

RESOLUTION 2024-436

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CHESTER PUBLIC UTILITY DISTRICT CENSURING BOARD MEMBER STEPHEN GRAFFWEG FOR HIS CONDUCT AND ONGOING DISREGARD FOR POLICIES OF SAID BOARD

WHEREAS, the Board of Directors (“Board”) of the Chester Public Utility District (“District”) is committed to providing excellence in legislative leadership, which results in the provision of the highest quality of services to its constituents and has adopted several policies to further this commitment: and

WHEREAS, the Board has adopted Policy Number 4010, Code of Ethics, which, among other things, states the commitment to providing excellence in legislative leadership and provides in Section 4010.13 that the needs of the District’s constituents should be the priority of the Board of Directors, in Section 4010.14 that the primary responsibility of the Board of Directors is the formulation and evaluation of policy, and that routine matters concerning the operational aspects of the District are to be delegated to professional staff members of the District, in Section 4010.15 that Directors should commit themselves to emphasizing the positive, avoiding double talk, hidden agendas, gossip, backbiting and other negative forms of interaction, in Section 4010.16 that Directors should commit themselves to focusing on issues and not personalities, in Section 4010.17 that individuals have the right to disagree with ideas and opinions, but without being disagreeable and once the Board of Directors takes action Directors should commit to supporting said action and not to create barriers to the implementation of said action, in Section 4010.181 that Directors should contact the General Manager to obtain information needed to supplement, upgrade or enhance their knowledge to improve legislative decision making, 4010.182 that complaints from residents and property owners should be referred directly to the General Manager for resolution, Section 4010.185 that in seeking clarification for policy related concerns, especially those involving personnel and legal action, Directors shall consult the General Manager, Section 4010.19 that when approached by District personnel concerning specific District policy, Directors should direct inquiries to the appropriate staff supervisor, the chain of command should be followed, Section 4010.20 that all individual Directors should work together in the collaborative process, Section 4010.21 that directors should route questions from individuals through the General Manager, Section 4010.22 that Directors should develop a working relationship with the General Manager, Section 4010.23 that Directors should function as a part of the whole, and;

WHEREAS, the Board has adopted Policy Number 4050, Members of the Board of Directors, which outlines Director behavior and responsibilities and provides in Section 4050.11 that information that is exchanged before meetings shall be distributed through the General Manager, Section 4050.50 that Directors shall abstain from participating in consideration on any item involving a personal or financial conflict of interest, only abstaining from such participation if such a conflict exists, Section 4050.60 that requests by individual Directors for information and or research from District staff will be channeled through the General Manager, and;

WHEREAS, the Board has adopted Policy Number 4070, Basis of Authority, and provides in Section 4070.10 which among other things provides that the Board is the unit of authority within the District and that apart from his/her normal function as part of this unit, Directors have no individual authority, and in Section 4070.20 that Directors do not represent any fractional segment of the community, but are, rather, a part of the body which represents and acts for the community as a whole; and

WHEREAS, the Board has adopted Policy Number 5020, Board Meeting Agenda, and provides in Section 5020.22 that the General Manager or a Board Member shall be the judge of whether the public request is or is not a “matter directly related to District business”, and Section 5020.23 that no matter which is a subject for consideration by the Board in Closed session will be accepted under this policy, and;

WHEREAS, the Board has adopted Policy Number 5030, Board Meeting Conduct, which among other things, in Section 5030.32 that Directors receive, consider and take any needed action with respect to reports of accomplishment of District operations, and Section 5030.40 that provisions for permitting any individual or group to address the Board at a regular meeting on any subject that lies within the jurisdiction of the Board of Directors, shall be as followed: (referencing) Section 5030.41 that no boisterous conduct shall be permitted at any Board meeting. Persistence in boisterous conduct shall be grounds for summary termination, by the Chairperson, of that person’s privilege of address, and Section 5030.42 that no oral presentation shall include charges or complaints against any District employee, regardless of whether the employee is identified in the presentation by name or by another reference which tends to identify. All charges or complaints against employees shall be submitted to the Board of Directors under provisions contained in Policy #1030, and

WHEREAS, Board Member Graffweg was counseled verbally and in writing on numerous occasions regarding policy and ethical behavior, with explanations of specific instances of violations, to which, although admitting to the behavior, he denied any wrongdoing and continued to ignore the rules the Board is bound by; and

WHEREAS, The Board of Directors finds that Board Member Graffweg engaged in the following conduct in violation of the Board-adopted policies and counter to Board training and best practices during Board meetings and other meetings with staff and the community, including but not limited to the Board meetings (including closed sessions) continuously between December 2021 and April 2024 with written signage, on August 22, 2023, September 26, 2023, November 28, 2023, December 19, 2023, December 27, 2023, January 16, 2024, January 23, 2024, January 30, 2024, February 1, 2024, February 20, 2024, February 27, 2024, March 1, 2024, March 19, 2024, April 16, 2024, and April 23, 2024, by:

1. Making comments verbally or in writing that are unprofessional, emphasize the negative rather than the positive instead of participating cooperatively in discovery of solutions; and
2. Making incorrect, demeaning statements about District employees, other Board members, Managers, and policy; and
3. Engaging in harassing and abusive conduct by making offensive, critical comments about District employees, managers, and policies; and

4. Making comments suggesting that District employees have lied and or purposefully presented false documentation; and
5. Engaging in inappropriate discussions with opposing litigants and their attorneys with detrimental legal consequences to the District; and
6. Contacting District employees regarding matters falling under the purview of the General Manager, overstepping defined roles and circumventing the established chain of command to the detriment of the District; and
7. Refusing to comply with Brown Act directives, District policies, or direction of the other Board Directors; and
8. Sharing of information protected by Closed Session protocol as per the Brown Act and District Policies with groups and individuals; and
9. Acting in a manner that undermines the goals and objectives of the Board of Directors as a whole, inflaming public misunderstandings causing mistrust in the community; and
10. Publicly making comments that in such a way that shows a lack of respect or appreciation and disdain for the District employees, other Board members, managers, and consultants; and
11. Placing personal values, opinions and interests before those of the Board as a whole and those of constituents with blatant disregard to policy or law; and
12. Participating in Board votes on matters that affected the Director's personal interests; and
13. Showing favoritism to favored groups rather than the entire District constituency;

WHEREAS, the Board has determined that this action is necessary and prudent to protect District interests, employees and other Board members, and to prevent future conduct of this nature that is contrary to excellence in legislative leadership, and which could lead to claims and liability of the District;

NOW, THEREFORE, The Board of Directors of the Chester Public Utility District resolves as follows:

SECTION 1. The Board hereby adopts the Recitals set forth above as its factual findings supporting this Resolution.

SECTION 2. The Board recognizes and affirms its responsibility and obligation to provide District employees with a workplace that is free of harassment and abusive and unprofessional conduct and with their right, and that of the public, to complain of harassing and abusive conduct without fear of retaliation, retribution or adverse employment action.

SECTION 3. The Board desires to take appropriate and effective remedial action, in as much as it has the authority and power to do so in responding to the conduct of an elected official, so as to protect the workplace rights and well-being of its employees, managers, contract employees and the interests of other Board Members and the District.

SECTION 4. The Board finds that Board Member Graffweg has engaged in abusive and unprofessional conduct that is unauthorized and unacceptable, generally described herein.

SECTION 5. The Board finds that Board Member Graffweg's conduct described herein is counterproductive to the Board's decision-making on behalf of the District and contrary to the best interest of the District and the public interest.

SECTION 6. The Board determines that the conduct of Board Member Graffweg described herein is the conduct of Board Member Graffweg individually and is not that of the District, other District Board Members or the Board as a whole.

SECTION 7. The Board determines that by engaging in the conduct described herein Board Member Graffweg did not act at the direction of the Board, or with the authorization, consent, express or implied, of the Board or in concert with the District, other District Board Members or the Board as a whole.

SECTION 8. The Board determines that Board Member Graffweg engaged in the conduct described herein without any authorization or ratification by the Board and contrary to the legitimate interests of the District.

SECTION 9. The Board hereby censures Board Member Graffweg, for the conduct described herein and expresses the strongest possible disapproval and disavowal thereof.

SECTION 10. The Board determines that the conduct of Board Member Graffweg described herein, in as much as it constitutes unlawful and abusive conduct in violation of District policies and federal and state law, constitutes misconduct of office and dereliction of the duties of an elected official and Board Member of the District.

SECTION 11. The Board determines that in engaging in the conduct described herein, Board Member Graffweg has acted outside the course and scope of his duties as a Board Member of the District.

SECTION 12. The Board requests and demands Board Member Graffweg to immediately cease and desist from engaging in further conduct of a harassing, abusive or unprofessional nature as described herein with respect to District employees, other Board members, managers, contract employees, and the District's constituents.

SECTION 13. The Board requests and demands Board Member Graffweg to participate in appropriate Board Governance training to develop his understanding of what conduct constitutes unlawful or unprofessional conduct while serving as an elected official and the deleterious effects such conduct can have on District employees, other Board members, consultants, managers, contract employees, the District and the customers of the District.

SECTION 14. The Board requests and demands Board Member Graffweg to formally apologize to District employees, other Board members, consultants, managers, contract employees, the District and the customers of the District who have been offended or affected by his unprofessional conduct, and to assure them that he will discontinue any such conduct in the future and that he will not effectuate or attempt to effectuate any form of retaliation, retribution, or adverse employment action against them.

SECTION 15. The Board requests and demands Board Member Graffweg to cease and desist from any harassing or unprofessional conduct toward District employees, other Board members, managers, or contract employees. If Board Member Graffweg has any concern regarding the performance of the General Manager, he is expected to address such concerns privately with the General Manager or in a closed session convened to address the General Manager's performance. If Board Member Graffweg has any concern regarding the performance or any other employee, he is expected to address such concerns privately with the General Manager.

SECTION 16. The Board values the District's employees, managers and contract employees, their well-being and their right to work in an environment free of hostile negativity, harassment and abusive conduct, and hereby directs the General Manager to report to the Chairperson of the Board and the District's General Counsel any conduct of Board Member Graffweg in violation of the letter or spirit of the directives set forth herein. In doing so the General Manager will not suffer any form of retaliation, retribution or adverse employment action. Further, the General Manager is hereby directed, as the director of all District personnel, to meet with the District employees and review with them the District's harassment and abusive conduct policies, the procedures for bringing forth a complaint of conduct in violation of such policies and this Resolution and to encourage employees to report any conduct of Board Member Graffweg in violation of the letter or spirit of the directives set forth herein and to assure them that in doing so they will not suffer any form of retaliation, retribution or adverse employment action. Any concerns or complaints from the public will be handled in a like manner.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Chester Public Utility District, Plumas County, California at the meeting held on the 24th day of September 2024, by the following vote:

AYES: Kimberly Green, Stephen Voboril, Arthur Tharpe and Royce Raker

NOES: none

ABSTAIN: none

ABSENT: none

RECUSE: Stephen Graffweg

Kimberly Green, Board Chair

ATTEST:

Cheryl Johnson, Board Clerk