



22 April 2025

Via email: WRAPubliccomment@co.monterey.ca.us

Mike LeBarre, Chair
Monterey County Water Resources
Board of Directors

Re April 21, 2025, Board of Directors Meeting

Chair LeBarre:

During my oral comments addressing an agenda item set for a public hearing at the April 21, 2025 Board of Directors meeting (yesterday) you directed me to stop as my time was up and stated that comments referencing others' comments was inappropriate, or words to that effect. (Recordings are not readily available by which to verify the precise words you used.) This comment letter is not addressing the underlying merits of any of the agenda items at the April Board of Directors meeting, only process.

TIME LIMITS

A Chair has discretion to set time limits, of course. Efficient management of a public meeting is a key component of chairing. The agenda did not, however, reflect a stated time limit for public comments. Nor did I hear – and I believe I attended for 100% of the meeting – any statement of any time limits, much less for the public hearing agenda item. Nor did my Zoom screen reflect any times, clock, count-down, or other visual reflection of the time limit.¹ It is possible that the Granicus view reflected a count-down clock, but as the only means available to the public by which to comment is the Zoom path, I and presumably all other public participants who chose to comment were using Zoom.

My experience at the MCWRA meetings and many others is that the public is amply able to tailor comments to a stated time limit so long as the time limit is stated ahead of time, ideally in an agenda or at the very latest, at the start of the meeting and repeated if/when the Chair suspects an item may generate robust public feedback.

¹ The Board of Supervisors' meeting uses a count-down clock, as do many other virtual public meetings at the local and State levels. I also queried a few other participants at the virtual meeting, and they also did not recollect any clock or other visual aid during their oral comments, or any announcement about the time limit.

CONTENT MODERATION

Content moderation is a more nuanced area of inquiry, being bound by standards not within the chair's control, e.g., the Constitution and the Brown / Open Meeting laws. The Chair retains some ability to moderate content that may be obscene, disruptive, threatening, albeit typically the relevant entity publishes/publicizes the lines it deems are not to be crossed.

An entity may also bind itself to rules of decorum or codes of conduct. My letter of 14 March 2025 noted such a code of conduct² at this agency's sister agency. I have enclosed that letter anew. But such codes bind the entity (Directors and staff), not the public. I am nevertheless not aware of any such formally adopted code or set of decorum rules at the MCWRA. I am aware of recent discussions at its Strategic Workshop about the relationship of the Directors to staff, but such workshop did not focus on or purport to craft a rubric for the public. The MCWRA may well adopt as a formal policy some of the "best practices" noted at that workshop, including procedures to reduce the occurrence of Director "ambush" of staff with inquiries that could have been addressed through the chain of command or otherwise. But whatever action is taken to streamline meetings at the staff and Director level can in no way bind the public.

The content of your admonition is also particularly curious. A public hearing is supposed to be just that: a time for the public to provide content it believes may bear upon the item at hand. The public may wish to call the decision-makers' attention to "outside" events, publications, media content, or others' comments. Agendas routinely include letters from third parties about items that may appear on the agenda, which may generate public comments in support or in retort. To comment on others' statements is beyond routine in my experience in Monterey County. The public, staff, and Directors frequently say they agree with Person X, or disagree with Person Y, or Group Z's position makes sense to them. The close relationship of the two Monterey County water entities (MCWRA and SVBGSA) almost requires the public to reference one when addressing the other, hence the common presence of Messes. Woodrow and Harmon at meetings.

Consider if my (anyone's) "inappropriate" comments quoting oral or written content from a local and prominent interest group (e.g., Alliance, Coalition, Farm Bureau, LandWatch, etc.) appeared in a letter. Is the Chair allowed/authorized to reject the letter and not include it in the agenda packet under correspondence? If so, on what basis or policy and what notice was provided to the public?

² The GSA's Code of Conduct that binds its Directors and Chair includes a recognition that the public is entitled to express its views: "Help to create an atmosphere of respect and civility where Directors, Committee members, staff, and the public are free to express their ideas and work together to their full potential."

Mike LeBarre, Chair
MCWRA Board of Directors
22 April 2025

CONCLUSION

Time limits are appropriate in many circumstances, so long as they are patent and not imposed without notice. As for content moderation, especially in light of your vigorous comments about avoiding State intervention under SGMA, I repeat the conclusion of my immediately prior letter:

The bottom line is to avoid (1) acting inconsistently in the two fora (e.g., support Project A in one setting and oppose it in the other) (2) pitting one entity against the other, even subtly (e.g., “if only the other entity did X this entity would be able to . . .”), or, most unhelpful, (3) acting for the benefit of one’s (personal, group, cohorts, etc.) interest by manipulating the two entities against each other, rather than buttressing the relationship to better and more quickly reach solutions.

Robust discussion and the busting of myths (a term taken from robust SVBGSA discussions) needs to be encouraged, not thwarted.

Very truly yours,

Thomas S. Virsik

Thomas S. Virsik

Encl. March 14, 2025 letter

cc: Ara Azhderian, AzhderianA@countyofmonterey.gov
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14 March 2025

Via email: WRAPubliccomment@co.monterey.ca.us

Mike LeBarre, Chair
Monterey County Water Resources
Board of Directors

Re March 17, 2025, Board of Directors Meeting
Agenda Item 9 re Brown Act and COI regulation

Chair LeBarre:

This comment letter addresses a topic adjacent to the noted agenda item about the Brown Act and conflict of interest (COI) training for Directors. In addition to the statutory requirements, responsible staff may wish to also orient some or all Directors on their obligations or limitations (if any) when they have chosen to take on dual roles in interrelated entities.¹

In addition to serving on this Board, several of the Monterey County Water Resources Agency (MCWRA or WRA) Directors also play roles in its sister entity, the Salinas Valley Groundwater Sustainability Agency (SVBGSA or GSA). Specifically, Director Baillie is an alternate on the SVBGSA's Board, while Directors Scattini and Smith serve on subordinate committees, the Advisory and each Director's respective subbasin implementation committees. As the WRA and GSA are closely aligned in purpose and stakeholders, such overlap of members is hardly shocking.

The GSA requires those serving in the roles noted above, in addition to Brown Act and other statutory and regulatory law, to also conform to internal ethical standards, specifically the Code of Conduct, a copy of which is enclosed.² Of particular importance to the relationship between the GSA and WRA when "sharing" members³ is the list of Values at the end of the Code of Conduct:

I agree to uphold the following values:

¹ The role of a mayor or councilperson is not on its face interrelated with the business of the WRA, much less someone who has no other public role.

² It's not clear that Director Scattini signed the Code of Conduct (adopted in August 2024). If he has chosen to no longer meet the GSA's thresholds and has in effect resigned, then no part of this comment letter need apply to him.

³ For clarity and because the labels assigned to various capacities in the GSA and WRA do not always match, the generic term "member" is used for those who play roles at both entities.

Mike LeBarre, Chair
 MCWRA Board of Directors
 14 March 2025

1. Recognize the worth of individual Directors and Committee members and appreciate their talents, perspectives, and contributions.
2. Help to create an atmosphere of respect and civility where Directors, Committee members, staff, and the public are free to express their ideas and work together to their full potential.
3. Conduct my personal business and public affairs with honesty, integrity, fairness, and respect for others.
4. Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit.
5. Avoid and discourage conduct which is divisive or harmful to the best interest of Agency.
6. Treat all people in a manner in which I wish to be treated.

The Values most likely to be a source of tension when a member wears two (GSA and WRA) hats are Values 3, 4, and 5. For example, from the GSA's perspective, acting in a WRA capacity is squarely a "public affair" (Value 3). Value 4 may be offended when a dual member prioritizes a narrow subset of stakeholders over constructive solutions, notwithstanding that member is a representative of a specific stakeholder group at the WRA. Value 5 is offended when a dual member criticizes or undermines the GSA under the guise of advocating for the interests of the WRA.

The bottom line is to avoid (1) acting inconsistently in the two fora (e.g., support Project A in one setting and oppose it in the other) (2) pitting one entity against the other, even subtly (e.g., "if only the other entity did X this entity would be able to . . ."), or, most unhelpful, (3) acting for the benefit of one's (personal, group, cohorts, etc.) interest by manipulating the two entities against each other, rather than buttressing the relationship to better and more quickly reach solutions.

Thank you for your consideration of these comments. I have copied responsible staff at the SVBGSA as a matter of courtesy.

Very truly yours,

Thomas S. Virsik

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Encl. Code of Conduct

cc: Ara Azhderian, AzhderianA@countyofmonterey.gov
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**Salinas Valley Basin Groundwater Sustainability Agency
Board of Directors**

CODE OF CONDUCT

As primary and alternate members of the Board of Directors (Board) of the Salinas Valley Basin Groundwater Sustainability Agency (Agency) and/or members of the Agency's committees (Committees), we are committed to preserving the public trust and representing the best interests of the Agency and its constituents.

Principles and Performance Expectations:

1. The Board and each Committee functions as a participatory team,
2. The Board and each Committee values a visionary, constructive, work environment,
3. The Board and each Committee values open and honest communication with open agendas,
4. The Board and each Committee works for the common good of its constituents,
5. Primary and alternate Board members (Directors) are prepared for Board meetings and are responsible for initiating resolutions,
6. Committee members are prepared for Committee meetings,
7. Primary members make every effort to attend all Board meetings and all meetings of the Committees to which they are appointed, alternate members are encouraged to attend any and all meetings,
8. Primary members are responsible for coordinating with their respective alternate members to assist them to be prepared for meetings that they attend in primary capacity.

Interaction and Communications:

1. Directors and Committee members maintain informal and professional relationships among each other,
2. Directors and Committee members refrain from personal attacks against other Directors, Committee members and staff,
3. Directors and Committee members apply the rules governing communications in compliance with the Brown Act,
4. Directors and Committee members function as a team and are not exclusive in their communications and interactions,
5. Directors and Committee members are respectful of each other, the staff and the public.

I agree to uphold the following values:

1. Recognize the worth of individual Directors and Committee members and appreciate their talents, perspectives, and contributions.
2. Help to create an atmosphere of respect and civility where Directors, Committee members, staff, and the public are free to express their ideas and work together to their full potential.
3. Conduct my personal business and public affairs with honesty, integrity, fairness, and respect for others.

APPENDIX A

4. Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit.
5. Avoid and discourage conduct which is divisive or harmful to the best interest of Agency.
6. Treat all people in a manner in which I wish to be treated.

Name

Board/Committee

Signature

Date