

Board Package for Regular Meeting
of May 15, 2014



**SCOTIA COMMUNITY SERVICE DISTRICT
NOTICE IS HEREBY GIVEN THAT A REGULARLY SCHEDULED MEETING OF THE
BOARD OF DIRECTORS**

**WILL BE HELD AT:
122 MAIN STREET
SCOTIA, CALIFORNIA**

**THURSDAY, May 15, 2014
6:30 P.M.**

AGENDA

A. CALL TO ORDER

The Presiding officer will call the meeting to order and call the roll of members to determine the presence of a quorum.

ROLL CALL (DIRECTORS IN ATTENDANCE)

PLEDGE OF ALLEGIANCE

ADDITIONS TO THE AGENDA

Items may be added to the agenda in accordance with Section 54954.2(b)(t) of the Government Code (Brown Act). Items will be added to the agenda only on the basis that *there is a need to take immediate action* and that the *need for action came to the attention* of the Scotia Community Services District Board of Directors *after the agenda was posted*. All documentation supporting this agenda is available for public review in the District office during normal business hours.

B. SETTING OF AGENDA

The Board may adopt/revise the agenda as presented.

C. APPROVAL/DISAPPROVAL OF MINUTES FROM PREVIOUS MEETING(s)

April 17, 2014	First Official Meeting -Oath of Office Ceremony
May 8, 2014	Special SCSD Board Meeting Minutes

D. PUBLIC COMMENTS & WRITTEN COMMUNICATIONS

Regularly scheduled meetings will provide an opportunity for members of the public to directly address the SCSD Board Members-Elect on any action item that has been described in the agenda for the meeting, before or during consideration of that item, or on matters not identified on the agenda within the Board-elect's jurisdiction. Comments are not generally taken on non-action items such as reports or information.

CORRESPONDENCE

The Board will review recent District correspondence
Written correspondence is always welcome and should be used for complex issues.

E. PUBLIC HEARING

The Board is considering the appointment of up to (2) two board members.

F. **REPORTS**

Board and Staff Reports

Committee Reports/Information Review, update on staff/consultant reports.

Members of the Board may report on their respective committees

1. Train Locomotive Advisory Committee:

No Update.

2. Interim General Manager's Report:

The Interim General Manager may update the Board on current District projects, concerns and accomplishments.

3. Fire Chief's Status Report:

The Fire Chief may update the Board quarterly.

4. Town of Scotia Company, LLC:

The TOS may update from time to time the status of common interest and transition process issues.

G. **CONTINUED AND NEW BUSINESS**

1. NEW BUSINESS

Appointment of new board members by resolution.

2. CONTINUED BUSINESS

Review of Proposed Draft By-Laws for the Regulation, except as otherwise provided by Statute, of Scotia Community Service District

H. **ADJOURNMENT**

Notice regarding the Americans with Disabilities Act: The District adheres to the [Americans with Disabilities Act](#). Persons requiring special accommodations or more information about accessibility should contact the District Office. Notice regarding Rights of Appeal: Persons who are dissatisfied with the decisions of the SCSD Board of Directors have the right to have the decision reviewed by a State Court. The District has adopted [Section 1094.6](#) of the [Code of Civil Procedure](#) which generally limits the time within which the decision may be judicially challenged to 90 days.

Board Appointment

VACANCIES ON SPECIAL DISTRICT BOARDS

Action Required by the Governing Board

The district shall notify the County Elections Office (445-7481; Judi Hedgpeth) of the vacancy no later than 15 days following either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later.

The remaining district board members have 60 days immediately subsequent to either the date on which the district board is notified of the vacancy or the effective date of the vacancy whichever is later, to fill the vacancy

1. by appointment or
2. by calling a special election

Appointments to Fill Vacancies

If the district board decides to appoint someone to fill the vacancy, the board must first post a notice of the vacancy in at least three conspicuous locations in the district at least 15 days before the appointment is made.

The County Elections Office encourages district boards preparing to make appointments to provide the names and residential addresses of potential appointees so that it can be substantiated that they live in the district to whose board they may be appointed.

The board must notify the County Elections Office of the appointment no later than 15 days after the appointment is made.

The person appointed shall hold office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall fill the balance of the unexpired term. If the term of office is due to expire following the next general district election and that election is scheduled 130 or more days after the date the County Elections Office is notified of the vacancy, the person appointed to the vacancy shall fill the balance of the unexpired term of his or her predecessor.

Government code §1780 (a)

Elections to Fill Vacancies

In lieu of making an appointment the remaining members of the board may within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, call an election to fill the vacancy.

The election shall be held on the next established date that is 130 or more days after the date the district board calls an election.

Government code §1780 (a)

If the District Board Fails to Act

If the vacancy is not filled by the district board by either making an appointment or calling a special election within 60 days of the date the district is notified of the vacancy or the effective date of the vacancy, whichever is later, the following shall occur.

Within the next 30 days, the City Council of the city in which the district is wholly located, or if the district is not wholly located within a city, the Board of Supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may fill the vacancy by appointment or may order the district to call an election to fill the vacancy.

The election shall be held on the next established election date that is 130 or more days after the date the city council or board of supervisors calls the election.

Government code §1780 (b)

If the District Board Lacks a Quorum to Act Within 60 Days

If the number of remaining members of the district board falls below a quorum, at the request of the district secretary, or a remaining board member, the Board of Supervisors or the City Council, may waive the 60-day period during which time the district board is allowed to take action, but can't because there is no quorum, move directly to the 30-day period where the Board of Supervisors may take action.

Again, the board may either appoint immediately to fill the vacancy or may call an election to fill the vacancy.

The election shall be held on the next established election date that is 130 or more days after the date the district calls the election.

Government code §1780 (c) 2

If the Board of Supervisors Fails to Act

If within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, no action has been taken by any governing body to fill the vacancy by appointment or by calling for a special election, the district must call an election to fill the vacancy.

The election shall be held on the next established election date that is 130 days or more days after the date the district board calls the election.

Government code §1780 (c)

Term of Office

A person appointed to fill a vacancy shall hold office only until the next general district election that is scheduled 130 or more days after the date the county elections official is

notified of the vacancy and thereafter until the person elected at that election to fill the vacancy has been qualified to fill the vacancy for the remainder of the unexpired term.

A person elected at an election to fill the vacancy shall hold the office for the remainder of the unexpired term.

A person elected at a regular board member election or appointed in-lieu of election takes office at noon on the first Friday in December following his or her election in November.

Mark Richardson

From: Hedgpeth, Judith [JHedgpeth@co.humboldt.ca.us]
Sent: Wednesday, May 14, 2014 10:42 AM
To: Mark Richardson
Subject: RE: signed notices of appointment

All four of the candidates mentioned are registered voters in the Scotia Community Services District.

Judi Hedgpeth
Administrative Analyst
Humboldt County Office of Elections
445-7481
Fax 445-7204

From: Mark Richardson [mailto:mrichardson@townofscotia.com]
Sent: Wednesday, May 14, 2014 9:45 AM
To: Hedgpeth, Judith
Subject: RE: signed notices of appointment

Good Morning...

Here are the candidates for possible appointment to the two board positions. We are scheduled to make the appointment on thursday evening, pending confirmation of residency/voter registration.

Susan Pryor
129 Main St, Box 615
Scotia, CA

Diane Erickson Bristol
413 Church St, Box 455
Scotia, CA

Lucinda S. Gunn
139 Main St

Tim Lourenzo
133 Main St, Box 356
Scotia, CA

Thank you for your help during our transition times...

Mark Richardson

Interim General Manager, Scotia CSD
Town of Scotia Company, LLC
PO Box 245
Scotia, CA 95565
(T) 707-764-4114
(C) 707-845-4474

5/14/2014

mrichardson@townofscotia.com

From: Hedgpeth, Judith [<mailto:JHedgpeth@co.humboldt.ca.us>]
Sent: Tuesday, May 13, 2014 2:31 PM
To: Mark Richardson
Subject: RE: signed notices of appointment

Hello,

The appointments will be for two years ending December 2015.

Majority vote.

You can administer the oath then. Let me know so I can create the oaths/notices of appointment after the fact. They can then be filled out and sent back to us.

I would encourage you to let me check that those who are being considered meet the requirements of holding that office: registered voter in the district. You can email me their names and addresses; I will let you know the outcome.

Judi Hedgpeth
Administrative Analyst
Humboldt County Office of Elections
445-7481
Fax 445-7204

From: Mark Richardson [<mailto:mrichardson@townofscotia.com>]
Sent: Tuesday, May 13, 2014 2:16 PM
To: Hedgpeth, Judith
Subject: RE: signed notices of appointment

Good afternoon,

The Scotia CSD will be meeting this Thursday, May 15, to review applicants for possible appointment to fill the two vacancies on the board. We held a special meeting on May 8th to 'interview' applicants for the appointment and the board choose to defer the decision to May 15th.

Pursuant to the certification of the formation of the CSD, and the terms of office being set at 4 yrs (expires 1st Friday of December 2017). We are assuming, based on Gov Code Section 1780, that the appointments will be for a (2) two year cycle, expiring on the 1st Friday of December 2015.

We are also assuming a majority vote of the current board is required for appointment (2 of 3 votes).

Upon making the appointment(s), are we able to conduct the "Oath of Office", at that time? Or do we wait to receive an updated "Oath of Office" .

We trust we are keeping in compliant with our new responsibilities, but if something looks irregular, please let us know.

Mark Richardson
Interim General Manager, Scotia CSD
Town of Scotia Company, LLC

5/14/2014

PO Box 245
Scotia, CA 95565
(T) 707-764-4114
(C) 707-845-4474
mrichardson@townofscotia.com

From: Hedgpeth, Judith [<mailto:JHedgpeth@co.humboldt.ca.us>]

Sent: Tuesday, May 06, 2014 3:42 PM

To: Mark Richardson

Subject: signed notices of appointment

Mark,

Here are scans of the two notices of appointment that were redone.

Judi Hedgpeth
Administrative Analyst
Humboldt County Office of Elections
445-7481
Fax 445-7204

5/14/2014

**Before the Board of Directors
of the Scotia Community Service District,
Humboldt County, State of California**

Resolution No. _____

On the motion of Director: _____

Duly seconded by Director: _____

The following Resolution is adopted:

**RESOLUTION APPOINTING MEMBERS IN LIEU OF ELECTION TO
THE BOARD OF DIRECTORS OF
THE SCOTIA COMMUNITY SERVICE DISTRICT**

WHEREAS, the board of the Scotia CSD has received notification of the resignation of two elected members of the Board of Directors; and

WHEREAS, the SCSD board, pursuant to California Government Code 1780(a), the District has notified Humboldt County Elections office of the vacancies; and

WHEREAS, the SCSD has posted notice of the vacancies, pursuant to Government Code 1780, and has received applications from legal residence and voters of the SCSD.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Directors of the Scotia CSD the person(s) listed below are hereby appointed for the terms set forth as members of the Board of Directors of the Scotia CSD to serve in such capacities from this date _____, until the expiration of the term, First Friday of December, 2015.

Name:

PASSED AND ADOPTED by the Scotia Board of Directors of the County of Humboldt, State of California this _____ day of _____ 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President of the Board

ATTEST: _____

Secretary of the Board

OATH OF OFFICE

Govt Code Sections 1360-1363, inclusive,
3105 Section 3, Article XX, State Constitution

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

(Signed) _____

(Dated) _____

(Address) _____

Signature of person administering oath



V. When may the public be excluded?

The public may not be excluded from a meeting, except as expressly authorized by the Brown Act.

A public body may exclude the public from meetings, holding what are called “closed sessions” or “executive sessions,” in the following circumstances:

- (1) to determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license; 43
- (2) to with its negotiator to grant authority regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property; 44
- (3) to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation; 45
- (4) to meet with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, or a threat to the public’s right of access to public services or public facilities;46
- (5) to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee; 47
- (6) to meet with the local agency’s designated representatives regarding the salaries, salary schedules, or fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.48

There are also a number of other narrow circumstances in which closed sessions may be held.49

However, although there are many provisions permitting closed sessions, certain provisions are more commonly invoked, and hence are more frequently the subject of questions and disputes. Those provisions are discussed below.

A. Meetings with a body's negotiator prior to the purchase, sale, exchange or lease of real property in order to grant authority to the negotiator regarding the price and terms of payment.⁵⁰

- The closed session notice should state the address of the property, the identity of the negotiator, and whether the instruction will concern price, payment terms, or both.⁵¹
- Prior to the closed session, the public body must hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.
- Note: This provision has been the subject of considerable abuse. For example, government agencies involved in enormous, multi-faceted transactions have used a real property portion of the potential transaction to discuss the entire matter in secret. It has also been invoked to cover meetings attended by representatives of the adverse party in the negotiation.

B. Meetings to discuss "pending litigation."⁵² This exception has been carefully crafted due to frequent past disputes.

- Litigation is any adjudicatory proceeding.
- Pending litigation is:

(a) litigation formally initiated to which the body is a party;

(b) a situation where, based on the advice of counsel taking into account "existing facts and circumstances" there exists a "significant exposure" to litigation; or

(c) when the agency itself has decided or is deciding whether to initiate litigation.⁵³

- For existing litigation, the closed session notice should state the name of the case or parties (unless it would jeopardize service of process or existing settlement negotiations), and for anticipated litigation or litigation the agency is considering initiating, it should state the number of potential cases.
- Prior to holding a closed session pursuant to this section, the legislative body of the local agency must state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision
 - (a), the body must state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.⁵⁵

C. Meetings with law enforcement or security consultants about threats to the security of public buildings, to essential public services, or to the public's right of access to public services or public facilities;⁵⁶

- The closed session notice should identify the law enforcement agency and state the name and title of the law enforcement official.⁵⁷
- Note: Expect to see this exception invoked with increasing frequency.

D. Meetings to discuss the appointment, employment, evaluation of performance, discipline or dismissal of a public employee or to hear complaints brought against the employee. ⁵⁸

1. The closed session notice should state the position to be filled or the title of the employee being reviewed. It need not do so in the case of complaints. tippy title = "59"] 59. Gov't Code § 54954.5(e).[/tippy]

2. Note: An elected official is not a public employee.⁶⁰

3. Note: The employee may request a public hearing.⁶¹

NOTES

43 Gov't Code § 54956.7.

- See more at: <http://firstamendmentcoalition.org/open-meetings-3/facs-brown-act-primer/brown-act-primer-closed-sessions/#sthash.D8TTbZ9e.QqzTjDvb.dpuf>

Manager's Report



Monthly Manager's Report Regular Meeting

Date: May 15, 2014

To: Board of Directors, SCSD

From: Mark Richardson, Interim General Manager

General: This report is a general update for the Board from the IGM. I will touch on routine topics for information purposes. None of the items discussed in this report require board action at this time.

The Board is legally able to go into business now, we will begin with an assortment of Board Actions as follow:

First and foremost: All actions by the SCSD shall be by ordinance (rules and regulations), resolution or motion. No other actions, discussions or decisions by the board have legal status.

Within 30 days: After the election (Oath of Office date), under section 61220 the California Government Code, Division 3, the New Board of Directors shall:

- a. Elect a Board President
- b. Establish a time and place of meetings.
- c. Set manner of calling special meetings.

DRAFT Bylaws for the Scotia Community Service District

At this time, I am submitting to the Board a "Draft - By-Laws" for consideration by this board as a first reading. The 'by-laws' will be formally adopted through the Board approval process, as identified in these draft by-laws.

After adoption of the Draft By-Laws, the Board of Directors may proceed with some of our first actions and decisions as a board. Pursuant to State Laws the Board shall:

At first regular meeting (scheduled for June 19, 2014) or ASAP:

- a. Board to appoint General Manager
- b. Board to appoint a Secretary, who may also be GM and act as treasurer.

c. A director shall not be general manager or secretary.

Section 61730 - County Treasurer

The Board shall designate the county treasurer of a county in which the district is situated to be the depository and have the custody of the district's money.

IGM/Board outreach:

Accounting: On March 7, 2014, Rick Walsh and I met with Jamie Corsetti, CPA about start up for accounting and bookkeeping services. This professional Accountancy Corporation currently has oversight for several special districts and is specifically familiar with Town of Scotia Company, LLC, and the transition process to the Scotia CSD.

In addition accounting and audit services, the SCSD will also need to have a local bank account. I've initiated discussion with US Bank, and they will present a proposal for a government account.

Legal Services: I've made contact with the following legal firms about services for the start-up of the SCSD. Each of these have indicated a desired to be included in an RFQ/RFP process.

Nancy Diamond, Attorney
Arcata, CA

Paul Brisso, and/or Rus Gans, Attorney
Eureka, CA

Neary and O'Brien
Willits, CA (and Eureka)

Mark E. Mandell, Esq., Principal, Mandell Municipal Counseling
Los Angeles, CA (several local Humboldt clients)

Board Training:

On May 7th, Board member, Rick Walsh and I attended a workshop titled "Accounting & Billing Using QuickBooks & Excel, sponsored by the California Dept. of Public Health and Rural Community Assistance Corporation. The workshop is design to help in the development of our accounting structure.

Beginning with the July Board Meeting, the IGM will offer scheduled In-Service training to the full board. We will structure the workshops around the various local, state and federal laws the District is committed to implementing. Roles and Responsibilities of both Board members and staff, along with the role of the various regulatory agencies that over-see the management and operations of our various facilities.

Water System Status:

The water system is currently in compliance with state and federal regulations.

Water Distribution Repairs:

In the future, I'll request a monthly update from the water crew.

Wastewater System:

System is operating normally and is in compliance with permits. A more thorough update on the operations of the system will be prepared for the July 2014 Board meeting.

Storm Water Management:

Fire Department Status: Fire Chief issues quarterly reports.

Parks & Recreation : This section will deal with the various properties identified as part of our Parks & Recreation Department. This includes the following facilities and properties:

Winema Theater

Scotia Museum

Scotia Museum Park - Train locomotive and artifacts from logging.

Community Forest - 22+ acres of riparian habitat from Fireman's Park to the Scotia/Rio Dell bridge along the Eel River.

Soccer Field -

Carpenter Field - baseball

Fireman's Park - Barbecue and picnic grounds