

**MINUTES OF A PERSONNEL COMMITTEE MEETING
OF THE
LAKE DON PEDRO COMMUNITY SERVICES DISTRICT**

MEETING DATE: October 13, 2011 at 10:00 a.m.

1. CALL TO ORDER

The Personnel Committee of the Lake Don Pedro Community Services District held a Personnel Committee Meeting, pursuant to notice, on October 13, 2011, at the Lake Don Pedro Community Services Board Room, 9751 Merced Falls Rd., La Grange, CA 95329. Vice-President Kinsella called the meeting to order at 10:02 a.m. Committee Members (Directors) present: Kinsella, Richardson. Committee Members (Directors) absent: None. Also present: Staff C Reeves and D Tynan.

2. DISCUSSION / ACTION

D Tynan chose to have the complaint heard in open session.

Close Open Portion of Meeting (on agenda – per employee request, did not go into closed session at this time)

a. Closed Session: Government Code Section § 54957 (b) (2) – Public Employee Discipline / Dismissal / Release / Specific Complaint

D Tynan stated he had not received due process. Vice-President Kinsella stated he had been given a copy of the complaint and given ample time to review the complaint so due process had been given and was not an issue. Vice-President Kinsella asked C Reeves to present her complaint and then would allow D Tynan to respond.

C Reeves stated her complaint was harassment and abusive behavior towards a subordinate female employee, discrimination against and favoritism towards specific employees, and behavior that is detrimental to the District creating a hostile work environment.

The following is a summary of C Reeves' statements. She stated she had dealt with issues in the office towards herself; that whenever she disagreed with D Tynan or told him they could not do things a certain way, she received a negative response. She stated she is both Financial Administrator and Secretary. She has performed her job the same as she did for previous staff members. The issues came to a head when on September 12, 2011 she took a stack of work into D Tynan's office. He asked her to shut the door. She did not. D Tynan closed the door and made a statement about her doing her job. She responded that the email she received from him was mean and nasty. This referred to an incident regarding a chemical delivery. The previous Friday she had been instructed by D Tynan that a chemical delivery was expected that needed a licensed operator to receive it, he was going to lunch, and to call him at home if they arrived. At 4:30 one of the part-time employees contacted C Reeves asking if the chemicals were still being delivered. She contacted the company and was told they were on their way. She informed the employee of this and asked if anyone else was there. She was told no and that D Tynan had told him to show the delivery person where to put the chemical delivery. She stated she was concerned based upon what she had been told earlier in the day by D Tynan so she sent him an email to clarify. She read the email. Her concern was that the District could be liable if a licensed operator was required and could possibly face lawsuits if anything happened. She read D Tynan's email responding to her email. She explained that when D Tynan made the comment about doing her job, she knew it was about the chemical

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delivery and the emails. She explained the sequence of events, and he was fine with that. He then brought up the recall meeting which she attended at Porter's office because as Secretary she was concerned about facing an entirely new Board of Directors at the next election and felt the District should know what they were facing. She said she has two timecards; one that shows her salaried hours and one where she clocks in and out to prove her hours. She explained that the day of the meeting, D Tynan was heading out to a leak, S Marchesiello had grabbed him for a quick discussion, and C Reeves told him she was going to the recall meeting. He was unaware of the meeting and did not tell her not to go. When she returned and gave him an update, it became evident that they had differing opinions as to whether she should have gone or not. She showed him on her timecard that she took the time for the meeting as a lunch, and that even without the time for the meeting and the time she worked at home one afternoon, she still had over 40 hours for the week. This was when the conversation got heated. He brought up issues of him getting in trouble for her going, that it was not good if she went when the part-time office person was there. They went back and forth until he started yelling. He brought up her schedule. She responded that she was salaried and as long as her work was done she was okay. She told him if he wanted more control over her hours, he could make her hourly, but she would make more money because she regularly puts in more than 40 hours per week. He said he could control that to which she responded that all of her work would not be done. His response was that he could then do something about her. She took this as a threat to her job. During the interaction he was yelling so much, he was shaking, and she did not know what his next response would be. As she left the office, D Tynan stated he worked eight hours a day in the office, and she should to. She stated she told him he did not work eight hours a day in this office, and it was funny that plant employees did not know where he was either.

C Reeves then provided the types of issues she brings to D Tynan. The first being the chemical issue. A note had been posted on the chemical tank, and she provided an email D Tynan provided in a packet showing his statement to the Olin representative about having a licensed operator present. She also presented the delivery bill of lading with the part-time individual's signature. She stated the blow-up was the result of this question. She provided her time card showing the time of the recall meeting listed as lunch where D Tynan wrote not approved in capital letters when he had never done so on any other time card. She provided a copy of another employee's time card with 551 alarms. She had questioned the alarms. She found 474 alarms. She included an email to D Tynan recapping what she had found after looking at the alarm log. In the email she stated her concerns as she was responsible for payroll which included an employee falsifying his time card because his time card did not match the alarm log, that she wanted his authorization due to the excessive number of alarms - \$1000 of pay, her request to have policy 2010 hours of work on the next agenda because one instance of a tank going offline triggered 11 alarms, and the employee had not indicated his lunches. She believed this triggered the upset more than anything else. She stated she has to question items about the same employee and gets a negative response. She provided copies of emails she sent to D Tynan about broken pagers and a tool borrowed after hours after the new policy had been implemented without any response. She spoke about giving payroll checks out the day before payday as had been the procedure before she became employed and included an email sent to D Tynan about him having cashed 5 of the 6 previous checks a day prior to payroll when he had been informed twice that he could not cash them before the actual payday. She gave another example of an email sent to D Tynan asking him to check if several employees had clocked out when they were outside after hours. The next day she was called into a meeting with D Tynan to review her time card and her times coming in late, and she was told not to ask him about their time. She gave an example of harassment when they worked on the agenda after the meeting where she was yelled at, where she asked him to fill in the items for the agenda. He then came into her office asking her questions in a raised voice and threw the email on her desk. She stated it is typical for a negative response, no response, or a counter action against herself when she has brought up these types of things.

C Reeves stated she felt it was unconscionable to be yelled at by anyone at work. She stated D Tynan had yelled at her a previous time in April when D Tynan asked for a Special Meeting which she scheduled

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and was blamed for. She provided details regarding that incident. She overlooked many things, but would not accept the abuse experienced in his office. She brought up the cell phone issue and the office being directed to clock in and out for breaks. She saw that the plant did not follow the same process. She stated no one in the plant clocks in and out for lunches or breaks and often do not even clock in at the beginning or end of their day. She discussed D Tynan's statement after his review that he was told to get the office under control and specifically that her not having a set schedule was a problem when several Directors stated she had never been brought up during his review. She discussed favoritism including paying employees out of his (D Tynan's) pocket. She stated many of the problems she has brought to D Tynan's attention involved this same employee. She discussed a clear case of discrimination when during the yelling incident D Tynan had told her it didn't matter why she was late when she explained Highway 132 was closed, yet the next day the employee that was being paid out of his pocket was late because he had to take his daughters to school and he was told, "That's ok buddy." She researched whether the favoritism carried into the plant overtime and found that although the regular pay and times on-call were evenly split, the overtime and double time are split 38% to 62%. She stated this is something she should be able to take to her General Manager, but felt she could not.

She spoke about issues against the District including lack of knowledge in the office after a year in D Tynan's current position, the issues with the RFP and unsealed bids that could get the District into legal trouble, using the District vehicle after hours even though he brought the vehicle policy to the Board, disappearing during the day, an issue with the water tank dropping to three feet and D Tynan's response, employee's lack of response to alarms, part-time employees being tutored on staff time, her concern over hearing office staff ask if D Tynan could perform some service requests which he stated he was too busy when he had spent the morning studying a water program course, and issues with the safety meetings.

She stated she was done being subjected to the harassment and done dealing with the discrimination. She had never worried about being in the office alone, but now is concerned. She limits her time in the office and her interaction with him to avoid any further confrontations. She asked that at a minimum she no longer have to report to D Tynan and wants it notated that the grievance had been filed against him. She was asked if she had any witnesses. She stated the other office person was in the office and overheard the confrontation and would definitely be a witness. She also stated the other office person checked with her that day to make sure she was okay to be left alone, which she asked her not to do after thinking about it for a moment.

D Tynan was given a chance to respond. He stated he disagreed with C Reeves' statements. He stated he was never told he could not cash his check on Tuesdays. He felt she was breaking policy by giving the checks out on Tuesdays when she knew the policy stated the checks were to be given out on Wednesday. He stated he doesn't have a problem with an hourly employee coming in late because he is not paid for that time. He stated the office is open from 7:30 to 2:30, and we currently call in a part-time person to help in the office. He feels it is bad customer service for C Reeves not to be there during office hours. He said C Reeves always says she works at home when none of them work at home. He stated that with her being at the District late at night, no one knows whether it is company or personal business being done. He felt he bent over backwards for C Reeves with the Vicki Keefe situation. He brought up the alarms and his statement that "it is what it is". His statement meant that the employee had to be paid because that was what the policy stated. When C Reeves came up with a different number for the alarms, he went with C Reeves' number. He stated he was criticized that he had not brought it to the Board, but it was on an agenda where he was bringing it to the Board. He brought up the number of alarms where employees are being called throughout the entire night without any sleep. He stated mistakes will be made without sleep. He went three days without sleep. He showed work orders he had done in the past several months. He state he is out of the office doing work orders, checking on the guys, and going to Lowes. He was told when he first got here that the GM had a truck because he was always on call. He stated he was doing the opposite where the truck was concerned. He talked about someone complaining

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about the truck being at his home all weekend long. He stated he went to take his D3 test in Fresno, but he took his own vehicle and paid with his own gas. The truck was at his home all weekend because he and his wife were in Fresno for the weekend for his test. He stated they were working on the tower right now. He stated since he started, C Reeves talks down to the guys in the field, and she constantly questions them. He presented a document from the Engineer and spoke about lost money from the meters not reading correctly. He stated the grievance showed a lot of insubordination. He stated he hollered at C Reeves once. He stated he felt undercut, and that it was intentional with the Special Meeting, and that C Reeves telling a Board Member she should not have to babysit him after he supported her for an educational meeting. He talked about being out of the office at times and about a two week period where he went home to take medications. He stated he no longer took the vehicles home at all and was concerned about his home being watched. Director Kinsella asked him if any of the Board Members had complained about him taking a vehicle home. D Tynan stated no and that he no longer takes the vehicles while on call. He was also asked if anyone had filed a complaint. The answer was no. D Tynan stated the chemical issue was a brand new safety feature which turned out to be impractical. He stated R Gilgo had to leave, and he had to leave for company business, so the only one left was J Hamlin. He stated he should have informed C Reeves about the change. He stated if anyone was being harassed, he felt it was the plant employees. He talked about C Reeves missing a bolt and her not having any problem with them on company time getting under the truck and helping her look for the bolt. He stated regarding the tool, D Tougas knocked on the door and told the girls he was going to use the tool for ten or fifteen minutes, and that he then brought it back and told them. He discussed the cell phones and C Reeves being constantly on it and about one plant employee being on the phone and playing games all day. He said he added controls and asked people to punch out and take a break. He stated a plant employee had his cell phone go off in the office, and he told him to leave it at home. He stated C Reeves not shutting the door was again insubordination. He wanted to keep it private. He talked about a problem with a specific employee's credit card which has been pulled. He stated they had a heated conversation, and that he did overspeak to C Reeves, that it was not handled in the best way. He spoke about her being late three out of four times and then questioning other's time. He talked about being salaried, not working at home, that he comes in from 6:30 to 7:00, and that it does not mean he can come and go as he pleases. He stated he started the safety meetings, that he reads the questions and gives the answer, and asks if there are any safety issues. He gave examples of safety issues brought up. He stated when C Reeves said they were not invited, she had responded in a nasty voice that she was busy. He stated they had to wait for C Reeves to do the meetings, keeping the guys from doing leaks, so they began having them without her. He stated it was a heated conversation, but he did not know about the shaking thing. He stated again it wasn't handled the best, but he has strong feelings about C Reeves being involved with the plant. He talked about her using a single word and acting like she knew water. He spoke about the number of alarms and gave examples of alarms within 30 minute to one hour spreads and stated accidents and mistakes will happen with lack of sleep.

Director Kinsella asked about the cause of the alarms and how the employees are paid for responding to them. D Tynan responded that every four alarms is fifteen minutes. He discussed the policy for hours of work and overtime and that he brought it to the Board. He explained that the employee could acknowledge the alarm on the computer or on the phone. He also brought up that he had been looking for a radio system and pagers and had spent a lot of time to fix the problem that the office could not find employees.

Director Kinsella stated one of C Reeves' concerns was that when D Tynan leaves the office no one knew where he went. He asked D Tynan if he told anyone where he went when he left. He explained that he often grabs work orders or checks on the guys and gave examples of instances. He showed work orders he had completed recently and stated he was a working manager.

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D Tynan discussed the issue about the pagers, and the employee questioned was the Lead Distribution Operator who spent most of his time in a hole and in water. He discussed the guys being in the field and how it would be ridiculous for them to come to the plant to clock out. He stated he felt C Reeves did not understand what went on out in the field, and she needed to be educated on it.

Director Kinsella stated he talked to the Olin representative, and a licensed operator was not required for the chemical in question so it was not a concern. Director Kinsella asked D Tynan what the difference between an hourly and salaried person was. D Tynan stated an hourly person does not get paid if they come in late where a salaried person does. Director Kinsella asked if D Tynan had to put in additional time, did he tell anyone. D Tynan responded no, and that that was why he was paid more money. Director Kinsella then stated C Reeves was salaried and asked if C Reeves had told him she could not do the job or was her conduct lacking. D Tynan stated yes. He stated his State Report had to be in by the 10th, and C Reeves did not put enough postage on it once, and it was returned which could have resulted in him losing his license. He stated she cost the District \$31,000 the District had to pay back due to the error on the increase. He also stated the \$81,000 and that she was directed to exchange the meters which she did not do. He stated he accomplished it in three phone calls. Director Kinsella asked about a time limit for the meter exchange and whether it was a priority. D Tynan stated it was a low priority and that as the financial person she should have jumped on it. Director Kinsella mentioned the 75 hours put in on researching the telephone calls which had an impact on both of their jobs. Director Kinsella also stated that if the Board packet and financial statements were not completed in her regular time, she took it home. C Reeves responded that yes she took work home and had worked until 12:30 the previous night on minutes. Director Kinsella stated D Tynan worked extra time for leaks as well and asked if these types of differences were taken into consideration. D Tynan stated if he were not getting alarms he would still be in at 7, 7:30. He stated he had a problem with the office because he was having to use Ann more, and part of C Reeves' job was to help answer phones. He stated it is good customer service when customers don't go to the answering machine, and that S Marchesiello is under a lot of work with the well.

Director Richardson commended both of them for their work and that they he had never noticed any problems before. He asked if there had ever been any negative evaluations. D Tynan stated he had not performed any evaluations. Director Richardson stated it seemed to come about suddenly and wondered if another Director's statement of rotating the General Manager's position had something to do with this. Both D Tynan and C Reeves stated no. Director Kinsella asked if the two of them had ever sat down and explained each of their positions and work loads; C Reeves being finance and it being her responsibility to query expenses; and D Tynan's being to query attendance and work load. He felt at some point the two needed to come together and understand why C Reeves is challenging an expense or why D Tynan is challenging overtime. D Tynan stated with time they had differences. Director Kinsella asked if it would be beneficial for the two to sit down and stated it could be the pressures of the responsibilities they both face. He stated C Reeves is under pressure from the Board because of finances. He asked D Tynan if he were under pressure from other places other than the Board. D Tynan finally agreed that yes he was under pressure. Director Richardson stated the mediator being used for the Board could also be used in this situation. He stated we were all in a pressure cooker, pressure from rate payers over the increase and disinformation that spreads. He stated he hated to see this happen because D Tynan and C Reeves are dependant upon each other, and the Board is dependant upon them both. He stated they were both polite and worked well together. D Tynan thought the mediator was a great idea. Director Kinsella stated he signs checks and will challenge large overtime checks and C Reeves will have to respond to his questions, and he got the impression D Tynan was defensive on this issue. D Tynan stated no, that he trusted C Reeves numbers more so and to go by her numbers. He felt C Reeves had done her job by identifying the number of alarms, and he had done his by agreeing with her numbers over the employees. Director Kinsella stated a concern over the excessive number of alarms coming out of the SCADA system and that the District was supposed to be fixing it. D Tynan stated the antenna was being fixed right now.

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Director Kinsella brought up his concern about C Reeves' time card being marked unapproved. D Tynan responded saying that he was involved in two different conversations at the time, and it didn't register what C Reeves was talking about. He received an email about the meeting and was concerned, that if the meeting had been on her personal time after hours, and that we needed to just do our jobs. Director Kinsella stated he felt someone from this office needed to go to know what was going on with the recall. He also stated as a salaried person it didn't matter how long the meeting was, and that they needed to know what was going on in the community. D Tynan stated he did not see how staff being there would change anything. Director Kinsella made several comments about a Director being at the recall meeting and encouraging a recall. Director Kinsella was reminded by a community member that the comments were not on this topic.

C Reeves responded to D Tynan's complaints. She stated yes she had made a mistake on the postage and had apologized. It happened once in one year. As for the meters, she stated she had worked with the attorney and various Boards to get the agreement finalized, but the time line was December 31, 2011 for the exchange because the warranty started as soon as the first item was received. With the project not being on the immediate CIP list, it made sense to wait as long as possible. She stated she and D Tynan have had disagreements because they have different perspectives and that that was okay. She then talked about going through three Prop 218 processes and the notice had to be tweaked each time. A single word was left out in the first notice, the difference between billing date and water date, but it had been correct on every other notice. The notice was based upon the consultant Bartle Wells' original notice. She stated these were not examples of her not doing her job. The postage and prop 218 issues were mistakes. The meters were not a mistake, but purposely done.

Director Kinsella stated the committee members would meet separately in private and present their finding to the whole Board when they had another meeting. He asked for another meeting in the next week.

C Reeves asked if they would be meeting with other employees. She also asked if they would make a recommendation to the Board. Director Kinsella responded yes to both. She then asked if this would be a Special Meeting or on the Regular Board Meeting. He stated a separate meeting. Director Kinsella was asked if they were being paid for this meeting. Director Kinsella responded they had a maximum of \$200 per month regardless of how many meetings were held. C Reeves reminded Director Kinsella that the committee members needed to go into Closed Session to discuss the issue and then come out and could not go and meet by themselves, or it would be a Brown Act violation.

Director Richardson asked if a mediator could work because the District was in the middle of all sorts of problems. He then talked about the sleep deprivation and hoped something could be worked out. D Tynan agreed he hoped something could be worked out and meet in the middle.

Director Kinsella stated he had a lot of concerns. Director Richardson again mentioned the mediation. C Reeves stated she had a lot of concerns in the letter that needed to be addressed.

Closed Open Portion of Meeting at 11:31 a.m. / Re-convene in Closed Session

a. Closed Session: Government Code Section § 54957 (b) (2) – Public Employee Discipline / Dismissal / Release / Specific Complaint

**** Pursuant to Government Code Section § 54957 (b) (2), the employee may request that complaints or charges be heard in Open rather than Closed Session**

Break 11:55 a.m.

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Re-open meeting in Open Session at 12:06 p.m.

Report out on item “a” - Director Kinsella stated the issues were so serious that they were going to refer the case to the entire Board, where the decision could go from do nothing to termination, but he did not see either of those extremes happening. One of the things they were concerned with was changing the organization chart, and he did not think that would happen.

Director Kinsella then talked about scheduling a Special Meeting. A question was asked about whether D Tynan had the choice for an open or closed meeting. It was decided to get legal counsel regarding how it would be handled. Directors were also asked if the public could comment. Again this would be checked with legal counsel. Directors were concerned with audience members making accusations against employees.

3. ADJOURN: 12:13 p.m.

Respectfully submitted by,

**Charise Reeves
Secretary to the Board
Dated: November 16, 2011**

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