

Los Cerritos Wetlands Authority

Date: February 7, 2019

To: Governing Board Members

From: Mark Stanley, Executive Officer

Subject: **Item 12: Consideration of resolution to allow sharing of information provided in closed sessions with member entities under defined circumstances pursuant to Government Code section 54956.96.**

RECOMMENDED ACTION: That the Los Cerritos Wetlands Authority (LCWA) adopt Resolution 2019-05 and LCWA Policy, Disclosure of Confidential Information (Exhibit A) to allow sharing of information provided in closed sessions with member agencies under defined circumstances.

BACKGROUND: The Los Cerritos Wetlands Authority (LCWA) consists of four member entities: the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC), the State Coastal Conservancy, the City of Long Beach and the City of Seal Beach. While LCWA has the use of legal counsel from the RMC to provide counsel to LCWA, each member entity also possesses its own legal counsel who, from time to time, may need to be informed of confidential information discussed in closed session that may have direct financial or liability implications for that member entity. The legislative body of a member entity may also need to be informed of such financial or liability implications for the member entity, and have the ability to take action on such confidential information. Government Code section 54956.96 authorizes a joint powers authority to adopt a policy to allow the sharing of closed session information, disclosed to voting members of the joint powers authority in closed session, to the member entity's legal counsel and to members of the member entity's legislative body in such circumstances.

The LCWA joint powers agreement currently does not have a provision, nor are there bylaws or a resolution that specifically authorize the disclosure of information obtained in closed session to legal counsel of a member entity. Adoption of such a policy by resolution is necessary in order to allow the sharing of information learned in closed session with legal counsel and the legislative bodies of each member agency. Further, this policy would also allow legal counsel for a member agency to attend closed session for agenda items in which the matter has direct financial or liability implications for that member agency, and when such legal counsel is necessary to conduct business regarding the specific item discussed in closed session in a manner consistent with the Brown Act.

Exhibit A

POLICY TITLE: Disclosure of Confidential Closed Session Information

A. Purpose

To establish a policy pursuant to California Government Code section 54956.96 governing the disclosure of confidential information presented to the Los Cerritos Wetlands Authority (LCWA) in closed session.

B. Policy

1. All information presented to the LCWA board in closed session shall be confidential. However, pursuant to California Government Code section 54956.96, a member of the LCWA board who is present in a closed session may disclose information obtained in that closed session which has direct financial or liability implications for that board member's public agency to the following individuals:
 - A. Legal counsel of that member public agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member public agency; or
 - B. Members of the legislative body of the member public agency present in a closed session of that member public agency.
2. Any designated alternate member of the LCWA board who is attending a properly noticed meeting of LCWA in lieu of a member public agency's regularly appointed LCWA board member may attend closed sessions of the LCWA board.
3. Upon the advice of the member public agency's legal counsel, the member public agency's legislative body may conduct a closed session to receive, discuss, and take action concerning information obtained in a closed session of the LCWA board.
4. Upon advance request of a member of the LCWA board to LCWA's Executive Officer, and the LCWA Executive Officer's consent, legal counsel of that LCWA board member's public agency may attend a closed session of the LCWA board, but only (1) for agenda items on which the matter has direct financial or liability implications for that member public agency, (2) for which such member public agency legal counsel's presence is necessary to conduct business regarding the specific matter discussed in a closed session of the LCWA board, and (3) so long as such attendance is consistent with the Brown Act. Such attendance shall not constitute a waiver of any applicable protections governing matters discussed in closed session.
5. Any designated alternate member of the LCWA board who is attending a closed session of the LCWA board in lieu of a member public agency's regularly appointed LCWA board member may disclose information to such member public agency pursuant to the conditions in paragraph 1 of this policy.
6. If any portion of this policy is held to be invalid, illegal or unenforceable, the validity of the remaining portions shall not be affected or impaired thereby.

February 7, 2019 – Item 12

RESOLUTION 2019–05

RESOLUTION OF THE BOARD OF THE LOS CERRITOS WETLANDS
AUTHORITY TO ALLOW SHARING OF INFORMATION PROVIDED IN
CLOSED SESSIONS WITH MEMBER ENTITIES UNDER DEFINED
CIRCUMSTANCES PURSUANT TO GOVERNMENT CODE SECTION
54956.96

WHEREAS, the Los Cerritos Wetlands Authority (LCWA) has been established between the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, the State Coastal Conservancy, the City of Long Beach and the City of Seal Beach to facilitate the acquisition, protection, conservation, restoration, maintenance and operation, and environmental enhancement of the Los Cerritos Wetlands; and

WHEREAS, the LCWA has further been established to focus on projects which will provide open space, habitat restoration, and watershed improvement projects within the Los Cerritos Wetlands; and

WHEREAS, the Board of LCWA desires to adopt a policy entitled, “Disclosure of Confidential Closed Session Information,” attached to the staff report as Exhibit A, which allows sharing of information provided to LCWA board members in closed session with such board member’s member entity under certain limited circumstances, pursuant to Government Code section 54956.96; and

WHEREAS, this action is consistent with the requirements of the Brown Act; and NOW

Therefore, be it resolved that the Board of the LCWA hereby:

1. FINDS that the actions contemplated by this resolution are consistent with the requirements of the Brown Act.
2. FINDS that this action is consistent with the purposes and objectives of the LCWA.
3. ADOPTS the staff report dated February 7, 2019.
4. ADOPTS the attached policy entitled “Disclosure of Confidential Closed Session Information,” attached to the staff report as Exhibit A, which allows sharing of information provided in LCWA closed session with LCWA member entities under certain limited circumstances, pursuant to Government Code section 54956.96.

~ End of Resolution ~

Passed and Adopted by the Board of the
LOS CERRITOS WETLANDS AUTHORITY ON February 7, 2019.

Suzie Price, LCWA Chair

ATTEST:

David Edsall, Jr.
Deputy Attorney General