

**EAST PALO ALTO SANITARY DISTRICT
BOARD OF DIRECTORS
SPECIAL BOARD MEETING MINUTES
October 5, 2009**

1. Call to Order

2. A Special Board Meeting of the East Palo Alto Sanitary District was called to order by Director Savage on Monday, October 5, 2009, at 9:11 a.m. The meeting was held at the East Palo Alto Sanitary District Office located at the East Palo Alto Sanitary District Office located at 901 Weeks Street, East Palo Alto, California.

Directors Present

Joan Sykes-Miessi
Edrick Haggans
Glenda Savage
Goro Mitchell
Betsy Yanez

Staff Present

Lee Hawkins, General Manager
Karen Maxey, Administrative Services Director

3. Communications from the Public

There were none.

4. Agenda Amendments

There were no changes to the agenda.

5. Closed Session

PUBLIC EMPLOYEE DISCIPLINE

Pursuant to Government Code Section 54957

It had been determined that this item would be held in open session.

Roger Peters, legal advisor to the Board, explained the procedures, which would be conducted similar to a trial; there is no judge, and the Board will make the final ruling.

Joe Ortiz (participating by phone), representing management, explained that the Board does not have to do an evidentiary appeal or hearing because the suspension is less than five days. The Board has the discretion to hear the appeal, conduct a hearing and take whatever action is appropriate.

Mr. Willis, representing Ms. Griffin, said Ms. Stephanie Griffin has a position and evidence to present.

Mr. Peters pointed out that Mr. Ortiz was presenting an argument that a full evidentiary hearing is not required under the District's policies but the Board decided to have the hearing.

Mr. Willis pointed out that Mr. Ortiz made comments that some of the statements are irrelevant.

Mr. Ortiz his understanding is that the events of July 16 and August 21 led to the disciplinary action against Ms. Griffin. If there are interactions that do not have to do with these two events, he would reserve the right to reject the hearing and hold another hearing.

General Manager Lee Hawkins explained that he originally was going to bring this matter to the Human Resources Committee but then determined that was not the appropriate thing to do, and the matter then came to the Board. His understanding it is the discretion of the Board to decide whether there should be a hearing.

Mr. Peters suggested asking Mr. Willis for an offer of proof so that the Board can determine whether it wants to hear the facts.

Mr. Willis commented that there would be verbal evidence related to both instances; there is documentary support for the events and an offer of proof to the lack of due process. There is a requirement that Ms. Griffin be provided all the documents relating to the basis of the suspension but she was not provided that, despite her requests. The notice of suspension was given to her at 3 p.m. the day before the suspension was to take place which was before she had an opportunity to file an appeal.

Mr. Peter recommended that the Board proceed and take evidence.

General Manager Lee Hawkins reviewed documents that were presented to the Board. The issue had to do with a phone call where by Ms. Maxey called into the office. Ms. Griffin was in charge of answering the phone that day and a conversation ensued which did not exercise professionalism. Ms. Maxey complained about it; he investigated it. During the investigation, he spoke with Mr. James Conley, a painter, who was working at the office; he did not observe the phone call, but gave an explanation of what he observed when he came into the office. The disciplinary action was issued, and then appealed by Ms. Griffin. The determination was that the incident was handled unprofessionally, and Ms. Maxey felt she was disrespected and that Ms. Griffin was insubordinate.

Mr. Willis asked Ms. Griffin if written material was provided to her at the time she was notified of the suspension.

Ms. Griffin responded no and she had not received it to date.

Mr. Willis asked Ms. Griffin questioned how the phone call was answered.

Ms. Griffin responded that the call was received at approximately 2 p.m. from a caller with an ID blocked number; she answered the call, "East Palo Alto Sanitary District, How may I help you." She did not receive a response but could hear Ms. Maxey and another person in the background. She claimed she said "Hello" again, heard no response, and hung up the phone.

Mr. Willis asked if the phone rang again.

Ms. Griffin said the phone rang again on the main line which she was unable to answer because the call did not ring to her due to the fact there are different phone lines.

Mr. Willis asked if there was another phone call to her line.

Ms. Griffin responded there was at 2:31 p.m. and the caller ID was revealed; the call was from Ms. Maxey.

Mr. Willis asked how Ms. Griffin responded when she answered the phone.

Ms. Griffin responded that she answered, "East Palo Alto Sanitary District, May I help you."

Mr. Willis asked if there was a response.

Ms. Griffin responded there was no response and no background conversation. She then heard, Ms. Maxey say "no one is answering the phone." She repeated again, "East Palo Alto Sanitary District." She added that immediately after that Mr. Conley came into the office; Mr. Conley was on his cell phone with Ms. Maxey and told her that someone was in the office.

Mr. Peters asked that Ms. Griffin not read from her notes, but to recall what happened from memory.

Mr. Willis noted that the letter from Ms. Griffin was part of the appeal and had been provided to Mr. Hawkins. He asked what happened after Mr. Conley came into the office.

Ms. Griffin said she heard him say "Yes, someone is here," and she looked at him and shook her head and wondered why there was so much drama. She wondered why Mr. Conley was called to see if someone was in the office. She claims she was in the office, answering the phone, but heard no one on the other end of the phone. When Mr. Conley left the office, Ms. Maxey called her back and asked if "Ribia" was in the office, and she told her that Ribia was there. She then asked why Ms. Maxey was calling the office constantly, acting like she is not answering the phone and questioning what games Ms. Maxey was playing which made her feel very uncomfortable. She asked Ms. Maxey why she would call Mr. Conley and get him involved.

Mr. Willis asked Ms. Griffin what was said when Ms. Maxey asked if Ribia was in the office.

Ms. Griffin responded that she told Ms. Maxey, "Yes, Ribia is here, and why are you doing this to me." She said Ms. Maxey said they should talk about this when Ms. Maxey gets back to the office.

Mr. Willis clarified that Ms. Griffin answered the calls with the proper greeting.

Ms. Griffin said that was correct. She said she was not in the office on Thursday but received calls the next day saying that no one was answering the phone on Thursday.

Mr. Willis clarified that the phone incident was on August 21.

Mr. Willis the suspension was stated as being personnel-related. The notice dated August 4 said it was interaction with the receptionist rather than personnel related. He stated this was not accurate or correct to apply it to the suspension.

Mr. Hawkins said the observation period involved two employees, one being Ms. Griffin, and he had several instances that he was concerned about. He decided to initiate the observation period. During the period, he was going to evaluate how the two workers work together. One of the job requirements is to interchange responsibilities. He wanted to target 60 days to see if everyone could perform their jobs without conflicts.

Director Haggans questioned the "conflicts."

Mr. Hawkins said it was conflicts between the two individuals, specifically personality issues. The appeal has to do with the phone incident.

Director Savage recommended that the Board consider the phone incident only.

Mr. Hawkins reported that there was an issue relating to the telephones, where Ms. Maxey felt that Ms. Griffin was insubordinate and there was a third party involved when Mr. Maxey called Mr. Conley, who came into the office and gave his observation. After hearing from Ms. Maxey, he went ahead with the disciplinary action. The issue occurred during the 60-day observation period.

Director Savage questioned whether there were two incidents.

Mr. Hawkins responded that the one phone incident is the one he is talking about.

Mr. Ortiz said he made reference to the incident that spurred the 60-day observation period.

Mr. Willis commented that Ms. Griffin was acting on her best performance, acting according to procedures, but the unusual calls led to the disciplinary action.

Director Mitchell asked for clarification, noting that the appeal on page 2, states there was a pattern and procedures that led to the events on August 21. In the initial response on August 25, Ms. Griffin made a statement that she did not know why "Karen

would be acting this way towards me besides she is trying to set me up during the 60-day period." The appeal mentions accounting issues which he asked for more clarification.

Ms. Griffin explained that on August 21, when the phone incident happened, Ms. Maxey came into the office and asked if she made copies of the Kelly Moore painting receipts, which she had on her desk. She responded that she had and gave Ms. Maxey the copy and then she asked Ms. Maxey for the requisitions for the transactions. She sent Ms. Maxey emails on several dates asking for transactions but received no response from Ms. Maxey. On August 21st, she again asked for the requisitions for the transactions but Ms. Maxey told her that her card was compromised: Ms. Maxey wanted her to call the bank to let them know that Ms. Maxey's card was compromised; but she wondered why she should do it when Ms. Maxey's card was compromised and that Ms. Maxey needed to call the bank.

Mr. Ortiz objected pointing out that the discussion was getting into charges against Ms. Maxey which would require a different hearing; and would require a hearing at which Ms. Maxey could prepare a defense. That action does not relate to the underlying discipline in this case.

Mr. Willis felt there was relevancy because it gave background and motivation as to why the unusual calls were made; relevant to show context as to why the calls were placed.

Mr. Ortiz pointed out that the issue before the Board is Ms. Griffin's unprofessional conduct related to the phone call. An argument can be made that Ms. Griffin hung up on her superior multiple times. It was clear from Ms. Maxey's statements that she believed she was being hung up on.

Mr. Peters commented that based on the evidentiary, he recommended that the Board proceed further.

Mr. Willis pointed out that Ms. Griffin stated she did not hang up on Ms. Maxey; there was no response and no interaction on the phone.

Mr. Ortiz pointed out that Ms. Griffin indicated she ended the conversation by hanging up the phone before the conversation was naturally ended.

Mr. Willis responded that there was no conversation on the phone when Ms. Griffin hung the phone up, so saying Ms. Griffin hung up during the conversation was incorrect. The conversation on the other end of the phone was between Ms. Maxey and a third party and not directed towards Ms. Griffin.

Director Sykes-Miessi asked Mr. Ortiz if Ms. Maxey were to respond, whether that would get the Board out of the specific incident that the Board is considering today. Mr. Ortiz had said Ms. Maxey needs to have an opportunity to prepare her response.

Mr. Ortiz said Ms. Maxey could respond to the incident on August 21. He said the Board could ask Ms. Maxey about her impressions of the phone conversation.

Karen Maxey explained that when she called in, she was scheduled to meet with Ribia around 2 p.m. but was out of the office. She realized that the time was approximately 1:55 p.m. and called in to let Ms. Griffin know that Ribia would be coming in at 2 p.m. She said she asked Ms. Griffin to open the door when Ribia arrived and apologize for her being late. She claims she called several times and no one answered the phone. The answering service answered and could not get anyone in the office to answer. She hung up on the answering service while they were trying to get through to the office. She was aware that Mr. Conley was working so she decided to call him and have him go into the office. While she was on the phone with Mr. Conley, he went into the office and said Ms. Griffin was there, and she asked Mr. Conley to ask Ms. Griffin to answer the phone. She said when she did call in, Ms. Griffin was very rude and hostile and would not let her get a word in edgewise and then hung the phone up. She called back, and Ms. Griffin answered the phone and she asked about Ribia. Ms. Griffin hung the phone up again. She was stunned. Five or ten minutes later, she called Mr. Hawkins explaining to him that she was very taken back by Ms. Griffin's rudeness. She did not have an actual conversation with Ms. Griffin. She added that while she was speaking to Ms. Griffin, Ms. Griffin was having "a blow out."

Director Savage recommended that the Board go into closed session.

Bertley Kelly commented that the phone system was not working right. He called in from the field that same day and was not been able to get through. He came into the office that same day to find out what was going on with the phones. He could hear conversations on the phone but could not communicate.

Director Sykes-Miessi noted that the worker was introducing the fact that there is a possibility that there were technical issues with the phones.

Director Yanez added that she has called in and had no one answer the phone.

Director Savage commented that it appears the phones were not broken on August 21 because there was some communication going on with the phones.

The Board adjourned to closed session to discuss whether to uphold the discipline, reverse it or decrease the penalty.

The Board returned to closed session and reported that the decision was to deny the appeal and support the manager.

MOTION: Director Mitchell moved, seconded by Director Savage, to deny the appeal and conduct a three day suspension. Motion carried unanimously.

6. Oral & Written Communication

7. Future Agendas

8. Adjournment

The meeting adjourned at 10:05 a.m.

APPROVED:

 /s/Glenda Savage
Board President

 /s/Joan Sykes-Miessi
Board Secretary