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Oceano district warned over alleged violations of open-meeting law

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The Oceano Community Services District has been warned that it could face litigation unless district officials correct two issues stemming from a meeting earlier this month.

Terry Francke, general counsel for the open government advocacy group Californians Aware, cautioned Monday that the district's handling of public comments is not compliant with the state's open-meeting law, the [Ralph M. Brown Act](#).

The board may have also violated the Brown Act when it approved a 29 percent pay increase during closed session for Tom Geaslen, who has served as the district's interim general manager since June.

While the district board can discuss compensation of employees in closed session, final action is to be taken during open session, Francke said.

Geaslen said he spoke to Francke today in regard to the public comment issue and would review the board meeting tape.

"If we are making a mistake, I will get it corrected," he said.

Francke's email to the district was in response to concerns raised by Los Osos resident Julie Tacker, who attended the Oceano board's Feb. 8 meeting. At that meeting, members of the public were asked to give comments on scheduled agenda items before district staff presented a report.

But requiring public comment to take place before a staff report is presented denies members of the public the opportunity to react to information presented during the report, Francke said.

The Brown Act requires public comment to be permitted "before or during" a legislative body's consideration of an item. It also requires that the agency's regulation toward public comments be "reasonable."

Francke said he would wait for a response from the district before taking any other action. His email to Geaslen notes that unless the board abandons this practice, he may recommend an action be filed, plus award of costs and attorney fees.

In a separate letter to the Oceano district, San Luis Obispo resident Kevin P. Rice demands the district "cure and correct" its action taken in closed session, where the board reported it voted to increase Geaslen's pay to \$10,000 a month from \$7,750. Geaslen works on a set monthly fee as a consultant and does not take medical or retirement benefits.

The Brown Act stipulates that final action on compensation for employees, including independent contractors, must be taken in open session.

Geaslen said the board's attorney, Molly Thurmond, is reviewing whether the board's action needs to be remedied.

Also, the board's closed session agenda only listed a "public employee appointment," and should have listed a separate item on its agenda indicating a discussion on Geaslen's compensation, Rice stated in his demand.

The increase that was approved Feb. 8 is retroactive to Jan. 1. The board at Wednesday's meeting will consider paying Geaslen \$3,375 to cover the time period from Jan. 1 through Feb. 15.

Geaslen was originally scheduled to work for the district for six months; the board decided to extend that time frame to June 30, the end of this fiscal year. After that, the board could consider making Geaslen a full-time employee or possibly seek outside applicants for the position.

<http://www.sanluisobispo.com/2012/02/21/v-print/1957540/oceano-community-services-district.html>