinely communicate with members of staff other than the General Manager, including the District Clerk, the Deputy General Manager, Department Directors, staff in Human Resources, payroll, information technology staff, as well as staff who make presentations to the Board on various operational matters. Directors who are members of standing committees also communicate with staff during committee meetings, including the staff liaison who works directly with the Chair of the committee.

The Board of Directors, through the Management Authority, have delegated day-to-day operations to the General Manager who is the only employee who reports to the Board of Directors. Consistent with other public agencies, the management authority and the majority rule structure of the Board, individual Board members do not have independent decision-making authority and are prohibited from directing WCW staff. As such, information requests are directed to the General Manager as described in Section 2.6.5 of the Board of Directors' Policies and Procedures. This matter is also addressed in the General Manager's employment contract and WCWs' Ethics Policy.

Directors are also community members and may communicate with staff on matters not otherwise specifically addressed by District policies and in a manner consistent with the Ethics Policy.

Finding 2: Therefore, a director cannot obtain non-publicly available information from District staff about District operations without the General Manager's consent.

Response: WCW disagrees partially with the finding.

Additional Comments/Explanation: Consistent with other public agencies and as described in Section 4.3.6 of the Board of Directors' Policies and Procedures, the General Manager is responsible for information requests from the Board or individual members of the Board.

There is very limited information not publicly available to a Director, the Board or the general public. One exception is personnel information, which is confidential. Since personnel has been delegated to the General Manager by the Board, neither the public, an individual Director or the Board as a whole have access to this information unless specified in WCW's personnel policies.

Additionally, the Board is provided with regular updates on operations, finances, community engagement and personnel. This is provided through a variety of communication methods: communication with the General Manager, Standing Committees, WCW's weekly internal newsletter, The Drop, sent to all employees and Board members, monthly budget reports and check register, bi-annual updates to on capital spending and projects, the community newsletter, The Lateral, and updates scheduled throughout the year on specific programs or areas of interest.

Finding 3: The General Manager determines the agenda for District Board meetings in consultation with the Board president.

Response: WCW agrees with the finding.

Additional Comments/Explanation: Consistent with the practice of most public agencies and pursuant to Section 4.3.1 of the Board of Directors' Policies and Procedures, the General Manager is responsible for finalizing the agenda for each Board meeting.

The General Manager has been delegated the responsibility for implementing the Board's direction, which requires the General Manager to bring items to the Board for consideration and this happens through the agenda-setting process.

Finding 4: Alternatively, a Board member may place an item on the meeting agenda, but only with a Board majority vote.

Response: WCW agrees with the finding.

Additional Comments/Explanation: Consistent with the practice of most public agencies, Directors may request an item be placed on a future Board meeting agenda and the request must be approved by a majority of the Board. Alternatively, a Director may request the General Manager to add an item to the agenda. The General Manager may add it to the agenda or place it on a future agenda for the Board to vote on discussion of the matter at a future meeting.

Finding 5: The Board has given the General Manager the discretion to spend up to \$50,000 (per vendor, per fiscal year) of WCWD funds for District maintenance and operations without Board approval.

Response: WCW agrees with the finding.

Additional Comments/Explanation: Consistent with most public agencies, the Board of Directors, through the Management Authority, has delegated authority to the General Manager to expend funds, issue purchase orders and sign contracts valued up to the spending authority of the General Manager with expenditures complying with WCW's financial policies.

Finding 6: Board members can review the check register for the WCWD's general fund, but the General Manager's discretionary expenditures are not segregated or identified on the check register.

Response: WCW agrees with the finding.

Additional Comments/Explanation: Consistent with most public agencies, all expenditures made by WCW are included on the check register. Expenditures are not segregated by authorization. Each month, the check register is presented to the Board with time set aside for the Directors to ask any questions about the check register. Directors are encouraged to ask the General Manager and/or the Director of Administrative Services, who prepares and presents the check register, about any expenditure before, during or after the Board meeting.

Finding 7: In the Board's 2020 investigation of two Directors, the Board allocated a \$1,000 stipend to each to obtain legal advice. In the Board's most recent investigation of the same Directors, none were paid.

Response: WCW agrees with the finding.

Additional Comments/Explanation: None.

Finding 8: The WCWD has no written policy on when or under what circumstances it will pay for a Director's legal expenses.

Response: WCW agrees with the finding.

Additional Comments/Explanation: None.

RESPONSE TO RECOMMENDATIONS

Recommendation 1: Adopt procedures by which any Board member can obtain information about WCW operations without the agreement of the General Manager.

Response: Will partially implement.

Additional Comments/Explanation: WCW will update relevant policies by June 30, 2022, to reflect the current practice that stated information requests should be directed to the General Manager, but may be directed to the Deputy General Manager or Department Heads when appropriate and when accompanied by a notification to the General Manager of the request. In addition, relevant WCW policies, as well as the Employee Handbook, currently in development, will provide additional guidelines on appropriate and allowable communications between staff and Board members.

Recommendation 2: Adopt procedures by which any Board member can place an item on the meeting agenda without GM approval or a Board majority.

Response: Will not implement.

Additional Comments/Explanation: The Board operates as a majority. Individual Directors do not have the ability to make decisions or act unilaterally with the exception of some limited parliamentary responsibilities carried out by the President of the Board. The Board's current policies and procedures are consistent with majority rule structure of the Board and with the agenda-setting process followed by most, if not all, public agencies.

A Board member may place an item on the agenda with the approval of a majority vote.

Recommendation 3: Adopt a written policy on reimbursement of a director's legal fees for both internal investigations and claims brought against a director by an outside 3rd party.

Response: Will implement.

Additional Comments/Explanation: WCW will adopt a written policy on reimbursement of Director's legal fees by June 30, 2022, and the policy will conform to the California Government Code.

Recommendation 4: Adopt a procedure that requires the GM to identify expenditures made under the authority to make per-vendor payments of less than \$50,000 per fiscal year.

Response: Will not implement.

Additional Comments/Explanation: Consistent with the practice of most public agencies, the Board delegates a pre-determined dollar amount the General Manager can spend without Board approval. This is done to ensure the effective and efficient management of the organization. If every expenditure requires Board approval, critical supplies and services required to operate would result in costly delays. The check register report provided to the Board each month provides detailed information on every expenditure made by WCW in a given month. The information included on WCW's check register is consistent with what the approximately 19 public agencies surveyed provide to their own Boards or Councils. Most agencies provide a check register that comes directly from the financial system and staff found that WCW's check register provides more details than any other public agency surveyed. Staff could find no agency where expenditures were separated by authorization under the General Manager's authority.

It should be noted that the request for separation of expenses authorized by the General Manager was made by one of the Director's censured for discrimination and mistreatment of the General Manager. The request for the additional level of scrutiny was only made shortly after the complaint against the Director was filed. Should you require any additional information, please do not hesitate to contact West County Wastewater's General Manager, Lisa Malek-Zadeh.

Sincerely,



Cesar Zepeda (Feb 18, 2022 08:10 PST)

Cesar Zepeda, President
Board of Directors
West County Wastewater

cc: Board of Directors, West County Wastewater
Lisa Malek-Zadeh, General Manager
Claire Collins, General Counsel

Attachment: February 16, 2022 WCW Staff Report on Grand Jury Report



Staff Report

REPORT TITLE:	RESPONSE TO THE CONTRA COSTA COUNTY CIVIL GRAND JURY
MEETING:	Board of Directors - Feb 16 2022
REPORT BY:	Lisa Malek-Zadeh, General Manager
SUBMITTED BY:	Lisa Malek-Zadeh, Office of General Manager
REPORT TYPE:	Governance
RECOMMENDATION:	Consider approval of the Draft West County Wastewater (WCW) response to the 2020-2021 Contra Costa County Civil Grand Jury Report No. 2103 titled: "West County Wastewater District" and the Draft Board of Director's Statement in response to the Grand Jury report.
ATTACHMENT(S):	Response to Civil Grand Jury Report Board of Director's Statement Resolution No. 2020-53 Censuring Director Stanley (2020) Resolution No. 2021-14 Censuring Director Stanley (2021) Resolution No. 2021-15 Censuring Director Wiener SDLF High Performance Checklist Other Agency's Survey Board Presentation
FINANCIAL IMPACT:	
Total dollar amount	<input type="checkbox"/> Approved in budget <input type="checkbox"/> Budget amendment required <input checked="" type="checkbox"/> No budgetary impact

STRATEGIC PLAN GOALS:



Infrastructure Strategy
and Performance



Information Systems
and Data Management



Environmental
Stewardship



Operational
Optimization and
Employee Culture



Financial Viability



Community Image

RECOMMENDED ACTION:

Consider approval of the Draft West County Wastewater (WCW) response to the 2020-2021 Contra Costa County Civil Grand Jury Report No. 2103 titled: "West County Wastewater District" and the Draft Board of Director's Statement in response to the Grand Jury report.

SUMMARY:

The 2020-2021 Contra Costa County Civil Grand Jury (Civil Grand Jury/CGJ) issued a report dated November 23, 2021, titled "West County Wastewater District" (Report/GJR).

The Report made eight findings and four recommendations Pursuant to the California Penal Code and the instructions of the Report, WCW is required to provide responses to each of the Reports' findings and recommendations by February 25, 2022. To read the entire Grand Jury Report, see Attachment A.

WCW welcomes any opportunity to identify and implement improvements that increase the Board of Director's effectiveness in governing the District. The Board has reviewed and considered the Grand Jury's recommendations and a discussion of these deliberations is discussed in more detail in the following sections of this report. WCW has prepared a response to the Grand Jury, which can be found on Attachment B.

Missing from the Grand Jury Report is important context and background to help better understand what led to the investigation as well as the findings, conclusions and recommendations from the Grand Jury. This information is provided in the discussion below.

BACKGROUND AND DISCUSSION:

The West County Wastewater Board of Directors is committed to practicing good governance and taking steps to guarantee a high functioning Board of Directors. This includes creating policies that incorporate the highest standards and best practices, regularly revisiting policies so they remain current and relevant, ensuring that each Director understands and complies with policies adopted by the Board, and working with the General Manager to implement the policies set out by the Board. To this end, the Board has taken several steps over the last few years to demonstrate its commitment to these principles.

Board of Directors Policies and Procedures

The Board of Directors' Policies and Procedures outline the procedures, roles that the Board of Directors will follow to ensure that constituents and members of the public may be informed of the Board's business, operations and policies, and may meaningfully remain involved in the open governance process.

In 2019, an Ad Hoc Committee of the Board of Directors was created to complete an extensive review of the Boards' policies and procedures, which had become outdated, were missing key information and was difficult to understand. After the recommendations from the Ad Hoc Committee and staff were reviewed and discussed by the then Planning Committee in late spring/summer of 2020, the Board of Directors adopted an updated comprehensive Board Policies and Procedures at their meeting on July 1, 2020. The new policy is easy to understand, reflects best practices, is consistent with other agencies and associations that set standards of good governance and complies with legal requirements.

Since the Board adopted the new Policies and Procedures in 2020, the Board has regularly reviewed and revisited the Policy with the most recent update in February 2021 to ensure the policy reflects current conditions.

Management Authority

WCW's day-to-day operations are delegated to the Chief Operating Officer, the General Manager, with the role and responsibilities of the General Manager outlined in the Management Authority adopted by the Board of Directors. The Management Authority has been reviewed and updated as recently as February 2021 and provides further clarification on duties delegated to the General Manager as well as adding provisions to comply with changing conditions such as the WCW's adoption of the California Uniform Public Construction Cost Accounting Act (CUPCCAA), which provides more efficient procurement standards for capital expenditures.

Financial Policies

WCW's financial policies provide the basis for high standards and sound financial practices in the operations of the organization. Since 2019, the Board has reviewed and updated all of WCW's financial policies including an update to the Bank and Check Signing Policy in 2019. In 2021, the Board reviewed and approved updates to the Reserves policy, which hadn't been updated since 2015. In addition, the Board also approved the Investment Policy and adopted WCW's first Debt Management Policy. In 2021, the Board reviewed and approved an overhaul of the WCW's Purchasing Policy. The revised policy expanded the section on ethical procurement standards, clarified procurement methods and types, added references to applicable state law, and updated dollar thresholds to align with previous Board authorization and changes to the California Uniform Public Construction Costs Account Act.

As a result of the standards and practices established in the Financial policies, WCW has earned the Certificate of Achievement for Excellence in Financial Reporting and Outstanding Financial Reporting awards since 1998 for the year-end financial reports. Beginning in 2008, WCW has been the recipient of the Distinguished Budget Presentation Award and Operating Budget Excellence Award for the organization's biennial budgets.

Management Plans

Management plans define the direction of the organization, establish key objectives and measurable goals that must be met over a specified period of time. These plans establish the framework for staff to develop the budget, plan for capital improvements and create operational and management plans and for day-to-day decision-making. In the last three years, the Board has spent extensive time discussing, developing, reviewing and approving WCW's key management plans.

In 2019, the Board adopted an updated 5-Year Capital Improvement Plan (CIP) that established the priorities for WCW's CIP project opportunities and for long-term asset management. Regular updates on the implementation of the CIP are provided to the Infrastructure, Operations and Environment Committee and a comprehensive progress overview is provided to the Board twice a year.

The Board also established WCW's first Climate Action Plan (CAP) in 2019. The CAP provides a road map for WCW to achieve its goals for reduction of greenhouse gas emissions, recycling, and other environmental initiatives. It is a living document that establishes a program for

identifying baseline conditions and for measuring progress towards achieving these goals. The CAP provides a comprehensive and integrated way to help guide investments and decision-making.

Complimenting the CIP and CAP, the Board approved a new 5-Year Strategic Plan in July 2020. This was the result of an extensive development process that took several months of the Board working with staff to determine the needs of the organization along with WCW's goal for transforming into a modern organization focused on customer service, public engagement, effective problem-solving, collaboration, and community and environmental stewardship - meeting the future with a fresh perspective and cutting-edge approach.

Commitment to Transparency

WCW's promise of openness and transparency is embedded in all we do. In 2018, WCW earned the Certificate of Transparency from the Special District Leadership Foundation (SDLF). SDLF is a statewide non-profit foundation known for promoting good governance and best practices. The Certificate of Transparency is awarded to organizations who can demonstrate their commitment to operating in a transparent and ethical manner while engaging with the public to create greater awareness of their activities.

Efforts in this area have expanded dramatically and in 2019, WCW began the complete redesign of its website with improved navigation for users and more relevant content for our community, partners and employees. The new website allows anyone to view event calendars, sign up to be notified of upcoming Board and Committee meetings and watch meetings as they are happening. Website visitors can view the location of capital projects in process, submit permits online, look up codes and ordinances, financial documents, sewer rates and fees as well as review WCW's current project bids and requests-for-proposals. Also, on the website are all open recruitments, employee agreements and wage schedules and information and resources about starting a career in wastewater.

Along with the updated website, WCW has expanded its Social Media presence. Now utilizing Facebook, Twitter, LinkedIn, YouTube and NextDoor, WCW reaches the community with information about job recruitments, Board elections, programs for the community such as our PIPES program and share stories about staff in the field while performing the work we do each day to keep our community healthy.

WCW's community newsletter, The Lateral, launched in 2020 and is another way we keep our community informed about WCW. The Lateral has showcased our Women in Wastewater series, which highlights women working in roles all throughout West County Wastewater as well as job bulletins, project updates, and reminders about all the ways our community can connect with WCW with links to our Board meetings, social media channels and other important contact information. At the end of 2021, WCW introduced The Drop, our employee newsletter- another way WCW is ensuring the community we serve, as well as our employees are informed and aware of current events, opportunities and important information relevant to employment with WCW.

High-Performing District Checklist and Other Agency Comparisons

The High-Performing Checklist (Checklist) was designed and approved by SDLF to provide special districts with best practices in the areas of Finance and Human Resources. This is another tool agencies can use to evaluate policies and practices. WCW recently revisited the Checklist and was able to confirm compliance in all areas of training, reporting, governance, policies, procurement, ethics and general administration.

Additionally, WCW conducted a survey of approximately 19 other local Wastewater agencies and nearby cities to compare their policies and practices in the areas the Grand Jury reviewed to WCW's. This survey confirmed that WCW's policies and practices are consistent with the practices of most other agencies, with minimal variances.

Policy Compliance

The Board has taken its commitment to safeguarding WCW's policy seriously. When an allegation of misconduct was made about two Directors of the Board, the Board initiated an investigation into the complaint. At the conclusion of the investigation, the Board provided training to the Directors and approved the censure of one of the Directors based on the findings from review of the complaint. When new allegations were made of the same two Directors, the Board once again initiated an investigation. Based on the findings of the second investigation, the Board approved censures of both Directors that included issuing a public apology and directing several corrective actions for the censured Board Members. The cost of these investigations, trainings and legal fees totaled approximately \$200,000. While the Board would rather have allocated the \$200,000 to replace critical infrastructure that would improve the community, the Board took the actions necessary to investigate and take corrective action against the two Directors who engaged in actions violating WCW's discrimination, bullying and retaliation and ethics policies.

Basis of Grand Jury Investigation - Censure Orders of Two Directors

In July 2020, an investigation was conducted into allegations of misconduct by two Directors of the West County Board of Directors (Board). On October 7, 2020, the Board approved a reimbursement of up to \$1,000 per Board Member for legal fees related to the investigation. At the conclusion of the investigation, on December 22, 2020, the Board voted to censure Director Sherry Stanley (Resolution 2020-53) based on findings from an investigation that found:

1. Director Stanley violated the Board Ethics policy by failing to practice civility and decorum in her interactions with staff.
2. Director Stanley violated the Policy and Complaint Procedure Against Harassment, Discrimination, Retaliation, and Bullying by making repeated inappropriate statements about the General Manager expressing a preference for a male General Manager over a female General Manager and expressed that she would treat the current, female General Manager and future female General Managers or candidates less favorably than their male counterparts because they are female.
3. Director Stanley violated the Fraud in the Workplace Policy.

In addition to being directed to take additional training, removal from committee assignments and representing WCW, a reduction in compensation and prohibition from participating in the General Manager's evaluation or communicating directly with the General Manager or any other staff, the Board voted to refer Director Stanley's mishandling of the legal reimbursement of funds to the Contra Costa District Attorney.

On August 26, 2021, at the conclusion of a second investigation into allegations of wrongdoing, the Board reviewed the findings into Directors Stanley and Wiener's violation of

WCW policies in their treatment of the General Manager. On September 15, 2021, the Board voted to censure Director Wiener (Resolution 2021-15). The Board also censured Director Stanley (Resolution 2021-14) for a 2nd time.

For her continued violations of WCW's policies, Director Stanley's censure order was extended through the end of her term in December 2024, with the addition of being prohibited from holding the seat of President or Vice President for the remainder of her term, further reduction in compensation and benefits, requirement to attend additional training and being prohibited from participating in employment decisions related to General Manager Malek-Zadeh.

For Director Wiener's violation of WCW's Ethics Policy and Policy and Complaint Procedure Against Harassment, Discrimination, Retaliation, and Bullying in his treatment of the General Manager, Director Wiener is prohibited from direct communication with the General Manager and participation in making any employment decisions related to General Manager Malek-Zadeh. He is also prohibited from holding the office of President or Vice President of the Board of Directors for the remainder of his term and must attend additional training.

Contra Costa County Civil Grand Jury

The Contra Costa County Civil Grand Jury is comprised of a panel of 19 ordinary citizens who must be citizens of the United States, be at least 18 years old, be a resident of the county for at least one year prior to selection, possess ordinary intelligence, sound judgment, and good character and be able to communicate orally and in writing in the English language. The panel changes each year. No knowledge or expertise of governance is required to sit on the Civil Grand Jury.

The panel is selected and sworn-in by a presiding judge of the Superior Court, function as an independent body under the guidance of a Superior Court Judge and investigate complaints against local government that may be initiated by citizens, newspaper articles and personal knowledge. The proceedings are held in secret.

The Civil Grand Jury produces reports with findings and recommendations for improvements to operations of local government, but has no authority to order compliance.

Contra Costa County Civil Grand Jury Investigation

Pursuant to the censure of Director Stanley, the Board found that Director Sherry Stanley improperly handled and reported a money transaction by misrepresenting the timing of an expenditure and requested a reimbursement prior to the time the expenditure was made, in violation of WCW's Fraud in the Workplace Policy. In the censure of Director Stanley, the Board directed the General Counsel to refer the above-described fraud allegation to the District Attorney for investigation.

On January 28, 2021, the General Counsel referred the matter to the Contra Costa County District Attorney for investigation. The District Attorney declined to file criminal charges, but noted the concerning nature of Director Stanley's conduct and referred the matter to the Civil Grand Jury for review. Following referral by the District Attorney, the Civil Grand Jury conducted an investigation and prepared the Report.

Summary of the Scope of Investigation

The following statements were included in the Civil Grand Jury report:

1. June 2021, the District Attorney contacted the Grand Jury, stating, “Our office has declined to file criminal charges against Director Stanley. However, we do believe that Director Stanley’s actions are concerning and are therefore referring the matter to the Grand Jury for review.”
2. The complaint did not involve allegations of financial impropriety or general mismanagement. (GJR Page 1)
3. The Grand Jury did not pursue the question of the conduct of the Board members that led to their censure as there was no request to do so. The Grand Jury considered these issues to have been resolved internally by the censure votes (GJR P4)
4. A complaint submitted to the Grand Jury alleged violations of Board Ethical Policy and personal bias. These allegations were vaguely stated and difficult to substantiate. (GJR P4)

However, the Grand Jury voted to investigate whether irregularities or significant omissions in Board operations and procedures existed. (GJR P1)

Conclusions Included in the Report

In addition to the findings and recommendations, the Civil Grand Jury Report included the following statements:

1. The Grand Jury found no evidence of serious irregularities in the operations or procedures of WCWD. (GJR Pg.5)
2. The Grand Jury found that the probable basis for the instigating complaint lies in the political and personality divisiveness among the Board members. (GJR Pg. 5)
3. Board members in the minority feel that they have no power to effect governance and operations. While this frustration is perhaps understandable, it is mostly the function of the political reality of the Board. (GJR P. 5)
4. This split has led to a serious breakdown of civility between the majority and the minority. Discord during Board meetings and internal Board communication underlines the tension and factionalism among the members. (GJR Pg. 4)
5. The Grand Jury recommends that the Board consider changes to alleviate the concerns some members had about procedural confusion and financial transparency by implementing specific written procedures and clarifications. (GJR Pg.1)
6. WCW has no written policy on when or under what circumstances it will pay for a Director's legal expenses.

West County Wastewater's response to the Grand Jury Report is included as an attachment to this report.

President Zepeda's Statement for February 16, 2022 Meeting

Tonight, we are discussing, for the second time, WCW's response to the Grand Jury report. At our last meeting, the Board engaged in more than an hour of debate and discussion about how to reply. In response to that conversation and the comments made, the General Manager prepared a revised response for our consideration tonight.

Before the General Manager provides her report, I would like to make a few remarks, which I have also distributed as a written statement to each Board member.

The origin of this issue was an employee complaint against two Board members that resulted in an internal investigation in July 2020. In December of that year, the Board voted to censure one of the directors, Sherry Stanley, for misconduct and referred the matter to the District Attorney's office. This is the same Board member who has been censured multiple times for failing to adhere to the conduct requested through previous censures. The matter then went to the Grand Jury.

Rather than focusing on the conduct investigation, the Grand Jury chose to concentrate on issues pertaining to WCW's governance and make recommendations that in some cases are not consistent with law or public agency best practices.

To be sure, the Grand Jury's statements should not be used as a tactic by certain Board members to divert, distract, or deter THIS BOARD from focusing on the misconduct of individual Board members. The censured Board members are attempting to divert attention from their own actions by falsely accusing or insinuating and attacking the General Manager for taking actions that are properly within her authority and are consistent with public agencies throughout the state. I have the utmost confidence in our General Manager and we should support her continued leadership on the critical issues facing this agency.

This controversy stems from the misperception by two board members that the General Manager overstepped her authority by hiring a law firm to support the agency's review of its personnel policies, which was not a specialty our then-General Counsel focused in. In doing so, they perceived that the General Manager had gone around the Board by directly hiring the new firm. In truth, the GM is responsible for running the entire agency and making day-to-day decisions such as this.

Over my time on the board I have repeatedly raised the issue of irregularities in the way our former attorney had advised us on different matters. He would often use the term: "It's always been done this way." I would later come to realize that our Board policy was

in conflict with his advice. So, we updated the Board policies to clarify our objectives and during that process realized that we had not done our due diligence with several of our consultants, including our General Counsel. We had not gone out to bid in more than 40 years, much to the detriment of our fiscal responsibility and commitment to the community. This caused our former attorney to submit his resignation.

As a result, I felt a building animosity toward our GM from Board members who seemed to be loyal to the previous attorney, rather than keeping the best interests of the agency in mind. This appeared to lead to increased actions of perceived retaliation toward our General Manager from those specific Board members. Following the resignation of the previous General Counsel, new representation (evaluated thoroughly by the Board through appropriate channels) has found that the agency has been out of compliance in many ways. The agency is only now in compliance with best practices and is working through any potential liabilities not only for the agency but for the directors themselves. Though those Board members may not like how this transpired – it needed to be done. Our former counsel's favorite line was: "If I can defend it in court, then it's okay." That is no way to run an agency.

In my view, we are at the vanguard of excellent governance, accountability, and agency transformation, bringing a modern approach to public service. WCW has always adhered to industry standards and will continue to do so. WCW is deeply invested in ensuring we serve the community in a responsible and transparent manner. I'm proud of the actions we have taken as a Board. We are a very diverse Board at an agency with a very diverse workforce. The number of women in leadership positions has dramatically increased in the last few years, including our General Manager, the first woman to lead this organization, a situation that even now sometimes leads to discriminatory practices from the Board. As we work toward creating an ever-more inclusive environment, this is an opportunity for us to move forward with positivity and understanding for our agency and community.

WCW as an organization is not being accused of any wrongdoing. The investigation "found no evidence of serious irregularities" in our operations or procedures. It is the Board that sets policy, consistent with California law. The Grand Jury, in its report, is sympathetic to the concerns of Board members who have sometimes been in the minority on certain votes. However, the report also states, "While this frustration is perhaps understandable, it is mostly the function of the political reality of the Board."

In a democracy, we govern using majority rule while providing an opportunity for the minority to be heard and argue a position to try to obtain a majority. That has **always**

been the case at WCW. I am proud of our agency's accomplishments in the last few years, and I am embarrassed by the unnecessary controversy this has generated.

I have reviewed the updated draft response, and I intend to support this as the final letter WCW sends back to the Grand Jury. I will ask the General Manager to make a presentation, and then allow each Board member two minutes to make an initial statement. Once each director has spoken, I will allow one minute each for any follow up statements.

Fellow directors, while we may not always agree on everything, we are making history with every action we take. I hope these actions will inspire us to look ahead and not behind us as the future is best viewed through a clear window, not a mirror.

**RESOLUTION OF THE BOARD OF DIRECTORS OF WEST COUNTY
WASTEWATER DISTRICT, COUNTY OF CONTRA COSTA, CALIFORNIA**

RESOLUTION NO. 2020-53

**CENSURING DIRECTOR SHERRY STANLEY FOR INAPPROPRIATE CONDUCT AND
VIOLATING DISTRICT POLICIES**

Following a meeting held December 9, 2020, at which information was solicited or received from staff, the public, legal counsel, and the members of the Board, the Board of Directors of West County Wastewater District (“District”) makes the following findings:

A. The District promotes and seeks to maintain the highest standards of personal and professional conduct in the District’s governance, reflecting the core values of the community.

B. Section 8.2 of the District’s Board Ethics Policy states: “Directors should treat staff as professionals. Clear, honest communication that respects the abilities, experience and dignity of each individual is expected. As with Board colleagues, civility and decorum in all interactions with District staff should be practiced.”

C. Section 8.3 of the District’s Board Ethics Policy states in pertinent part: “To the greatest extent possible, all substantive communications between Directors and staff should be routed through the General Manager. Direct communications between Directors and staff regarding substantive matters affecting the District should be avoided.”

D. Section 8.6 of the District’s Board Ethics Policy states “Any concerns by a member of the Board of Directors regarding the behavior or work of a District employee should be directed to the General Manager or [General Counsel] privately to ensure the concern is resolved. Directors shall not reprimand employees directly nor should they communicate their concerns to anyone other than the General Manager or [General Counsel].”

E. The District’s Policy and Complaint Procedure Against Harassment, Discrimination, Retaliation and Workplace Bullying (“Harassment Policy”) prohibits elected officials from harassing or discriminating against employees because of a protected classification, such as sex or gender. Discrimination means treating individuals differently because of the individual’s protected classification. Harassment includes derogatory comments or slurs made because of a person’s protected classification. Retaliation is an adverse action taken because an employee has reported harassment, discrimination, bullying, or has participated in a complaint and investigation process.

F. The District’s Fraud in the Workplace Policy defines “fraud” to include “[i]mproprieties in the handling or reporting of money or property transactions.”

G. The Board finds that Director Sherry Stanley has verbally or in email communications not practiced civility and decorum in her interactions with staff, thereby violating Section 8.2 of the Board Ethics Policy.

H. The Board finds that Director Sherry Stanley has engaged in communications that violate Sections 8.3 and 8.6 of the Board Ethics Policy.

I. The Board finds that Director Sherry Stanley has engaged in verbal, visual or physical conduct toward and relating to District staff in the Summer and Fall of 2020, in violation of the District's Board Ethics Policy and Policy and Complaint Procedure Against Harassment, Discrimination, Retaliation, and Bullying. This includes verbal conduct in the form of repeated inappropriate statements about the General Manager made to General Counsel expressing a preference for a male General Manager over a female General Manager, and by expressing that she would treat the current, female General Manager and future female General Managers or candidates less favorably than their male counterparts because they are female. Director Stanley has been provided with counseling, training, and an opportunity to acknowledge this conduct violates the policy, but has failed to demonstrate appropriate conduct to prevent a repeat occurrence.

J. The Board finds that Director Sherry Stanley has improperly handled and reported a money transaction by misrepresenting the timing of an expenditure and requesting reimbursement prior to the time the expenditure was made, a violation of the Fraud in the Workplace Policy.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE WEST COUNTY WASTEWATER DISTRICT AS FOLLOWS:

1. **CENSURE.** Director Sherry Stanley is hereby censured for violating the District's Board Ethics Policy, the Policy and Complaint Procedure Against Harassment, Discrimination, Retaliation, and Bullying, and the Fraud in the Workplace Policy, based on the conduct identified above and as further described in the public meeting on this matter.

2. **FURTHER TRAINING.** The District Board reaffirms its commitment to using civility and decorum in communications with District staff, to ensuring a workplace free of discrimination, harassment, retaliation and bullying, and to protecting its assets against the risk of loss or misuse. The Board directs Director Stanley to undergo additional training regarding the District's Board Ethics Policy, its Policy and Complaint Procedure Against Harassment, Discrimination, Retaliation, and Bullying, and its Fraud in the Workplace Policy.

3. **COMMITTEES.** Director Sherry Stanley is hereby removed from any District committee on which she sits, and is prohibited for the period of at least one year from sitting as a member or alternate on any District committee.

4. **REPRESENTATION AT OUTSIDE ENTITIES.** Because Director Sherry Stanley's behavior as described above does not comport with the Board's expectation

of a Director's behavior and does not reflect favorably on the District, Director Sherry Stanley is hereby removed from any representative role on behalf of the District with other entities, including the California Association of Sanitation Agencies.

5. NO PUBLIC STATEMENTS ON BEHALF OF DISTRICT. Director Stanley is hereby prohibited from making public statements on behalf of the District, and to the extent she makes any public statements pursuant to her Constitutional right to freedom of speech, she shall state prior to her remarks "I am making the following statement in my personal capacity and not as a representative of West County Wastewater."

6. RECONSIDERATION OF APPOINTMENTS. The Board may consider Sherry Stanley's appointment to any committees or representative roles on behalf of the District in January 2022.

7. REFERRAL TO DISTRICT ATTORNEY. The Board hereby directs the General Counsel to refer the fraud allegation above to the District Attorney for investigation.

8. GENERAL MANAGER'S EVALUATION. Director Stanley is hereby prohibited from participation in the General Manager's evaluation.

9. PROHIBITION ON DIRECT COMMUNICATION WITH STAFF. Director Stanley is hereby prohibited from having communication directly with the General Manager or staff. All communications between Director Stanley and staff, including the General Manager, must be transmitted through the President.

10. COMPENSATION LIMIT. Director Stanley's day of service compensation is limited to two days of service per month, one day of service for each board meeting attended.

11. SEVERABILITY. If any one or more items above are found to be not allowable under law, this would not affect the effectiveness of any other provision. The Board would have adopted each of the above censure provisions individually.

12. RESIGNATION. Because the Board has found more than three non-minor violations of the Ethics Policy, she is expected to, and the Board hereby requests that Director Sherry Stanley resign immediately from the Board of Directors.

* * *

I **HEREBY CERTIFY** that the foregoing resolution was duly and regularly adopted by the Board of Directors of the West County Wastewater District, Contra Costa County, California, at a special meeting held on the 9th day of December 2020, by the following vote:

AYES: 3 (Alvarado, Sudduth, Zepeda)

NOES: 1 (Wiener)

ABSENT: 0

NOT VOTING: 1 (Stanley)


[David Alvarado \(Dec 11, 2020 09:18 PST\)](#)

President of the Board of Directors
West County Wastewater District
Contra Costa County, California


[Cheryl Sudduth \(Dec 11, 2020 13:42 PST\)](#)

Vice President of the Board of Directors
West County Wastewater District
Contra Costa County, California

**RESOLUTION OF THE BOARD OF DIRECTORS OF WEST COUNTY
WASTEWATER DISTRICT, COUNTY OF CONTRA COSTA, CALIFORNIA**

RESOLUTION NO. 2021-14

**CENSURING DIRECTOR SHERRY STANLEY FOR INAPPROPRIATE
CONDUCT AND VIOLATING DISTRICT POLICIES**

At a Special Meeting of the West County Wastewater District (“**WCW**”) Board of Directors held August 26, 2021, the Board considered the results of an investigation conducted by an independent attorney investigator into allegations made by the General Manager that Director Stanley violated WCW policies in her treatment of the General Manager.

Director Stanley was given an opportunity during the public meeting to make a statement, and members of the public were also permitted to make public comment. Director Stanley declined to make a statement.

Section 8.2 of the District’s Board Ethics Policy states: “Directors should treat staff as professionals. Clear, honest communication that respects the abilities, experience and dignity of each individual is expected. As with Board colleagues, civility and decorum in all interactions with District staff should be practiced.”

The District’s Policy and Complaint Procedure Against Harassment, Discrimination, Retaliation and Workplace Bullying (“**Harassment Policy**”) prohibits elected officials from harassing or discriminating against employees because of a protected classification, such as sex or gender, and prohibits retaliation. Discrimination means treating individuals differently because of the individual’s protected classification. Harassment includes derogatory comments or slurs made because of a person’s protected classification. Retaliation is an adverse action taken because an employee has reported harassment, discrimination, bullying, or has participated in a complaint and investigation process.

On December 9, 2020, the Board of Directors previously found that Director Stanley had verbally or in email communications not practiced civility and decorum in her interactions with staff, thereby violating Section 8.2 of the Board Ethics Policy, and that Director Stanley had engaged in communications that violate Sections 8.3 and 8.6 of the Board Ethics Policy. The Board censured Director Stanley at that meeting, adopting Resolution No. 2020-53, attached Exhibit 1. That censure resolution was amended August 18, 2021, which resolution is attached Exhibit 2.

Pursuant to Section 9 of the Board Ethics Policy, the Board of Directors considered the investigator’s report, and in connection with that report deliberated, adopted, and approved various motions of censure at its August 26, 2021 special meeting. The Board of Directors intends by this resolution to clearly state the terms of the censure in writing.

THE BOARD OF DIRECTORS THEREFORE RESOLVES AS FOLLOWS:

1. Director Stanley is prohibited from holding the positions of President or Vice President for the remainder of her term. All prior elements of Director Stanley's December 9, 2021 censure, as amended August 18, 2021, will continue in full force and effect through the end of her term, including but not limited to being prohibited from participating on WCW committees through the end of her term.
2. Director Stanley's per diem/payment per day of service is limited to \$100 per day of service, effective August 27, 2021.
3. Because Director Stanley has been subject to multiple censures, to the extent allowed by law, Director Stanley will not be eligible for any benefits contribution from the District. This censure item is subject to annual review by the Board each August.
4. Director Stanley is prohibited from participating in employment decisions related to General Manager Malek-Zadeh.
5. Director Stanley shall take training on the same days as Board meetings on subjects recommended by Labor Counsel Diane O'Malley. Director Stanley shall complete two trainings before December 31, 2021. Legal counsel will report back to the Board on the progress of those trainings on or before December 31, 2021.

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the Board of Directors of the West County Wastewater District, Contra Costa County, California, at a special meeting held on the 15th day of September, 2021, by the following vote:

AYES: 3 (Alvarado, Zepeda, Sudduth)

NOES: 0

ABSTAIN: 0

NOT VOTING: Stanley



 President of the Board of Directors
 West County Wastewater District
 Contra Costa County, California



 Cesar Zepeda

 Vice-President of the Board of Directors
 West County Wastewater District
 Contra Costa County, California

ATTEST:



Secretary to the District/District Clerk

ACKNOWLEDGED:

Director Sherry Stanley

**RESOLUTION OF THE BOARD OF DIRECTORS OF WEST COUNTY
WASTEWATER DISTRICT, COUNTY OF CONTRA COSTA, CALIFORNIA**

RESOLUTION NO. 2021-15

**CENSURING DIRECTOR HARRY WIENER FOR INAPPROPRIATE CONDUCT
AND VIOLATING DISTRICT POLICIES**

At a Special Meeting of the West County Wastewater District (“**WCW**”) Board of Directors held August 26, 2021, the Board considered the results of an investigation conducted by an independent attorney investigator into allegations made by the General Manager that Director Wiener violated WCW policies in his treatment of the General Manager.

Director Wiener was given an opportunity during the public meeting to make a statement, and members of the public were also permitted to make public comment. Director Wiener declined to make a public statement.

Section 8.2 of the District’s Board Ethics Policy states: “Directors should treat staff as professionals. Clear, honest communication that respects the abilities, experience and dignity of each individual is expected. As with Board colleagues, civility and decorum in all interactions with District staff should be practiced.”

The District’s Policy and Complaint Procedure Against Harassment, Discrimination, Retaliation and Workplace Bullying (“**Harassment Policy**”) prohibits elected officials from harassing or discriminating against employees because of a protected classification, such as sex or gender, and prohibits retaliation. Discrimination means treating individuals differently because of the individual’s protected classification. Harassment includes derogatory comments or slurs made because of a person’s protected classification. Retaliation is an adverse action taken because an employee has reported harassment, discrimination, bullying, or has participated in a complaint and investigation process.

Pursuant to Section 9 of the Board Ethics Policy, the Board of Directors considered the investigator’s report, and in connection with that report deliberated, adopted, and approved various motions of censure at its August 26, 2021 special meeting. The Board of Directors intends by this resolution to clearly state the terms of the censure in writing.

THE BOARD OF DIRECTORS THEREFORE RESOLVES AS FOLLOWS:

1. Director Wiener is prohibited from direct contact with General Manager Malek-Zadeh, and instead he shall communicate with District staff through the President of the Board. This censure item is effective for one year, but may be reconsidered in January 2022.

2. Director Wiener is prohibited from holding the positions of President or Vice President for the remainder of his term.
3. Director Wiener is prohibited from participating in employment decisions related to General Manager Malek-Zadeh.
4. Director Wiener shall take training on the same days as Board meetings on subjects recommended by Labor Counsel Diane O'Malley. Director Wiener shall complete two trainings before December 31, 2021. Legal counsel will report back to the Board on the progress of those trainings on or before December 31, 2021.

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the Board of Directors of the West County Wastewater District, Contra Costa County, California, at a special meeting held on the 15th day of September 2021, by the following vote:

AYES: 3 (Alvarado, Zepeda, Sudduth)
NOES: 0
ABSTAIN: 0
NOT VOTING: Wiener



President of the Board of Directors
West County Wastewater District
Contra Costa County, California



Cesar Zepeda
Vice-President of the Board of Directors
West County Wastewater District
Contra Costa County, California

ATTEST:



Secretary to the District/District Clerk

ACKNOWLEDGED:

Director Harry Wiener



**SPECIAL DISTRICT
LEADERSHIP FOUNDATION**



High Performing District Checklist

FINANCE AND HUMAN RESOURCES

This checklist was designed and approved by the Special District Leadership Foundation (SDLF) to provide special districts with best practices in the areas of Finance and Human Resources.

Visit us online at sdlf.org for comprehensive resources and samples related to each of the best practices listed.



BEST PRACTICES - FINANCE

Training

- Board and staff obtain regular training on finance/fiscal accountability.
- Board and designated employees (those who participate in making decisions that may materially affect their financial interests) complete ethics training as required by law, including initial and biennial training requirements.*

Reporting

- All financial reports are filed on time and in compliance with applicable laws and recognized standards for best management/reporting practices (including Governmental Accounting Standards Board):
 - Comprehensive annual financial report
 - Annual Audit*
 - State Controller's Financial Transaction Report*
 - State Controller's Compensation Report*
- The district requires board members and designated employees to prepare and file statements of economic interests (FPPC Form 700) to identify and disclose potential conflicts of interest.

Governance

- Board establishes and periodically reviews strategic, financial, and other goals.
- Board approves an annual balanced budget in an open and public meeting and periodically reviews revenue and expenses for compliance with the budget.*
- Board approves capital improvement plans in an open and public meeting and periodically reviews revenue and expenses for compliance with the plans.
- Board sets rates and fees in compliance with applicable state laws and district ensures its revenues maintain financial stability and support its commitments.

Policies

- The district has written, board-approved codes of conduct and ethics policies, including compliance with conflicts of interest laws and proper financial management.
- Board establishes and periodically reviews fund balances and reserve policies that meet district's needs.*
- Board establishes and periodically reviews sound fiscal and internal control policies and procedures (including checks and balances) sufficient to (1) safeguard its assets and resources, (2) deter and detect errors, fraud, waste, abuse and theft, (3) ensure accuracy and completeness of its accounting data, and (4) produce reliable and timely financial and management information.
- District has an investment policy describing approved investment types, and management periodically reports investment information (types of investments held, market values, maturity dates, etc.) to the board, according to a board approved policy.
- The district has adopted and implements policies and procedures concerning the payment of claims, bills, and invoices, the issuance, approval and signing of district checks/warrants, and the use of district credit cards.
- District actively adopts mechanisms to prevent, detect, and/or report fraud, waste, and abuse.

– CONTINUED ON REVERSE –

*Also included on the District Transparency of Excellence Certificate Checklist



BEST PRACTICES - FINANCE *continued*

General Administration

- Board and employee travel and other expense reimbursements are supported by receipts, and reviewed and approved by an appropriate supervisor and manager to ensure that expenses are appropriate and comply with a board-approved policy.*
- Management periodically reports financial information to the board, according to a board-approved policy.
- If a prior audit was qualified or reported an adverse finding related to a financial or performance issue, the district promptly implemented effective corrective action.
- The district has available cash, funds, and short-term investments to pay its short-term obligations on time.
- The district's revenues and funds are sufficient to meet long-term debt, pension, and other postemployment benefit obligations.
- The district has implemented accounting and bookkeeping systems and records in accordance with generally accepted accounting principles for local government agencies.
- The district maintains a blanket performance or fidelity bond or insurance to protect against employee mishandling and theft of district funds.
- If the district has received federal or state grant or loan funds, the district carefully administers the grant or loan in accordance with the applicable grant or loan agreement and related requirements.

Procurement

- Board-approved policy establishes purchasing authorization levels for appropriate district positions, including authorization levels or contract change orders.
- A competitive process for purchasing goods and materials is established and followed according to a board-approved policy.
- District uses a competitive process for awarding construction and construction-related contracts (for construction, project management, architectural services, etc.) that complies with state law.
- District uses a competitive process for awarding contracts for general professional services unless appropriate criteria are met for not using a competitive process (sole-source procurement).
- Board approval or oversight is required for high-dollar, lengthy, or other sensitive procurement contracts.
- Board-approved policy establishes emergency procurement procedures, compliant with state law.
- Board directs staff to include in procurement documents processes for unsuccessful vendors, proposers, and/or vendors to protest the award of a contract.



BEST PRACTICES - HUMAN RESOURCES

Ethics

- Board and appropriate staff obtain regular training on human resources.
- Board and supervisory employees complete sexual harassment and discrimination prevention training biennially.

Governance

- Board approves general manager job description and the organizational structure.
- Board establishes and regularly evaluates board and employee salary structures and benefit packages using, when appropriate, a salary survey that allows for comparison with other agencies by region, agency type (services provided), and agency size (annual budget, number of employees and population served). All compensation complies with state and federal laws.
- A board-approved policy or agreement establishes the processes for hiring and firing, including background checks, evaluating the performance and adjusting the compensation of the general manager.

General Administration

- Management uses written processes for hiring employees, evaluating performance, imposing progressive discipline, adjusting compensation and benefits, and accruing and using leave.
- Employee job descriptions, duties, and financial control responsibilities are effectively communicated and periodically reviewed.
- District's policies and procedures are reviewed on an annual basis to ensure compliance with new laws.
- District policies and procedures communicate important information about management's expectations for each district process. Policies are deployed thoughtfully and conscientiously to ensure that required actions are reasonable. Procedures articulate the distinct responsibility and accountability of each individual involved in the process.
- Management uses a written fraud reporting policy that includes procedures for employees to follow to report suspected fraud. Employees are periodically reminded of the policy.

**Also included on the District Transparency of Excellence Certificate Checklist*

Other Agencies Survey

	Agency Name	Check Register Format Same as WCW	Agenda Setting Process Vote of Board Majority/GM	Communication Information Requests Through the General Manager	Notes
1	Ross Valley	✓	✓	✓	
2	Las Galinas	✓	✓	✓	
3	Ironhouse	✓	✓	✓	
4	Ora Loma	✓	There is a list of pre-approved agenda topics that a Board members can place on the agenda.	✓	
5	Fairfield Suisun	N/A	✓	✓	
6	West Valley San	✓	N/A	✓	
7	Contra Costa Water	✓	✓	✓	
8	Union Sanitary	✓	✓	✓	
9	Marin Municipal Water District	Monthly financial update shows expenditures by category only	✓	✓	
10	Castro Valley Sanitation	✓	✓	N/A	
11	Alameda County Water	✓	Requires 2 Directors to approve	✓	Start with GM. If unreachable, may contact Dept Heads
12	Dublin San Ramon	✓	✓	✓	Start with GM. If unreachable, Asst GM, then may contact Dept Heads
13	Central Contra Costa Sanitation (Central San)	✓	✓	✓	
14	City of Pinole	✓	N/A	✓	
16	City of El Cerrito	✓	N/A	✓	
17	City of Fairfield	N/A	Requires 2 Directors to approve	✓	
18	City of Pittsburg	✓	N/A	✓	
19	City of Richmond	✓	N/A	N/A	

Response to Contra Costa Grand Jury Report

FEBRUARY 16, 2022

BOARD OF DIRECTOR'S MEETING, ITEM 7



WEST COUNTY
WASTEWATER

Tonight's discussion

1. Review Timeline
2. Overview of the Grand Jury, Investigation and Report
3. WCW's Response to Grand Jury Findings and Recommendations
4. Questions

How did we get here?

- **July 2020** – Investigation into complaint of misconduct by two WCW Board Members
- **October 7, 2020** – Board approved reimbursement for legal fees up to \$1,000 per Board Member
- **December 22, 2020** – Board voted to censure Director Sherry Stanley based on investigation findings
- **December 22, 2020** – Board voted to refer Director Stanley's violation of WCW's fraud policy to District Attorney
- **July 2021** – Second complaint/initiation of investigation into Board Members Stanley and Wiener
- **September 15, 2021** – Board voted to censure Director Wiener and Director Stanley for a second time for violation of WCW policies in their treatment of the General Manager

Censure: formal, public condemnation of an individual, often a group member, whose actions and conduct run counter to the group's acceptable standards for individual behavior.

Overview of the Grand Jury

- Made up of a panel of 19 ordinary citizens
- Not required to have any special knowledge or experience in government
- Panel changes every year
- Selected and sworn-in by a presiding judge of the Superior Court
- Function as an independent body under the guidance of a Superior Court Judge
- Investigate complaints about local government
- Produce reports with recommendations for improvements to operations
- Investigations are initiated by citizens, newspaper articles and personal knowledge
- No authority to order or otherwise compel compliance with its recommendations

Summary of Grand Jury Report (GJR)

- June 2021, the District Attorney contacted the Grand Jury, stating, “...our office has declined to file criminal charges against Director Stanley. However, we do believe that Director Stanley’s actions are concerning and are therefore referring the matter to the Grand Jury for review.”
- The complaint did not involve allegations of financial impropriety or general mismanagement. (GJR Page 1)
- Grand Jury did not pursue the question of the conduct of the Board Members that led to their censure as there was no request to do so. The Grand Jury considered these issues to have been resolved internally by the censure votes. (GJR Page 4)
- A complaint submitted to the Grand Jury alleged violations of Board Ethics Policy and personal bias. These allegations were vaguely stated and difficult to substantiate. (GJR Page 4)
- Grand Jury voted to investigate whether irregularities or significant omissions in Board operations and procedures existed. (GJR page 1)

(*GJR refers to Grand Jury Report page numbers)

Grand Jury Report – Key Takeaways

- The Grand Jury found no evidence of serious irregularities in the (Board) operations or procedures of WCWD. (GJR Page 5)
- Grand Jury found that the probable basis for the instigating complaint lies in the political and personality divisiveness among the Board Members. (GJR Page 5)
- Board Members in the minority feel that they have no power to affect governance and operations. While this frustration is perhaps understandable, **it is mostly the function of the political reality of the Board** (GJR page 5)
- This split has led to a serious breakdown of civility between the majority and the minority. Discord during Board meetings and internal Board communication underlines the tension and factionalism among the members. (GJR Page 4)
- The Grand Jury recommends that the Board consider changes to alleviate the concerns some members had about procedural confusion and financial transparency by implementing specific, written procedures and clarifications. (GJR page 1)

Board of Director's Commitment Good Governance

The West County Wastewater Board of Directors is committed to practicing good governance and taking steps to guarantee a high-functioning Board of Directors.

- Creating policies that incorporate the highest standards and best practices
- Revisiting policies so they remain current and relevant
- Ensuring each Director understands and complies with policies adopted by the Board

Good Governance in Practice

- Developed and approved comprehensive Board of Directors' Policies and Procedures
- Updated Management Authority – Delegation of Duties to the General Manger
- Reviewed all Financial Policies
 - Adopted new, comprehensive Purchasing Policy
 - Adopted 1st Debt Policy
- Updated All Management Plans
 - Strategic Plan, 5-Year Capital Improvement Plan, 1st Climate Action Plan
- Expanded Transparency of District Operations
 - New website, *The Lateral*, *The Drop*, Facebook, NextDoor, LinkedIn
 - 2018 Certificate of Transparency
- Took Steps to ensure policy compliance

Development of WCW's Response to Grand Jury Report

- Grand Jury made 8 Findings and 4 Recommendations
- WCW surveyed 19 other agencies to review practices
- WCW consulted professional organizations that set governance standards
- WCW reviewed current policies
- Confirmed WCWs' policies follow best practices and are consistent with other agencies
- Response to recommendations: 1 to implement, 1 to partially implement and 2 will not implement

Grand Jury Findings & Recommendations

Findings 1 & 2:

- Board Members are prohibited by WCWD Policies and Procedures from communicating directly with District staff other than the General Manager
- A Director cannot obtain non-publicly available information from District staff about District operations without the General Manager's consent

Recommendation 1: Adopt procedures by which any Board member can obtain information about WCW operations without the agreement of the General Manager.

Proposed response: Will partially implement

- By June 30, WCW will update relevant policies
- Information requests directed to the General Manager and may be directed to Deputy General Manager or Department Heads when appropriate
- Will provide additional guidelines on appropriate and allowable communications between staff and Board members

Grand Jury Findings & Recommendations

Findings 3 & 4:

- The General Manager determines the agenda for District Board meetings in consultation with the Board President
- A Board Member may place an item on the meeting agenda, but only with a Board majority vote

Recommendation 2: Adopt procedures by which any Board Member can place an item on the meeting agenda without General Manager approval or a Board majority

Proposed Response: Will not implement

- The Board operates as a majority and individual Directors have no ability to make decisions/act unilaterally
- Current policy is already consistent with the best practices and other public agencies
- A Board Member may place an item on the agenda with the approval of a majority vote

Grand Jury Findings & Recommendations

Findings 7 & 8:

- In the Board's 2020 investigation of two Directors, the Board allocated a \$1000 stipend to each to obtain legal advice. In the Board's most recent investigation of the same directors, none were paid.
- WCW has no written policy on when or under what circumstances it will pay for a director's legal expenses.

Recommendation 3: Adopt a written policy on reimbursement of a Director's legal fees for both internal investigations and claims brought against a Director by an outside, third party

Proposed Response: Will implement

- By June 30, adopt a policy on reimbursement of Director's legal fees that conforms to California Government Code

Grand Jury Findings & Recommendations

Findings 5 & 6

- The Board has given the General Manager discretion to spend up to \$50,000 (per vendor, per fiscal year) of WCWD funds for District maintenance and operations without Board approval.
- Board Members can review the check register for the WCWD's general fund, but the General Manager's discretionary expenditures are not segregated or identified on the check register.

Recommendation 4: Adopt a procedure that requires the General Manager to identify expenditures made under the authority to make per-vendor payments of less than \$50,000 per fiscal year.

Proposed Response: Will not of implement

- Authority delegated by the Board to General Manager to ensure effective and efficient management
- Check register report lists every expenditures made by WCW in a given month
- WCW's check register is more detailed than most
- Staff could find no examples where expenditures were separated by authorization
- Current policy is already consistent with the best practices and other public agencies
- Request for separation of expenses authorized by the General Manager made by Director after complaint was filed against Director

Recommendation

- Approve Draft response Letter to Grand Jury
- Approve Draft Board Statement



QUESTIONS?