

MBCSD Access and Use of Legal Counsel Policy

In the running of the Muir Beach Community Services District, there are times when it is necessary to obtain legal counsel on a particular issue whether it be proactive or in response to a current event. The following policy outlines the guidelines for MBCSD Board members and staff to access the various types of legal counsel available to the District.

- a. County Counsel** – provides routine counsel and advice for general District management.
(Marin County Counsel – current billing rate in 2018 is \$220 p/hour)

The District Manager (DM) is authorized to use, within reason, County Counsel to request legal advice as needed to protect the interest of the District on such routine topics as employment issues, contracts and agreements, and any issue that pertains to questions of legality.

The DM should use County Counsel's time efficiently and expediently. Any questions should be well thought out in advance, limited in scope and breadth, and defined as narrowly as possible to the inherent legal question. Any communications with legal counsel should be very specific and conversations should be direct and focused to expedite getting to the practical, usable, and necessary answer. A draft contract should be written ahead of time for editing and review by County Counsel. If a contract is to be written by County Counsel, then the relevant information should be clearly defined in the initial brief.

Any member of the Board of Directors can use County Counsel, with or without prior Board permission, but any and all uses of County Counsel will be reported back to the MBCSD Board and reviewed by the Board to determine if it was necessary, required, and appropriately used for District purposes. If not, the Board member will be obligated to pay out-of-pocket for the cost of those legal services.

- b. Outside Counsel** – when a topic is narrowly specific to need specialized expert legal counsel.
(Specialized legal counsel – averages between \$350 - \$450 p/hour)

Directors entering into contract agreements is covered by the MBCSD Bylaws as follows:

“1.0 Board of Directors is Legislative Body. A legislative body of five members known as the Board of Directors shall govern the Muir Beach Community Services District (“District”). The Board of Directors shall establish policies for the operation for the District, and shall act only by motion, resolution or ordinance, passed by a majority of the members of the Board of Directors present at a duly convened meeting. No director (including the Board President or Board Vice President) has individual authority and may not commit the District to any policy, act or expenditure whatsoever. The District Manager shall be exclusively responsible for the implementation of policies established by the Board of Directors.”

Contracting with any outside legal counsel (meaning other than County Counsel) requires prior Board approval. If an individual Board member were to enter into a legal contract agreement on behalf of the District without Board approval, this would be in violation of the District's Bylaws as previously stated. Not only would the Director of any such violation be responsible for the related costs incurred, they would also be subject to Board action for removal from the Board. Additionally, in accordance with CA Government Code 61064, a violation of any rule, regulation or ordinance adopted by the Board of Directors is a misdemeanor and punishable to Section 19 of the Penal Code.

c. Elections/Candidates

No candidate will have access to legal counsel during an election.

d. Access to Legal Briefs

Only Board members and Administrative staff have access to legal briefs. Therefore, any confidential attorney-client privileged documents and related information will not be publicly shared if in so doing it is deemed to undermine or forfeit the District's right to attorney-client privileged confidentiality.