

David Hobbs

From: ralucaslaw@outlook.com
Sent: Wednesday, November 18, 2020 8:45 AM
To: David Hobbs
Cc: jphillips@whwdist.com
Subject: Re: Western Hills Water District Illegal Cancellation of November 11, 2020 Regular Meeting

Mr. Hobbs:

Thank you for the clarification regarding payment of WHWD Directors. The By-Laws provide for payment, at Section 4.07.01 state the Directors shall be paid \$100 for every Board meeting attended so I appreciate your clarification. The questions regarding Ms. Wilkins involvement were a direct result of your previous communication so I again appreciate your clarification.

Some WHWD Board Directors' refusal to act as true public servants serving the larger Diablo Grande community in accordance with fiduciary obligations as well as the law is the true issue here. As my clients have stated repeatedly, we look forward to partnering with a transparent, fiscally responsible, ethical and legally accountable water district for the betterment of the community. Angel's Crossing's only failure, in this regard, was its good faith belief WHWD would act in accordance with principles of sound government, public service, and fiscal responsibility. Given some WHWD Board Directors' continued pattern of abuse of power, fiscal mismanagement, and overall disregard for ethical obligations, laws, and the good of the community each Director was appointed to serve, as previously stated, my client looks forward to creating a positive, productive business relationship that will benefit the entire community once WHWD ends this stalemate.

Regards,

RONDA AZEVEDO LUCAS, Esq.

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prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and delete it. Thank You.

On Nov 17, 2020, at 7:31 AM, David Hobbs <dhobbs@calwaterlaw.com> wrote:

Ms. Lucas:

For your information, WHWD Directors are an unpaid position.

Ms. Wilkins' sole involvement in this matter was to post the notice. How you infer a forgery scheme out of an otherwise simple rescheduling of a meeting due to major technical difficulties preventing the remote holding of the meeting in accordance with the Governor's COVID-19 Executive Order is without any factual or legal basis, but that is your opinion and would be in accordance with your client's strategy.

In light of your lack of any meaningful response to WHWD's continued requests for Angel's Crossing to live up to its financial obligations, it is increasingly apparent your client either (1) lacks the funds to satisfy its obligations to WHWD or (2) has no intentions to pay WHWD. In either case, that failure to pay causes adverse impacts to numerous affected third-parties.

Rather than address your client's obvious failures to live up to its financial obligations and promises, Angel's Crossing's plan appears to be to level unjustified attacks on WHWD in order to deflect from Angel's Crossing's own failings. While this strategy may sway the opinion of certain residents for a time, none of these manufactured reasons have any actual legal validity.

I will advise the WHWD Board of your comments and the Board can proceed accordingly.

Regards.

From: ralucaslaw@outlook.com <ralucaslaw@outlook.com>

Sent: Friday, November 13, 2020 3:12 PM

To: David Hobbs <dhobbs@calwaterlaw.com>

Cc: jphillips@whwdist.com

Subject: RE: Western Hills Water District Illegal Cancellation of November 11, 2020 Regular Meeting

Mr. Hobbs:

I am unaware of any explanation by Ms. Wilkins accompanying the posted Notice of Adjournment. Please provide me with a link to the explanation you referenced in your email below. Your explanation that Ms. Wilkins, acting as Secretary, unilaterally took it upon herself to make the determination that it was proper under the law to cancel a noticed Board Meeting and then draft a Notice of Adjournment and post that notice is ridiculous.

Are you suggesting that Ms. Wilkins forged Mr. Manning's signature on the "adjournment" notice WHWD published? Mr. Manning, not Ms. Wilkins illegally adjourned the meeting. I would hope that WHWD is not thinking of turning a newly hired employee into the scapegoat. I would further hope that your 5 paid, elected representatives would have enough knowledge to consult their general counsel before cancelling a regular board meeting to ensure the laws are actually followed. Clearly, that did not happen here.

Words matter, process matters, the law matters. Adjournment is not the same as cancelling a regular meeting under the Brown Act. The code provision cited governs **adjournment**, which was improperly and

illegally done in this case. In response to your questions, I would recommend the League of California Cities publication **Open and Public V: A Guide to the Ralph M. Brown Act**. Additionally, you may want to consult and join the California Lawyers Association's Public Law Section. Their Open Meetings and Open Records Conference, which is held every spring, could be a wonderful resource for you as well as the Board secretary. I further recommend WHWD consider joining the California Special District Association and sending Board members and the Board Secretary to its annual meetings. The seminars held are very worthwhile. You could always conduct Brown Act training for the entire Board and the Board Secretary.

Your consistent regurgitation that there has been no response from Angel's Crossing with respect your letter dated September 22, 2020 is utterly insincere. My clients attempted to forge a working partnership with WHWD before turning over millions of dollars to ensure fiscal responsibility, proper governance and a legal, transparent, functioning water district. WHWD rejected this attempt and simply demanded monies. The ball is firmly in WHWD's court. My client's position has been clearly stated and has not changed. WHWD Board's continued refusal to follow proper governance and exercise their fiduciary duty to manage the districts funds in a transparent and legal manner has strained any good will my client once had. For the good of the entire community, this stalemate needs to end with WHWD conducting itself in accordance with the law and in the spirit of public service. When that time comes, Angel's Crossing looks forward to creating a positive, productive business relationship that will benefit the entire community.

Regards,

RONDA AZEVEDO LUCAS, Esq.

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From: David Hobbs [<mailto:dhobbs@calwaterlaw.com>]
Sent: Thursday, November 12, 2020 3:13 PM
To: ralucaslaw@outlook.com
Cc: jphillips@whwdist.com
Subject: RE: Western Hills Water District Illegal Cancellation of November 11, 2020 Regular Meeting

Ms. Lucas –

Thank you for your comments in this regard. However, as you must know, WHWD is not conducting in-person meetings due to Gov. Newsom's Covid-executive order. As provided by Ms. Wilkins in her explanation accompanying the subject notice, all internet and phone services to the WHWD offices were down, leaving no means by which to conduct a meeting, i.e., no quorum would be available.

In such an event, Gov't. Code §54955 authorizes the secretary to make such a determination. As you note, there is no acting secretary with Ms. Taylor's departure.

What exactly would be the proper course in this scenario? Taking your argument to its logical conclusion means a legislative body could *never* properly adjourn or cancel a meeting where there is no quorum and no acting-secretary. Is that your argument?

Your concern is duly noted, but what appears more pressing is your client's failure to properly fund WHWD by paying water charges and other express obligations when it undertook to do so in accordance with the Assignment, Assumption and Release Agreement of May 2020. I note that to date, there has been no response from Angel's Crossing with respect to the issues raised via the attached September 22, 2020 letter to their last attorney, Rob Donlan of Ellison Schneider.

Angel's Crossing represented that it was to commence paying the financial obligations it assumed "within the first thirty days" according to their letter dated April 24, 2020 to WHWD, and that it would be a "pillar of permanent support". Is that no longer the goal?

Regards,

David

From: ralucaslaw@outlook.com <ralucaslaw@outlook.com>

Sent: Wednesday, November 11, 2020 5:01 PM

To: David Hobbs <dhobbs@calwaterlaw.com>

Cc: jphillips@whwdist.com

Subject: Western Hills Water District Illegal Cancellation of November 11, 2020 Regular Meeting

Mr. Hobbs:

How did Western Hills Water District (WHWD) "adjourn" its regular meeting when said meeting was never called to order? (See attached Notice). Mr. Manning's unilateral action appears to violate the Brown Act. In order to adjourn a meeting, the meeting has to first be called to order, and said meeting could not legally be called to order prior to its agendaized start time of 4:00 pm. Second, someone must be present to adjourn the meeting to another time and date. Per the Ralph M. Brown Act Guide, "[w]hoever is present (even if they are less than a quorum) may so adjourn a meeting; if no member of the legislative body is present, the clerk or secretary may adjourn the meeting. . . ." (Open and Public V: A Guide to the Ralph M. Brown Act at p. 32). Because the alleged "adjournment" occurred **before** the Board could legally meet and call the scheduled meeting to order, no Directors were present. Because Ms. Taylor no longer works for the District, the Board currently does not have a secretary who could have adjourned the meeting. Mr. Manning's unilateral decree is illegal and improper.

Second, the cancellation of this regular meeting violates WHWD's by-laws. Section 5.01, as amended, states in relevant part, "[t]he Board of Directors is granted full power and authority to (a) set the time of such regular meeting and (b) change the date of the regular meeting. Any change in the date of the regular meeting shall be noted on the by-laws opposite this section or this section may be amended by the Board of Directors to state the new date." Regardless of the verbiage used, Mr. Manning did not "adjourn" today's regular meeting as explained above. In fact, he unilaterally changed the date of the regular meeting. However, only the **Board of Directors** can make such a change and that change has to occur by the **Board of Directors** passing a resolution and amending the by-laws. (See attached Resolution). All of these acts require a public meeting to be held wherein the **Board**, as opposed to a single Director, takes official action. Mr. Manning has neither the authority or power to unilaterally cancel the District's regular meeting. His continued pattern of abuse of power is illegal and mocks basic tenets of democracy and open, transparent government. The Diablo Grande ratepayers and public at large deserve a functioning water district that is honest, transparent and committed to legal, ethical actions on behalf of the public it is supposed to be serving. These illegal acts and abuse of power must stop and corrective action must be taken immediately.

Regards,

RONDA AZEVEDO LUCAS, Esq.

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