



**SPECIAL BOARD OF DIRECTORS
SAN LORENZO VALLEY WATER DISTRICT
MINUTES
February 28, 2018**

MISSION STATEMENT: Our Mission is to provide our customers and future generations with reliable, safe and high quality water at an equitable price; to create and maintain outstanding service and community relations; to manage and protect the environmental health of the aquifers and watersheds; and to ensure the fiscal vitality of the San Lorenzo Valley Water District.

Thursday, February 28, 2019 at 6:30 p.m., SLVWD Boardroom, 13057 Highway 9, Boulder Creek, CA.

1. Convene Meeting 6:30
Roll Call: S. Swan, B. Fultz, Pres. Henry, M. Bruce, B. Smallman absent
Staff: Dist. Manager-R. Rogers, Dir. of Finance-S. Hill, Dist. Secretary- H. Hossack
2. New Business:
 - a. PROPOSED CENSURE OF DIRECTOR SMALLMAN FOR VIOLATION OF THE DISTRICT'S RESPECTFUL WORKPLACE POLICY

L. Henry introduced this item. She said this is a sad evening for the District and the community. She explained the process for a Respectful Workplace violation by a Board member.

R. Indra, from the Board of Directors of Diversity Center. He read a prepared statement from the Director of the Diversity Center. He was there on behalf of the Diversity Center and the LGBT community in this area. The Diversity Center has gotten many calls concerning this incident and many of the calls were from customers of SLVWD. All expressed grave concerns over this matter. The LGBT community is very appreciative that you are taking immediate, serious and necessary steps in regards to this issue. The LGBT community and the Diversity Center would like to recommend, to this Board, that you take up Director Bill Smallman's offer for LGBT Educational Training. Further we would like to ask the Board and staff to join Mr. Smallman in this training. We believe it would show Mr. Smallman that customers of the water district and the community your dedication to protecting, respecting and supporting all the members of our community. We have provided such training for medical groups, business organizations and governmental organizations throughout the County. Our director will be contacting you in the near future about possibilities for training. We would love to be able to report back to our community that your Board took proactive steps to make our community feel safer and more supported.

L. Henry explained that she was going to set a time of 3 minutes for public comments to the Board.

G. Glazer-Felton, a member of the LGBT Caucus of California. He was deeply stressed by his community's name as a slur. Conversely, he takes heart in his offer to go to training. He suggested that the Diversity Training be part of on-boarding for all employees and Board members. Perhaps there's a social media rule to be learned here, if you make a mistake and double down you keep digging, it just got worse and worse. Finally, after several tries Dir. Smallman made an apology that sounded like an apology.

C. Finney-Boulder Creek, agreed that Mr. Smallman's first apology was no such thing, he referred to other local residents as rednecks. It's part of a pattern of Mr. Smallman's. She pointed to other communications through social media that Mr. Smallman made. He appears to have a larger issue than just to a particular group.

V. Champlin said that he agrees censure is an appropriate response to Mr. Smallman's documented behavior. He believes that Dir. Bruce should also be censured for comments she made in response to Mr. Smallman.

D. Loewen agreed that this is a bigger issue, it's just a fraction of what is going on. Ms. Bruce and Bill are the residuals of a toxic atmosphere. She said that Mr. Smallman has made an effort to apologize and has made a plan to do better. She said she doesn't believe that censure will have any effect and would be an improper use.

G. Ratcliffe-Felton, said she served with Dir. Smallman on the Board. Many of the Board members took diversity training through CSDA, although it has not been required. She wants to speak to the suggestion that this is a culture that tolerates this. In 4 years on the Board she has never heard another Director or employee make a racist, homophobic, xenophobic, or sexist remark. She said she has been contacted by rate payers distressed by Dir. Smallman's behavior. It's one thing to say things that are hateful but this was in the context of the water district, which takes it to another level. She has seen no indication that this is the cultural norm or acceptable behavior anywhere in the District.

N. Macy-Boulder Creek, she is disturbed that Dir. Smallman has reached the level of censure. She's glad to see it is not being ignored. She added that she stopped reading Bill's rambling posts a while ago. Although they worked together on some important issues she became increasingly concerned by his disparaging social media rants. She once witnessed his disparagement toward a staff member, J. Michelsen Environmental Programs Manager, during a presentation she was giving. His recent homophobic comments show his continued lack of judgement, which is not serving the Board well. He showed his lack of understanding of Ethics Training when he exposed Closed Session information to the press. He should be held accountable for that still. She has never heard any discriminatory language by anyone on the Board or staff. However, she encourages the Board to accept the

training. She is concerned about Bill's online response to the suggestion of Diversity Training, that he'll take the training but he knows he won't learn anything because he already knows it.

M. Waters suggested another group that Mr. Smallman might take training from is Non Violent Communication Santa Cruz, maybe the whole Board can use this training also. How can everybody's needs be met without the good guy, bad guy. There's a training once a week for 6 weeks.

C. Baughman said that Bill took it to another level in this case. He used the acronym SLVWD in the same sentence. This is an ongoing pattern that's been going on for years. June 2016 he commented about smiling Mexicans talking about the rail trail, in 2017 he commented about climate change using the phrase turd world countries. He offered to attend training and then wrote "I will take sensitivity training but to be honest I won't learn anything I don't already know". For this reason, I don't believe this will change Bill's behavior, and he thinks you should consider removing Bill from all committees.

C. White-Ben Lomond, she said she feels it is horrific that in 2019 we are having this conversation. Just because he apologized, it is not okay. The appropriate response should be censure. Dir. Bruce should also be examined for her comments in violation of Respectful Workplace Policy.

J. Gomez-Lompico, said that her husband really wanted to be here. He is very disappointed in Smallman. This is no surprise to people who have been paying attention to B. Smallman. This is part of a pattern of shameful and irresponsible behavior. He is unreliable and he rambles unintelligibly, uninformed and unprepared. His sobriety has been questioned. He is unfit for office; he should have no decision making authority over our critical infrastructure. She said she was disappointed that no comment or action was taken until the Sentinel article came out. She commended Dir. Bruce for her efforts to condemn Dir. Smallman as soon as she became aware. Smallman should be removed from all committee appointments. She noted that Dir. Swan doesn't serve on any committees and it would be helpful if he could participate.

E. Fresco-Felton, said she agreed the homophobic comment was horrible but she also noted being called lazy and stupid is also hurtful and divisive. She thought this Board was going for civility and she doesn't see that happening. Mr. Smallman's ramblings are also a concern for her. She was surprised he wasn't stopped by Pres. Henry, that he was encouraged by Dir. Fultz. She hoped that the entire Board would be more respectful of experts. She would like to think that the Board is basing their decisions on experts and not some kind of prejudice that you have.

J. Kendall, it was very disturbing to him to think that somebody who feels comfortable using homophobic hate speech is in charge of the safety of his water. It's disturbing that he was not censured before.

The fact that M. Bruce was the only person on the Board to respond is disturbing. He also finds it disturbing that he chose to double down and dive in with more derogatory language. Mr. Smallman does not seem to have the temperament or mental stability for the position that he is in.

S. Delaney, said she was surprised and dismayed to read about Smallman's attitude and behavior. The Board has the responsibility to community, yourselves and the environment to take this seriously. Just say goodbye Mr. Smallman, we don't need that.

K. Coppege-Brookdale, asked what is accomplished with censure? Is it just saying we disapprove of your behavior? Any actions attached? Any costs to the District for this action?

Dist. Counsel Nicholls explained that there is really nothing else an elected body can do to one of its members, other than censure.

L. Henry said that there are costs to the District. Not for the censure but this meeting costs money, there are attorney's costs, the training will cost money, there may be more.

K. Coppege continued, there have been problems with Mr. Smallman in the past which have been expensive for this district.

L. Henry said she has heard comments regarding lag time before the Board responded. She didn't hear about it until Sunday afternoon. As soon as she was aware of what happened the attorney was contacted and this meeting was set. Then the meeting was posted. We've welcomed your comments. She explained that she doesn't go on social media. She thinks Next Door is a cesspool. If you don't know about something, you can't respond, as board president I can't respond. She was concerned about a possible Brown Act violation.

Dist. Counsel Nicholls responded, yes, if Board members start responding on line, that could be a Brown Act violation.

L. Henry continued, she said she was appalled.

R. Rogers clarified the timeline. He received an email on Sunday, with the Next Door posts. He forwarded the email to Dist. Counsel and Pres. Henry. First thing Monday morning they had a conference call to discuss the next action. It would be difficult for the President to come out with a statement without the direction of the full Board. It was determined that a special meeting would be the best way to respond. We moved this meeting forward relatively quickly for a public agency.

N. Macy asked for the rules for posting an agenda.

G. Nicholls the requirement for a special meeting is posting the agenda 24 hours before the meeting. We try to give more notice than that. Which is why the agenda went out when we were still developing the materials.

A. Steel-Boulder Creek, said he thinks that this Board responded amazingly fast. He said this is a very serious issue and Mr. Smallman's comments are inexcusable. He also thinks terrible to see people using this issue to discredit the board.

G. Glazer- agreed that the Board moved quickly.

Someone asked why Mr. Smallman wasn't able to make it tonight?

L. Henry said that he said he had a job interview in Santa Rosa.

B. Fultz stated that there are several emails and letters saying that the Board needs to remove Dir. Smallman. He asked Dist. Counsel about the mechanisms for removing Dir. Smallman.

Dist. Counsel Nicholls said the only way to remove an elected official is through voter recall. He can also resign from the Board.

M. Bruce made a motion to censure Mr. Smallman.

B. Fultz seconded the motion to censure.

S. Swan said he agreed with Mr. Steel that the Board moved as fast as they could on this matter. The only appropriate place for the Board to make comments is in a Board meeting, subject to the Brown Act rules. He said he is in favor of censuring Dir. Smallman and he completely regrets and apologizes for his comments and behavior, both currently and in the past. He takes issue with Dir. Bruce's comments against the rest of the Board and thinks she also violated the Respectful Workplace Policy.

B. Fultz read that censure should be reserved for serious violations of law or policy and should never be used to sanction a member for the lawful exercise of 1st amendment rights, no matter how distasteful the expression. Does the censure we are contemplating here fall into the category of serious violation?

Dist. Counsel Nicholls said in terms of the distinction between comments that would be fully protected by the 1st amendment by a Board member that may be subject to censure, it's important there is a violation of law or policy that distinguishes a fully protected comment from one that may be subject by a disciplinary proceeding like this. It's also important to keep in mind that censure is just as important a form of speech as well, and it's also very protected. It wouldn't be recommended for distasteful comments that don't violate a law or policy. Serious means understanding that folks do something wrong sometimes, it has to be something that rises to the level of censure, you're setting precedent. This is something serious enough to warrant censure.

M. Bruce in reflection on what Mr. Swan has shared and some others in the public have shared, she was absolutely appalled when she saw what Dir. Smallman had posted. When she saw Mr. Smallman's comments in association with SLVWD she wanted it known that he doesn't speak for me, he shouldn't speak for this Board. She thinks silence is either indifference or concurrence and she can't abide that. She won't apologize and stepping out in public and saying that's just wrong. If they the other Board members don't read social media, that's okay, but what he was saying doesn't reflect my Board, staff, and community I'm proud of. The folks that feel cornered or

offended by me, it's not about me, it's about Bill Smallman's statements and she will not abide them.

B. Fultz agreed with Dir. Bruce, this is all about Mr. Smallman and what he did on his own volition. He thinks speaking for yourself is great, at the time and manner of your choosing. In a way that isn't going to get into issues around violations of the Brown Act. This is the appropriate time and place, hearing from the community. We should try to come together as a Board rather than driving wedges into the community. He thinks everyone is in massive agreement about the fact that this is horrible.

M. Bruce is there any benefit to continuing this meeting to a future time when Mr. Smallman may be available.

B. Fultz he asked the Dist. Counsel if there is any issue with taking action on this without Mr. Smallman.

G. Nicholls she said she doesn't see any issues under the circumstances, he was given notice and he didn't ask to reschedule the meeting.

G. Ratcliffe said concerned about Mr. Smallman in past by not being present when he doesn't want to be part of the discussion. Action is warranted and this is the appropriate time to take it. He also seems reluctant to talk to other Board members about these matters.

C. Baughman said he received an email with a 5:44 pm time stamp with a photo of Mr. Smallman's truck sitting in his driveway.

J. Gomez said he was seen sitting at his table in front of his computer.

L. Farris questioned if it is this back to the public or with the Board.

L. Henry the subject is with the Board. She wants the public to be able to express themselves.

B. Fultz regarding the timeline for Mr. Smallman's apology, asked if the apology was posted before or after his posting on the Sentinel website.

L. Henry said that the apology was issued before the Sentinel posting.

R. Rogers said that the Board of Directors received the apology on February 26th at 3:06 p.m. It was sent to the Board, Dist. Counsel and Dist. Manager.

L. Henry quite appalled by what happened and what he said. She's not sure that Dir. Smallman can actually correct his behavior. In a way she feels bad for him, because something is terribly wrong. He's done things in the past but this is over the moon. This is ridiculous. One thing that has bothered her is his hate speech. He said "I hate people who use Roundup". She found that utterly offensive. All kinds of people use Roundup and are of a different persuasion. She said, I think he should be censured. There's a motion on the table.

A motion was made and seconded to adopt Resolution No. 30 (18-19) to censure Dir. Smallman.

Dir. Swan, Dir. Fultz, Pres. Henry, Dir. Bruce voted in favor of the motion. Motion passed.

3. Written Communication:

- Email from A. Stadler
- Email from R. Rubin

4. Adjournment 7:30