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**STANISLAUS COUNTY  
IHSS ADVISORY COMMITTEE MEETING  
MINUTES**

**10/08/04**

Committee Members Present:

Jeff Lambaren	Jose Acosta	Madelyn Amaral
Dwight Bateman	Rose Martin	Connie Muller
Ora Scruggs	George Sharp	Linda White

Committee Members Absent:

\*Kenny Brown

IHSS Staff Present:

Maria Childers	Robert Taylor	Veronica Melgoza
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*\*Advance notice given.*

**OPENING REMARKS by CHAIRMAN JEFF LAMBAREN**

- Meeting called to order at 1:12 PM

**PUBLIC COMMENT**

- Announcement made for public comment by Chairman, Jeff Lambaren.
- Paul suggested to the committee that the Public Authority is thoughtfully planned out.

**ACCEPTANCE OF MINUTES**

- September 27, 2004 minutes: Motion M/S/A to accept with no changes.

**UNION UPDATE**

- The letter that the Union sent out to providers was discussed.



- Linda White had a copy of the letter and read about the Union dues and service fees. Dues will run from \$5.00-\$35.00 a month depending on the hours paid in a month. In addition to monthly fees there is a one-time initiation fee of \$25.00 per person, this will be divided in two monthly installments of \$12.50. The Union membership also voted to implement an additional contribution of \$15.00 per person generally withheld in two equal installments in April and May for the Civic Action Fund. The Civic Action Fund finances the Union for education, advocacy, lobbying activities etc.

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### **BUDGET UPDATE**

- Maria Childers presented the committee's budget.
- The allocation was \$52,966.00
- We have to reserve for the stipends and the clerical position
- We have a balance of \$28,606.00 for the rest of the fiscal year

### **LEGISLATIVE UPDATE**

- Jeff announced that AB 3056 was vetoed by the Governor
- Jeff announced that AB 2783 was vetoed on September 28<sup>th</sup>
- Jeff announced that AB 3095 passed on September 29<sup>th</sup>
- George Sharp announced that SB 1365, was vetoed, George will keep the committee updated on this bill.

### **BYLAWS**

- Jeff announced that we do have a Bylaws sub-committee, it is Dwight, Ora, and Kenny. Connie is going to join the sub-committee. The sub-committee will meet on October 18<sup>th</sup>

### **PUBLIC AUTHORITY**

- Jeff passed out a draft of the ordinance to convert to a Public Authority. Committee is going to go over it and write down their suggestions.
- Jeff went over the timeline for the Public Authority.
- Jeff stated that the Board of Supervisors would be the governing board for the Public Authority.
- Madelyn asked if the Board of Supervisors have approved to become a Public Authority?
- Jeff stated that the Board of Supervisors has approved to become a Public Authority.
- Jeff announced that there is a possibility that the Public Authority could co-locate with the Area Agency on Aging and Veterans Services. This part doesn't have to be decided by November 2<sup>nd</sup>.
- Dwight and Jeff discussed the possibility of co-locating with DRAIL. There is a vacant office and this may be considered.
- Dwight asked Paul Birmingham to provide input to the committee regarding the transition to a Public Authority. The committee and Paul agreed.
- Jeff suggested that everyone go over the draft on their own and we will have a meeting to discuss just the Public Authority.

### **QUALITY ASSURANCE**

- Maria Childers announced that they had their first meeting a couple of weeks ago. The State is going to start having stakeholder meetings.

### **DISCUSSION ON RETREAT RELATED TO A PUBLIC AUTHORITY**

- Jeff suggested we table the retreat until next year and use it as a planning retreat.

### **FUTURE PROJECTS**

- Tabled for the time being.

## **GENERAL UPDATE**

- Connie Muller asked how the presentation to the Board of Supervisors went.
- Jeff announced that it went well, he was given 5 minutes so it was very fast.
- It was well received, the Board of Supervisors asked a couple of questions and complimented CSA for their hard work.
- Jeff passed around the agenda item and the PowerPoint presentation.

## **AGENDA ITEMS FOR OCTOBER 22nd MEETING**

- Public Comment
- Acceptance of Minutes from 10/08/04 and 10/15/04 Meeting
- Union Update
- Budget Update
- Legislation Update
- Bylaws
- Public Authority
- Quality Assurance
- General Update
- Agenda Items for Next Meeting

Meeting adjourned @ 2:44 PM  
Veronica Melgoza, Recorder

# Before the Board of Supervisors

County of Stanislaus, State of California

ORDINANCE NO. \_\_\_\_\_

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CHAPTER \_\_\_\_ OF DIVISION \_\_\_\_ OF TITLE \_\_\_\_ OF THE ORDINANCE CODE OF THE COUNTY OF STANISLAUS CREATING THE STANISLAUS COUNTY IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY

The Board of Supervisors of the Stanislaus County ordains as follows:

CHAPTER \_\_\_\_ OF DIVISION \_\_\_\_ OF TITLE \_\_\_\_ OF THE ORDINANCE CODE OF THE COUNTY OF STANISLAUS CREATING THE STANISLAUS COUNTY IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY

## **SECTION 6-11001. DEFINITIONS**

- a) "IHSS" means in-home supportive services as described in Welfare and Institutions Code 12300 (a), (b), and following.
- b) "Provider" means a person who provides in-home supportive services to a recipient.
- c) "Recipient" means a person eligible and authorized to receive in-home supportive services under Welfare and Institutions Code section 12300, and following.
- d) "County" means Stanislaus County.

**SECTION 6-11002. PUBLIC AUTHORITY CREATED.** Pursuant to Welfare and Institutions Code section 12301.6, a public authority is established to serve as the employer of record for IHSS providers.

- a) Name. The name of the authority shall be the Stanislaus County In-Home Supportive Services Public Authority.
- b) Governing Body. The governing body of the Stanislaus County In-Home Supportive Services Public Authority is the Stanislaus County Board of Supervisors.
- c) Separate Entity. The Stanislaus County In-Home Supportive Services Public Authority shall be a public entity separate from the Stanislaus County and shall file the statements required by Government Code 53051.

- d) Advisory Committee. Because the County's In-Home Supportive (IHSS) Advisory Committee was established by the Stanislaus County Board of Supervisors by Board Order , in accordance with the requirements of Welfare and Institutions Code Section 12301.6(b)(B), (C), and (D), it shall serve as the advisory committee to the Authority and shall fulfill the roles and responsibilities required by Welfare and Institutions Code Section 12301.6. This IHSS Advisory Committee shall assume all responsibility for the functions and responsibilities previously delegated to the Advisory Committee by the Board of Supervisors. It shall report directly to the Public Authority staff and governing body.

Question Who will fund the committee?

Also, will the Homemakers stay with Adult Services?

### SECTION 6-11003. PUBLIC AUTHORITY POWERS.

- a) Character of Authority. The Stanislaus County In-Home Supportive Services Public Authority shall be a corporate public body, exercising public and essential governmental functions, that has all the powers necessary to act as the employer of record for individual providers serving In-Home Supportive Services recipients; excluding assessment and **authorization** of hours for In-Home Supportive Services recipients, but including the power to contract for services pursuant to sections 12302 and 12302.1 of the Welfare and Institutions Code, and to make or provide for direct payment to a provider chosen by the recipient for the purchase of services pursuant to sections 12302 and 12302.2 of the Welfare and Institutions Code.

Question: will the Public authority make or provide for direct payment to providers??

- \* b) Public Authority Employees. Employees of the Stanislaus County In-Home Supportive Services Public Authority shall not be employees of Stanislaus County for any purpose.

- c) Public Authority Functions. The Stanislaus County In-Home Supportive Services Public Authority shall carry out the following functions:

1. The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.
2. Investigation of the qualifications and background of potential in-home supportive services personnel.
3. Establishment of a referral system under which in-home supportive services personnel shall be referred to recipients.
4. Providing access for training providers and recipients. However, the Public Authority shall not be obligated to provide training directly, to pay for training provided privately or in the community, to pay providers for the time spent in

training, to accompany recipients to training, to pay for transportation to training, or to pay for any materials required by the training. The Public Authority is not obligated to screen or be responsible for the content of any training it informs providers or recipients is available in the community. The Public Authority is not obligated to ensure that any provider or recipient attend or complete any training.

5. Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

**SECTION 6-11004. POWER OF THE PUBLIC AUTHORITY TO CONTRACT.**

In order to carry out its functions, the Public Authority may enter into contracts with the County and other organizations and entities as necessary. Such contracts may include, but are not limited to, contracts for the provision of banking, auditor, payroll, counsel, administrative and other necessary services for the operation of the Public Authority. Funds necessary to pay for contract services are subject to the budget and appropriations processes of the Public Authority and the County.

**SECTION 6-11005. SERVICE PROVIDER EMPLOYMENT FUNCTIONS.**

The Stanislaus County In-Home Supportive Services Public Authority shall be deemed to be the employer of in-home supportive services personnel referred to recipients as provided in paragraph 3 of subdivision (e), within the meaning of Chapter 10 (commencing with section 3500) of Division 4 of Title 1 of the Government Code, provided, nevertheless, that recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services to them.

- a) In order to assure the preservation of the individual provider mode and limit the liability of the Public Authority, the Public Authority shall have no authority or jurisdiction to regulate, control, or limit the rights and responsibilities of recipients of in-home supportive services to hire, fire or supervise providers. The right to supervise includes, but is not limited to, the right to determine matters such as work schedules, tasks and duties as authorized by the County social worker, assignment and direction of work, methods and standards of care and conduct, discipline, provisions for safety and security, control of premises, any in-home living or other accommodations, and final resolution of concerns, problems and complaints relating to such supervision. Recipients retain such rights and responsibilities independent of the Public Authority, just as they held such rights and responsibilities independent of the County prior to the formation of the Public Authority.

**SECTION 6-11006. RECIPIENT SELECTION.** Recipients of in-home supportive services may select in-home supportive services personnel who are not referred to them by the Stanislaus County In-Home Supportive Service Public Authority. Those personnel shall, nevertheless, be referred to the Public Authority for the purposes of wages, benefits, and other terms and conditions of employment.

**SECTION 6-11007. STATE AND COUNTY RESPONSIBILITIES.** The creation and operation of the Stanislaus County In-Home Supportive Services Public Authority shall not alter, require the alteration of, or interfere with the state payroll system or other provisions of Welfare and Institutions code section 12302.2 for individual providers of in-home supportive services, or affect the state's responsibility with respect to unemployment insurance or worker's compensation for providers of in-home supportive services.

**SECTION 6-11008. PAYROLL FUNCTION ACCESS.** ~~The County will provide access to any payroll function for processing timesheets, and other pertinent information relating to payroll forms for sole purpose of evaluating and reviewing such performances in coordination with the duties of the Public Authority.~~ Question: Who will maintain payroll?

**SECTION 6-11009. PUBLIC AUTHORITY ADMINISTRATION.**

a) Public Authority Staff. The governing body of the public authority, or its designee shall appoint and/or contract for such staff as is necessary for the administration and operation of the Public Authority.

1. Labor Relations. The Public Authority shall adopt rules and regulations for administration of employer-employee relations. Only those employee organizations recognized in accordance with the Public Authority's labor relations resolution shall be entitled to negotiate with the Public Authority on matters within the scope of representation and such other rights that may be granted to recognized employee organizations pursuant to Sections 3500 through 3511 of the Government Code.

**SECTION 6-11010. COUNTY COSTS.** The costs and expenses of Stanislaus County to provide administrative, legal, labor relations, and other services to the Stanislaus County In-Home Supportive Services Public Authority, and to make payments or provide benefits for in-home supportive services providers, shall be charged against the funds of the Public Authority.

**SECTION 6-11011. FISCAL PROVISIONS.**

a) Functions of the Public Authority. The Stanislaus County In-Home Supportive Services Public Authority shall carry out the following functions:

1. The establishment and operation of the Public Authority or application of Government code section 3500 and following shall not result in payments from the County's general fund beyond the County's annual appropriation, as amended from time to time, for the Public Authority, if any, which shall be an absolute limit on County cost.

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2. The total of all operating costs, wages, and benefits proposed or established by the Public Authority shall be consistent with the provisions of the County budget, as amended from time to time. The Public Authority shall not establish a payment rate, including costs of wages, benefits and operation, until the Public Authority determines that the funds necessary for the payment rate are legally available and allowed through the County's fiscal year budget process, as amended. The annual appropriation for the Public Authority, if any, contained in the County's fiscal budget, as amended, for any fiscal year shall be an absolute limit on County cost for that fiscal year.
3. The Public Authority shall adopt its budget under the same laws, rules and policies that control the County budget process.
4. The Public Authority shall not have the authority to agree to or approve any collective bargaining or other agreement that requires an increase in wages or benefits unless there is a state and/or federal match for such increases. In-Home Supportive Services shall not be reduced in order to fund the Public Authority or implementation of Government Code section 3500 and following.
5. In the event of an audit exception or exceptions, the party responsible for not meeting the program requirement or requirements shall be responsible for the deficiency.
6. In the event of any State hearings, cash grant award or lawsuit award resulting from Public Authority's failure to perform as required by this contract, reimbursement shall be made to the damaged party by Public Authority.
7. Additional costs to County for maintaining any portion of the contract as a result of Public Authority's failure to perform, as required by this agreement, are subject to recoupment by County through withholding from billings or any other form of legal action.

#### **SECTION 6-11012. COUNTY AND PUBLIC AUTHORITY LIABILITY.**

- a) No Employer Liability. The Stanislaus County In-Home Supportive Services Public Authority shall be deemed not to be the employer of in-home supportive services personnel referred to recipients under this Chapter for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel.
- b) No Non-Referral Liability. The Stanislaus County In-Home Supportive Services Public Authority shall not be held liable for any action or omission of any in-home supportive services personnel whom the Public Authority did not list on a registry or otherwise refer to a recipient.



c) No County or State Liability. The Stanislaus County and the State of California shall be immune from any liability resulting from the implementation of Welfare and Institutions Code section 12301.6.

d) Public Authority Liability.

1. Any obligation of Stanislaus County In-Home Supportive Services Public Authority, whether statutory, contractual, or otherwise, shall be the obligation solely of the Public Authority and shall not be the obligation of the Stanislaus County or State of California.
2. The County shall be immune from any liability resulting from its implementation of this chapter and/or administration of the In-Home Supportive Services program pursuant to Welfare and Institutions Code section 12301.5.
3. Any and all contracts, leases, or other agreements of any nature, including collective bargaining agreements, between the Public Authority and third parties other than the County shall contain an express provisions advising the third party that the Public Authority is a separate governmental entity and that such agreement does not bind the Stanislaus County.
4. The Public Authority shall require any and all third parties contracting with the Public Authority to indemnify and hold harmless the Public Authority, to provide the Public Authority with written acknowledgement of such indemnification, and to maintain adequate levels of insurance, as determined by the County's risk manager, naming the Public Authority as an additional insured.

**SECTION 6-11013. LIABILITY INSURANCE.** Without limiting its indemnification of the County as set forth below, the Public Authority shall acquire and maintain appropriate insurance in amounts and coverage types to be determined by the County's risk manager to be adequate, and shall name the County and members of the Board of Supervisors as additional insured on any policies of insurance maintained by the Public Authority. Evidence of such insurance shall be provided to the County's risk manager within thirty (30) days of procurement of said insurance.

**SECTION 6-11014. INDEMNIFICATION.** The Public Authority shall indemnify, defend and hold harmless the County and its special districts, elected and appointed officers, employees and agents from and against any and all liability, including defense costs and legal fees, and claims for damages of any nature whatsoever, including but not limited to personal injury or property damages, arising from or connected with any act or omission of any officer or employee of the Public Authority.

**SECTION 6-11015. SEVERABILITY.** If any provision of this chapter or the application thereof to a person or circumstance is for any reason held invalid, such

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invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or applications thereof, and to this end the provisions of this chapter are severable. Nothing in this section affects the Board of Supervisors right to amend or repeal this chapter or any portions thereof at any time.

**SECTION 6-11016. TERMINATION.** The Board of Supervisors reserves its right to repeal or amend this chapter or any portions thereof at any time. By repeal of this Chapter, the Board of Supervisors may abolish the Stanislaus County In-Home Services Public Authority. *which does not include the advisory committee*

**SECTION 6-11017. CONFIDENTIALITY.** The Public Authority shall comply and require its officers and employees to comply with the provisions of Section 10850 of the Welfare and Institutions Code (WIC) and Division 19 of the California Department of Social Services Manual of Policies and Procedures to assure that:

- a Any and all information pertaining to the administration of public social services, for which grants in aid are received will be confidential and will not be open to examination for any purpose not directly connected with the administration of public social services.
- b No person will publish or disclose, or use or permit, or cause to be published, disclosed or used, any confidential information pertaining to an applicant or recipient.
- c Public Authority shall inform all of its employees, agents, subcontractors and partners of the above provision and that any person knowingly and intentionally violating the provisions of said state law is guilty of misdemeanor.

**SECTION 6-11018. NONDISCRIMINATION.**

- During the performance of this Agreement, Public Authority and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex. Public Authority and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations. Public Authority and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements.

- Public Authority shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this agreement.
- Public Authority shall provide a system by which recipients of service shall have the opportunity to express and have considered their views, grievances, and complaints regarding Public Authority's delivery of services.

**SECTION 6-11019. ELDER ABUSE REPORTING** Public Authority shall establish a procedure acceptable to the County to ensure that all employees or agents performing services under this contract report abuse or neglect of elder adults and dependent adults pursuant to provisions of Welfare and Institutions Code sections 15610 et seq. Public Authority shall require each employee, volunteer, consultant, subcontractor or agency to sign a statement that he or she knows of the reporting requirements as defined in sections 15630 and 15631 of the Welfare and Institutions Code and will comply with same.

**SECTION 6-11020. EFFECTIVE AND OPERATIVE DATE.** This Ordinance shall take effect thirty (30) days after its adoption. Within fifteen (15) days after the date of adoption of this Ordinance, a summary shall be published once with the names of those members voting for and against the same in a newspaper of general circulation published in the Stanislaus County.

**PASSED AND ADOPTED \_\_\_\_\_, by the following vote of the Board of Supervisors, to wit:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

ATTEST: Christine Ferrari  
 Clerk of the Board of Supervisors  
 County of Stanislaus  
 State of California

\_\_\_\_\_  
 Chairman of the Board  
 of Supervisors  
 County of Stanislaus  
 State of California

By \_\_\_\_\_ (SEAL)  
 Deputy Clerk

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