



# STANISLAUS COUNTY CIVIL GRAND JURY

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June 20, 2018

## DELIVERY VIA EMAIL

To Whom It May Concern:

The Stanislaus County Civil Grand Jury has completed the attached report titled “Is Modesto City Water in Riverdale’s Future?” The Civil Grand Jury is providing you with a copy of this report as a courtesy. Your response is not required, it is however an “invited” response. The report has become public record and the investigated agency was served two business days prior to the release to the public as required by California Penal Code §933.05(f).

Your response to the jury’s findings and recommendations can be submitted to the Presiding Judge of the Superior Court, the Honorable Ricardo Cordova, at PO Box 3488, Modesto, CA 95353. Submit a hard copy and an electronic copy of your response. Enclosed are guidelines that may be helpful as you prepare your response.

Sincerely,

  
Laurie Overly, Foreperson  
2017-2018 Civil Grand Jury

Attachment: Report 18-25C

Distribution Information	
<input checked="" type="checkbox"/> Electronic Copy	<input type="checkbox"/> In person
<u>Electronic copy</u>	<u>June 20, 2018</u>
Elizabeth King, Clerk of the Board	Date

**2017 – 2018 Stanislaus County Civil Grand Jury**  
**Is Modesto City Water in Riverdale’s Future?**  
**Case # 18-25C**

**SUMMARY**

In early December the 2017-2018 Stanislaus Civil Grand Jury (SCCGJ) received a complaint from a resident in the Riverdale Park Tract Community Services District (RPTCSD) accusing the current RPTCSD Board of Directors (BOD) chairperson of certain abuses, such as the inappropriate use of authority and allowing Brown Act violations to occur. In late January the complainant submitted additional documentation alleging additional improprieties against the RPTCSD board chairperson.

The SCCGJ investigated these complaints by interviewing RPTCSD board members and attending two RPTCSD BOD monthly meetings. During this investigation the SCCGJ found the RPTCSD board meetings to be chaotic, with little or no leadership. Meetings lack effective parliamentary procedures that results in screaming arguments. The SCCGJ was also concerned that certain members might have what appeared to be conflicts of interest. It was also determined that several Brown Act violations did occur. Additionally the RPTCSD has no approved bylaws by which to govern meetings, fill board member vacancies, and eliminate conflicts of interest.

As a result of the investigation, the SCCGJ recommends all members of the RPTCSD receive training in all aspects of conducting public meetings. Training should include, but not be limited to, Brown Act, parliamentary procedures, proper taking of meeting minutes, and leadership. The RPTCSD should also adopt bylaws that will provide guidelines as to how this board will govern itself. RPTCSD must increase residential and business water rates to expand operating reserves and create financial stability in this service district.

**GLOSSARY**

BOD	Board of Directors
CSDA	California Special District Association
LAFCO	Local Agency Formation Commission
RPTCSD	Riverdale Park Tract Community Services District
SCCGJ	Stanislaus County Civil Grand Jury

## **BACKGROUND**

The RPTCSD was formed on December 18, 1984 and provides water services to residents and businesses within its boundaries. The district is located in rural Stanislaus County, southwest of the City of Modesto, and its boundaries are defined by the Tuolumne River on the north, Parkdale Drive on the west, Hatch Road on the south, and Carpenter Road on the east. The district encompasses an area of approximately fifty-eight acres. Five board members, elected by the registered voters within the district boundaries, govern the district. Meetings are held on the first Thursday of each month at 6:00 P.M. at the Veterans of Foreign Wars hall located at 2801 W. Hatch Rd.

The SCCGJ interviewed two BOD members and attended RPTCSD board meetings. During the investigation the SCCGJ concluded that RPTCSD has no bylaws which to govern itself, does not apply parliamentary procedures, and allows a tumultuous board environment requiring a security guard be present to prevent physical altercations between board members. BOD meetings are unproductive due to personality conflicts. Water rates were established at inception in 1984 and have not been raised despite increased governance and operating costs.

## **METHODOLOGY**

The SCCGJ used the following methodology in investigating this complaint:

- Interviewed complainant.
- Interviewed RPTCSD board members.
- Attended January and February 2018 board meetings.
- Reviewed LAFCO website.
- Reviewed LAFCO Municipal Service Review and Sphere of Influence Update for RPTCSD adopted May 24, 2017.
- Reviewed Brown Act.
- Reviewed all meeting agendas and minutes for the year 2017.
- Reviewed check register for the year 2017.
- Reviewed Stanislaus County Human Resources Nepotism Policy.
- Reviewed California Special District Association website.
- Reviewed 2015 - 2016 RPTCSD Financial Audit.
- Reviewed original ordinance establishing RPTCSD as a service district.

## DISCUSSION

The SCCGJ interviewed two board members. The interviews could not have been more different. The first interviewee could not mention one positive aspect about the meetings or board members and believed the current chairperson is the cause of all RPTCSD's troubles. This board member also mentioned two board members are married but felt this did not cause a conflict of interest. However, he mentioned two issues during the interview that raised concerns for the SCCGJ. One issue related to the fact that a board members daughter was not hired as RPTCSD's accountant. The second issue dealt with "emergency" on-call. The RPTCSD BOD appoints several of the board members for emergency call-out responsibilities. The on-call duty requires a certain level of physical strength and agility. The board member's spouse had "emergency" responsibilities removed by the chairperson due to an inability to complete certain required job duties without assistance. Both of these issues raised multiple questions and concerns of the SCCGJ.

The second interviewee had a very positive attitude and was very proud of the commitment each board member makes to the RPTCSD community. The member was also disappointed that personality conflicts dominate each meeting making it nearly impossible to accomplish the simplest of required meeting tasks.

The first interviewee stated the following complaints:

- Failure of the clerk to record complete and proper meeting minutes by not including all board discussions.
- Governance procedures "bylaws" discussed and approved in meetings are not recorded in the minutes.
- Meeting minutes are not approved, and some are missing.
- Not following the Brown Act.
- Not following board agenda.
- Chairperson removed emergency responsibilities from board member.
- Unfair on-call emergency rules where both married board members should be paid the stipend if both report to an urgent issue.

The second interviewee felt that if the board could resolve the personality issues, they would be on their way to conducting successful board meetings. He admitted that board meetings are difficult to control, and board members would benefit from leadership training. The interviewee is willing to take any training needed in order to achieve the BOD goals. Additionally, the board has received mentorship support from Stanislaus County Chief Executive's Office, but this did not include any formal training.

Both interviewees stated they have never attended formal training in conducting public meetings.

Having such disparate interviews, the SCCGJ decided to attend some RPTCSD BOD meetings and let these meetings guide them in which complaints to investigate. Some complaints were not investigated due to the late date this complaint was submitted.

### **Board Meeting Observations**

Multiple members of the SCCGJ observed the February 1, 2018 and March 1, 2018 RPTCSD board meetings. Each board meeting met quorum requirements. Below are observations from both meetings:

- Meeting agendas were not posted the required 72 hours in advance in accordance with the Brown Act.
- No agenda or prior months meeting minutes were available and shared with public attendees.
- Board members and the public were having sidebar conversations loud enough to disrupt the board meetings. The board and public ignored the chairperson's request for silence.
- The agenda was not followed.
- Parliamentary procedures were not followed in calling meetings to order, motions, discussions, and voting.
- No BOD member was responsible for taking meeting minutes. Various board members and the clerk digitally recorded the meeting at different times using their phones. The chairperson video recorded an argument between board members.
- The chairperson requested board approval to fill a board vacancy. Other board members objected, and a loud argument began. The matter was tabled.
- At the conclusion of the meeting one board member abruptly stood and a walking cane fell from the member's hand and touched the clerk who claimed this was intentional.
- The meeting was never officially adjourned.

### **Documentation Reviewed**

The SCCGJ reviewed the documentation package that included all twelve meeting agendas for the year 2017. Eleven meeting minutes were provided; July 2017 minutes were missing but a cover letter noted that other board members might have recorded the meeting. SCCGJ did not pursue requesting the missing July minutes.

A review of meeting minutes demonstrated just how chaotic RPTCSD BOD meetings are. The minutes are voice recorded by the clerk and later transcribed almost verbatim. SCCGJ compared meeting agendas and minutes and noted most meetings did not follow the agenda, and additional topics not on the agenda were discussed. The Brown Act requires prior notice of agenda topics in addition to the time and place of meetings. This is so the public can decide if there is something relevant. When topics are addressed/decided/voted upon, citizens are denied the right to participate in the process thus violating the Brown Act. Some agenda topics were never discussed or properly tabled, and minutes noted numerous interruptions by board and public individuals. Additionally many minutes have yet to be approved.

Many motions were made to create or update bylaws, but there are no existing bylaw documents to update, thereby making the meeting minutes the sole repository for changes to governance procedures. The "bylaws" provided were not in fact bylaws but the original

operating procedures approved by Stanislaus County Board of Supervisors at the inception of the district.

RPTCSD has not been compliant with their audits since fiscal year 2011-2012. Charles E. Strand CPA conducted the Financial Audit for June 30, 2016 and 2015. RPTCSD is now current.

The check register listing all checks for year 2017 was of little help in this investigation due to the lack of information on the register. SCCGJ did not request further clarification.

Review of RPTCSD's financial audit, financial information provided with meeting minutes, and the LAFCO Municipal Service Review all indicate operating reserves have significantly decreased in recent years. Monthly water rates (\$25 residential and \$50 business) have not increased since RPTCSD was established in 1984. These revenues are not sufficient to meet governance and operating expenses, and the RPTCSD BOD must consider increasing rates immediately to keep this service district solvent.

RPTCSD has not created a website to communicate with its constituents. The simplest of websites would allow residents of this service district to easily view documents that would educate them on the various issues and encourage more public participation.

## **FINDINGS**

- F1. The RPTCSD BOD has no bylaws on how to conduct meetings or resolve the simplest issues regularly causing dissension and division within the board.
- F2. The governance and operating expenses are outpacing revenues and significantly reducing operating reserves.
- F3. RPTCSD BOD has failed to properly post its monthly meetings to the public in violation of §54954.2 of the Government Code (part of the Brown Act).
- F4. Nepotism exists on the RPTCSD BOD.
- F5. The RPTCSD BOD has one vacancy that often results in a tie vote on motions, thus preventing completion of unfinished business.
- F6. Stanislaus Chief Executive's Office provided support to the RPTCSD BOD but had little impact on improving Brown Act compliance, meeting effectiveness, and internal discord within the board.
- F7. The chairman of the board has no control of the meetings. Attempts to control outbursts and interruptions are unsuccessful.
- F8. Financials are not discussed during board meetings. Checks are passed down the table to each board member to review and sign, but no voting or discussion is done to approve expenditures.

- F9. Board agendas and minutes are not provided to the general audience during board meetings unless requested.
- F10. No set policy of minimum physical requirements, procedures, or responsibilities has been agreed upon for on-call pay and emergency duties.
- F11. RPTCSD does not have a website to provide the general public with meeting agendas, minutes, or other documents to encourage public participation.
- F12. The biennial financial audit is current.

## RECOMMENDATIONS

- R1. RPTCSD should seek organizations that provide training, mentorship, website, and personnel support to facilitate their transition to an effective and productive board by December 31, 2018. One such organization is California Special Districts Association – [www.csda.net](http://www.csda.net).
- R2. RPTCSD residential and business water rates should be increased no later than December 31, 2018 in order to maintain a positive cash flow position.
- R3. RPTCSD shall create a conflict of interest policy as required by law to minimize board meeting issues by October 1, 2018.
- R4. Each RPTCSD board member should attend training by March 31, 2019 in the following areas: Brown Act, parliamentary procedures, conducting efficient meetings, and team building.
- R5. RPTCSD BOD should adopt bylaws by July 1, 2019 that provide written procedures specific but not limited to conducting BOD business, job descriptions, filling board vacancies, and emergency contacts.
- R6. RPTCSD should create a website in order to improve transparency by December 31, 2018. Meeting agendas, minutes, special reports, financial audits, bylaws, and the governing ordinance are examples of documents that foster increased trust and communication within this community.
- R7. RPTCSD should insure by July 31, 2018 that the meeting agendas are posted pursuant to Brown Act regulations.

**REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Riverdale Park Tract Community Board of Directors

**INVITED RESPONSES**

- Stanislaus County Board of Supervisors
- Stanislaus Local Agency Formation Commission