

MEMORANDUM

TO: Board of Directors

FROM: Legal Counsel

RE: Conduct A Public Hearing; Consideration and Possible Action to Adopt Ordinance No. 17 Increasing the Number of Days for Which a Board Member May Receive Per Diem Compensation and Updating Definitions of Meetings and Days of Service Which are Eligible for Per Diem Compensation

DATE: October 11, 2021

Summary:

The Board would like to consider increasing the number of days per month for which Board members may receive per diem compensation and also updating the list of meetings and days of service which are eligible for per diem compensation. The Water Code provides that before the Board can consider taking any action on compensation policies, a public hearing notice must be published prior to conducting a public hearing. The Agency's compensation policies are currently located in a few different documents including Ordinance No. 7 and Resolutions 2008-03 and 2013-04.

Recommendation:

1. That the Board conduct a public hearing regarding the proposed adoption of Ordinance No. 17.
2. Upon completion of the public hearing, it is recommended that the Board take action to adopt Ordinance No. 17.

Detailed Report:

Water Code Section 20200 et seq. sets forth the procedure for establishing per diem compensation for attendance at meetings of the Board and for each day of service rendered as a Board member. The Water Code limits the total compensation that may be received to a maximum of 10 days per calendar month.

As indicated in both the draft Ordinance and Notice of the Public Hearing, the existing method for determining compensation would not be changed by the draft Ordinance and is only being restated therein.

The law requires that prior to adopting an ordinance that makes any changes to policies regarding compensation, the public agency must notice and conduct a public hearing. As a result, a Notice of Public Hearing was published pursuant to the requirements of Water Code Section 20203 and Government Code Section 6066 in the Record Gazette newspaper on September 24, 2021 and October 1, 2021, which was once a week for 2 successive weeks.

Under the draft Ordinance, the maximum number of days for which a Board member may receive per diem compensation would be increased from 5 to 10 days in any calendar month. In addition, the definitions of meetings and days of service would be updated and streamlined to reflect changes in certain organizations and events which have transpired over the years.

SAN GORGONIO PASS WATER AGENCY

ORDINANCE NO. 17

INCREASING THE NUMBER OF DAYS FOR WHICH A BOARD MEMBER MAY RECEIVE PER DIEM COMPENSATION AND UPDATING DEFINITIONS OF MEETINGS AND DAYS OF SERVICE WHICH ARE ELIGIBLE FOR PER DIEM COMPENSATION

WHEREAS, Water Code Section 20200 *et seq.* sets forth the authority and procedure for establishing per diem compensation for the Board of Directors for attendance at meetings of the Board and for each day of service rendered as a Board member. Occurrences constituting Board meetings, Agency business, official duties and days of service are defined and authorized by Agency policy and by law; and

WHEREAS, the Water Code authorizes an increase in the per diem compensation that may be received by Board members up to an amount equal to five percent (5%) for each calendar year since the effective date of the last increase, and limits the total compensation that may be received to a maximum of ten (10) days per calendar month; and

WHEREAS, under existing Agency policy, Board members currently receive per diem compensation as follows: (a) per diem compensation automatically increases each year on January 1 in an amount equal to the cost-of-living adjustments for Agency employees. Board members may decline or adjust the compensation amount for each day's paid service in any future year; (b) the maximum number of days for which a Board member may receive per diem compensation shall not exceed five (5) days in any calendar month; and (c) Board members currently receive per diem compensation in the amount of \$282.21 for attendance at meetings of the Board and for each day of service rendered as a Board member; and

WHEREAS, Board members are regularly called upon to spend in excess of five (5) days per month in the performance of their duties, including attendance of Board meetings, committee meetings, workshops and other functions related to carrying out the business of the Agency. The duties of Board members involve increasing responsibility and obligations and it is reasonable that they be compensated for their time, to the extent permitted by statute, in carrying out the business of the Agency; and

WHEREAS, the Board seeks to increase the number of days for which they will be eligible for per diem compensation in a calendar month and to set forth in one policy/ordinance all of the terms and conditions for setting compensation, defining days of service and the maximum number of days, all in accordance with the law; and

WHEREAS, in accordance with Section 20203 of the Water Code and Section 6066 of the Government Code, a public hearing was held on October 11, 2021 at 1:30 p.m., or soon thereafter as practicable, at the Board meeting and a notice of said hearing was duly published in the Record Gazette, a newspaper of general circulation, once a week for two weeks as follows: on September 24, 2021 and October 1, 2021.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY DOES HEREBY ORDAIN AS FOLLOWS:

Section 1 The existing method for determining compensation to be received by members of the Board for each day's attendance at meetings of the Board, or for each day of service rendered as a Board member, is not being changed by this Ordinance and is hereby restated as follows: (a) per diem compensation will automatically increase each year on January 1 in an amount equal to the cost-of-living adjustments for Agency employees; (b) the Board may decline or adjust the compensation amount for each day's paid service in any future year; and (c) in no event shall any such increase exceed an amount equal to 5% for each calendar year since the date of the last adjustment, as required under Water Code Section 20202.

Section 2 In accordance with Section 20202 of the Water Code, no member of the Board of Directors shall receive the compensation set forth in Section 1 of this Ordinance for more than ten (10) days in any calendar month.

Section 3 Any actual expenses, including mileage, incurred by Board members with respect to services rendered as a Board member shall be reimbursed by the Agency upon presentation of satisfactory evidence thereof and compliance with the applicable rules and regulations of the Agency and the law.

Section 4 The definition of Board meetings, committee meetings, workshops and days of service shall be limited to the following as set forth below. The Finance & Budget Committee of the Agency shall determine by examination and vote, that the meetings submitted for payment of a Board member's fees are in accordance with these guidelines. Board members shall have the right to appeal the decision of the Finance & Budget Committee to the full Board.

- (a) Attendance at any meeting of the Agency Board that requires public notice in accordance with the Brown Act including, but not limited to, regular and special Board meetings and standing committee meetings.
- (b) Attendance at meetings of an ad hoc committee of the Agency Board.
- (c) Attendance at regular, special or committee meetings of any organization in which the Agency is a member.
- (d) Attendance at meetings of the Beaumont Basin Watermaster.
- (e) Attendance at special events, programs, or symposiums (not to exceed 1 day) or conferences (not to exceed 3 days) for the following organizations:
 - (i) Association of California Water Agencies
 - (ii) Special Districts Association of Riverside County
 - (iii) State Water Contractors
 - (iv) Water Education Foundation
 - (v) Riverside County Water Symposium

(vi) American Water Works Association

(f) Attendance at any meeting related to or informing the Board members on matters within the jurisdiction of the statutory powers of the Agency, provided that such meetings deal with substantive issues and consume more than a minor amount of the Board member's time.

(g) Attendance at any meeting submitted for consideration and approved as a day of service by the Agency Board of Directors.

Section 5 It is the intent of the Board that this Ordinance shall be controlling over any and all previously adopted ordinances and resolutions on the subject matter of Board member compensation, the number of days of service and the definition of days of service. As a result, as of the effective date of this Ordinance, all other ordinances and resolutions previously adopted on said subject matters shall be deemed to be superseded and of no further force or effect including, but not necessarily limited to, Ordinance No. 7 and Resolutions No. 2008-03 and 2013-04.

Section 6 Pursuant to Section 20204 of the Water Code, this Ordinance shall take effect 60 days from the date of adoption.

Section 7 The Recitals set forth above are incorporated herein and made an operative part of this Ordinance.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the San Geronio Pass Water Agency held on October 11, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

NOTICE OF PUBLIC HEARING
SAN GORGONIO PASS WATER AGENCY
INCREASE IN NUMBER OF DAYS PER MONTH
THAT DIRECTORS MAY BE COMPENSATED AND
UPDATING DEFINITIONS OF MEETINGS AND
DAYS OF SERVICE

NOTICE IS HEREBY GIVEN that on October 11, 2021, the Board of Directors of the San Gorgonio Pass Water Agency will hold a public hearing at 1:30 p.m., or as soon thereafter as practicable, as part of the Regular Meeting of the Board. The Board will hold the public hearing in order to receive oral and written testimony regarding the proposed adoption of an ordinance which would increase the number of meetings/days of service per month for which a Director may be compensated. Said ordinance would also update definitions of eligible meetings and days of service.

Depending on the COVID protocols in effect, the public hearing will take place virtually and/or in person at the following address: 1210 Beaumont Avenue, Beaumont, CA 92223. Information regarding public participation will be confirmed at the time the agenda is posted for the Board meeting and will also be available at the Agency's website: www.sgpwa.com. Information can also be obtained by contacting the Agency at the following phone number: (951) 845-2577. Written comments may be filed at any time prior to conclusion of the public hearing and should be addressed to the attention of the General Manager, at the address set forth above.

Upon conclusion of the hearing, the Board will consider adoption of an ordinance to increase the maximum number of days, for which a Director may receive compensation, from 5 to 10 in any calendar month. The existing method for determining the amount of compensation would not be changed. In addition, the definitions of meetings and days of service would be updated.

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State of California)
County of Riverside) ss.

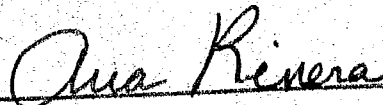
I am a citizen of the United States and a resident of the State of California, I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737. That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

September 24, October 1, 2021

Executed on: 10/01/2021

At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.



Signature

NOTICE OF PUBLIC HEARING SAN GORGONIO PASS WATER AGENCY INCREASE IN NUMBER OF DAYS PER MONTH THAT DIRECTORS MAY BE COMPENSATED AND UPDATING DEFINITIONS OF MEETINGS AND DAYS OF SERVICE NOTICE IS HEREBY GIVEN that on October 11, 2021, the Board of Directors of the San Gorgonio Pass Water Agency will hold a public hearing at 1:30 p.m., or as soon thereafter as practicable, as part of the Regular Meeting of the Board. The Board will hold the public hearing in order to receive oral and written testimony regarding the proposed adoption of an ordinance which would increase the number of meetings/days of service per month for which a Director may be compensated. Said ordinance would also update definitions of eligible meetings and days of service.

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