

**ELSINORE VALLEY CEMETERY DISTRICT
18170 COLLIER AVENUE
LAKE ELSINORE, CA 92530
February 28, 2019 Special Board Meeting
MINUTES**

- I. CALL TO ORDER** – Meeting called to order by Chairperson Snyder at 10:10a.m.
- II. PLEDGE OF ALLEGIANCE** – Pledge of Allegiance was led by Tim Underdown
- III. ROLL CALL** – Assistant District Manager, Michael Blake

PRESENT: Karen Snyder, Chairperson
Rose Tompkins, Vice Chair
Tom Buckley, Trustee
Janice Jackson, Trustee
Tim Underdown, Trustee
Jeff Kuether, District Manager/Board Treasurer
Michael Blake, Assistant District Manager/Board Secretary
John Cavanaugh, Cavanaugh Law Group
Stephanie Garcia, Cavanaugh Law Group

ABSENT: NONE

LATE: Thomas Buckley, Trustee arrived at 10:06a.m. and joined the group for the meeting at 10:09a.m.

- IV. PUBLIC COMMENTS** – No public was in attendance.

V. CONFIRMATION OF AGENDA

Trustee Underdown motioned to accept the agenda as presented. Trustee Jackson seconded the motion which carried unanimously (5-0).

Chairperson Snyder - Yes
Vice Chair Tompkins - Yes
Trustee Buckley - Yes
Trustee Jackson - Yes
Trustee Underdown - Yes

VI. CONSENT CALENDAR

- A. Approve expenditures February 14, 2019 – February 28, 2019.

Signed: _____ Date: _____

VII. ACTION ITEMS

Agenda item Public Employee Discipline/Dismissal/Release

District Counsel, J. Cavanaugh confirmed with J. Kuether that he wanted this item in Public Session. This is going to be a Public Record. J. Kuether confirmed that he wanted the action in Open Session.

A. Complaints and Notice Against Public Employee.

Counsel J. Cavanaugh issues a correction that the title should be and read as concerns and or issues. He references the response letter from J. Kuether to the Board of Trustees.

VIII. OPEN SESSION

**A. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE – Government Code
Section 54957
Title: District Manager**

**B. PUBLIC EMPLOYMENT – Government Code
Section 54957
Title: Interim District Manager**

Counsel J. Cavanaugh requests that M. Blake set up recording of Regular Board Meeting that was held on January 2019 to 1:49:12 to be heard by all present. The recording plays until Counsel J. Cavanaugh confirms with J. Kuether that the audio is a good reference for what happened at the January 17, 2019 meeting. J. Kuether agrees that the recording is.

Counsel directs all present to the Police Report that Deputy Willow wrote. Date of Incident, January 04, 2019. Counsel reads entire narrative and asks for clarification from J. Kuether afterwards.

An email from Counsel to J. Kuether was received requesting a Police Report and J. Kuether responded that he was going to call the Police Department and see what he could do.

Counsel Cavanaugh asks at the February 14, 2019 Regular Board meeting if Police Report was obtained. J. Kuether states that Police Report was not ready when he called the station. He further clarified that he was told that it's not ready and it's not even in the system. He further describes that of the (4) break-ins since he has been with the District that only one had a case number and a Police Report made.

Counsel Cavanaugh confirms that Police Report had in fact been obtained by Cavanaugh's office on February 14, 2019. J. Kuether confirms/denies the read narrative stating that he was told the information that he is describing when he contacted the Police Department. Counsel

directs J. Kuether to the Incident Report Policy that the Board of Trustees had adopted. He has a copy of the Incident Policy.

Counsel reflects on the reason for the Incident Report being adopted by the Board of Trustees was awhile back when a lowering belt broke and a casket fell during a service and the incident was not brought to the Board's attention. Major and Minor incidents were written into the report and Counsel Cavanaugh proceeded forward and deciphered the differences between the two ranges. The Incident Report requires that the District Manager must give notice to the Board Chair within 24-hours if any Major incident arises which is to be contacted via phone and then followed up by email. A Minor incident requires that the Board of Trustees be informed by the District Manager in writing/via e-mail within 24 hours of said incident. A Report must also be prepared and a report for the Board of Trustees to be given in the Agenda at the next Regular Board meeting. Counsel Cavanaugh asks the District Manager if he recalls the Incident Report. J. Kuether admits that he doesn't remember the policy and that he may have skipped over it. Counsel clarifies that he did not follow Incident Policy procedure in regards, to the burglary.

The conversation of the burglary stemmed from the discussion from the Tuff Shed project that was brought up by the District Manager during the January 17, 2019, Board meeting. Whereas, J. Kuether stated that the Board might consider security during the project process.

J. Kuether went to his desk and retrieved the deputy's business card and said that; "when I called the station, I was told that the case number was not in their system yet." The number of the incident report was different than the number provided by Counsel.

Discussion on Minor incidents that were not reported to the Board of Trustees takes place. At the last Board meeting of January 19, 2019, there was no follow-up on a bike stolen on the day of the Burglary of January 04, 2019. Description of Counsel's office obtaining a copy of the Police Incident Report. This was a major incident that the Board was not made aware of.

1. Petty Cash – Graham Electric payment was made with Petty Cash and J. Kuether stated that the company did not accept credit card payment. He now clarified that they "couldn't" take a credit card because Graham Electric did not have his credit card square chip with him. The invoice estimate was emailed and after service and payment was made, a receipt for services was emailed by Graham Electric to him.
2. Counsel Cavanaugh states that the Compensatory Time-off reports have been requested at the last couple of Board meetings. On January 17, 2019, Chairperson Snyder requested the Compensatory time-off report for 2018. After reviewing the incomplete report at the February 14, 2019 meeting, Trustee Tompkins said; "I would like to see ALL of the Compensatory Time reports" to be completed and due February 22, 2019 and were to be placed on the March 2019 Agenda. J. Kuether said that the reports were due on March something. Counsel Cavanaugh clarifies that it was due in February by saying, "no, it was Friday, February 22, 2019 " Chair Snyder and Trustee Jackson confirmed that they were due

February 22, 2019. J. Kuether said it was like 2 weeks prior to the meeting and everyone agreed. Counsel Cavanaugh says no, it was due in February. J. Kuether says; “I’m mistaken then. I thought it was due in March.” When asked by Counsel, J. Kuether said they had not yet been prepared. The hard copies of the Compensatory Time-off reports were due to the Board on February 22, 2019, with an Action Item placed on the March 2019 Agenda for discussion.

3. Time Clock discussion. Counsel Cavanaugh states that the Board voted to have the time clock purchased at the January 17, 2019 Board meeting. He asks the District Manager if the time clock has been set up. J. Kuether replies, it is not. Counsel Cavanaugh asks if the Board directed computer purchase has been obtained. J. Kuether replies; it is not. Counsel Cavanaugh asks why not, why computer hasn’t been purchased yet? (finishes below)

Email from Anderson Professional Services to the District Manager on February 8, 2019 requesting an update on equipment status for Payroll. Email says; “Just checking to see if time clock/computer are in to set-up.” District Manager, J. Kuether confirmed that Time Clock was received by February 08, 2019 but there was no mention of the computer.

Counsel Cavanaugh confirms that in order to complete set-up of Payroll it will need a fingerprint device, banking information: January 22, 2019 email listing items needed to set-up payroll including the sample letter from bank. Discussion for template that was issued by Anderson Professional Services and was rejected by the bank. J. Kuether says that the bank stated that this is what they offered. Clarification of sample letter was not used as a template by bank. J. Kuether states that the bank did not reject the letter and that they prepared it. Sage Peachtree is the company that rejected it.

February 20th. Anderson Professional Services sends a follow-up email requesting Payroll information to the District Manager. The issue is that the template letter needs to be redone and resubmitted.

February 13, 2019, confirms that Sage Peachtree is the client. Verification letter is rejected and will need to be resubmitted. Once resubmitted, the Sage Peachtree will need to be verified. J. Kuether says he does not know if he saw the letter but, him and M. Blake discussed it.

Michael confirmed to Kris Anderson that the verification letter was rejected, and they would try again sometime this week. Counsel Cavanaugh asks why the letter hasn’t been prepared over a month later? M. Blake responds that “we are trying to still get with Tim so we can go to the bank.” Referencing the need of a Trustee to accompany staff to the bank.

January 19, 2019 - Kris came to district and confirmed with M. Blake that she could set-up

the time clock but, not the computer. J. Kuether would have to go himself; would have to go to the bank with a board member either this week or next week to get it completed.

Counsel Cavanaugh surmises that as of February 28th the Payroll project has not been completed and Board direction has not been followed by the District Manager and staff.

Kris Anderson confirmed in writing that when she was at the cemetery that 3 weeks were needed to get the process up and running after the bank letter has been approved. Counsel Cavanaugh ask J. Kuether why he stated that it could all be done in 3 days. J. Kuether replied: "That's what the Board was pushing and that is why I stated that." Then why didn't you tell the Board that more time was needed? Kris Anderson stated that the board probably didn't know the timeframe as they are not involved in the day to day activities so you should have given them information.

In a teleconference follow-up to Counsel Cavanaugh, Kris Anderson stated that M. Blake was more acceptable to the Payroll than J. Kuether was. J. Kuether responds that; "I have no issue, doing what I'm told but, it doesn't mean I have to agree with it."

February 07, 2019 Counsel Cavanaugh says; "then nothing has been done. Why not?" J. Kuether says that he was trying to find time to go get the computer. Counsel Cavanaugh asks; Why? J. Kuether says because there is no time to go. There were 3 different times that M. Blake was going to leave to go buy the computer. Families came in and issues came up, and sometimes stuff comes up. Counsel Cavanaugh adds that too many things are coming up and you don't have time. J. Kuether replied: "we're busy." At the February 14, 2019 meeting, J. Kuether stated that he would; "go to Best Buy tomorrow to get the computer" There was never any discussion of M. Blake going to purchase the computer. To date, the computer has not been purchased.

Counsel Cavanaugh confirms that nothing happens here without your approval of it as discussed from a prior Board meeting. J. Kuether states that I'm aware of everything that happens. Your letter to Chair Snyder says that M. Blake was operating outside of the scope of his employment and he is not a manager. J. Kuether agrees. Counsel asks if M. Blake gives instruction to the employees? J. Kuether responds; It could be something minor. Counsel asks, like what? M. Blake can ask that balloons to be removed from a grave.

Counsel asks J. Kuether, who takes care of the services? J. Kuether says the guys get a work order and do it on their own. Counsel asks for clarification, why/how? J. Kuether said that Michael or myself gives the grounds men the work order. Counsel asks; never a verbal for a Service? February 22, 2019 – A late burial request was completed. Do you have a copy of the work order? J. Kuether says; they may have a copy of it in the back. Counsel asks for

clarification; where did it come from? J. Kuether says that Michael could have done that one. Why is Michael doing work orders asking employees to complete a burial? I am right here when Michael talks to them. You confirmed that you were management and that Michael would not be instructing the workers to take care of the burials. J. Kuether replies; “that’s splitting hairs.” Counsel Cavanaugh states; “your letter stated that the Board is directing Michael to do things and is not management.” J. Kuether; The Board should not be asking him to do anything. Counsel states that Michael has been given management duties by J. Kuether. and J. Kuether – disagrees. Counsel explains that “he called Rogelio in and Michael. spoke to him.” J. Kuether responds: “That’s splitting hairs.” Counsel Cavanaugh asks, who gives direction when you’re not here? J. Kuether responds: “I don’t know. I’m not here.”, “I don’t know, Michael probably talks to them.”

Counsel Cavanaugh moves onto the next concern; “You indicated in your letter that there was a violation of the Brown Act due to your salary being discussed in Closed Session.” Jeff nods in agreement. Counsel Cavanaugh asks; “what Trustees told you what happened in Closed Session?” J. Kuether: No comment, Counsel Cavanaugh: You won’t tell me? J. Kuether: “No.” Counsel Cavanaugh: I explained why that would be discussed in my reply letter to you, right? J. Kuether: “If it’s in your letter yes.”

Closed Session: 10:56a.m.

Recess is at 11:56a.m. - 12:03p.m.

Open Session: 12:03p.m.

J. Kuether was asked to come back into open session. Chair Snyder told him that the Board was placing him on the required 24-hour paid administrative leave pursuant to his employment agreement and gave him the signed letters of placement on paid administrative leave and the required 24-hour written Notice of Termination. J. Kuether made a photocopy of each letter and handed the original(s) to Counsel Cavanaugh. Chair Snyder explained that the Board was offering him 2 choices; He could resign with a confidential agreement, severance pay for up to 15 days, accrued sick and vacation time pay or be terminated without cause with up to 15 days severance pay, accrued sick and vacation time pay. J. Kuether replied; “The termination. I won't quit, I'll be terminated.” Counsel informed J. Kuether that a manual check will be prepared and mailed to you. Counsel confirmed that the mailing address in which J. Kuether would want the check mailed to. J. Kuether stated that his address was in his personnel file. Counsel Cavanaugh told him that he could gather his personal items and would need to turn in his keys. J. Kuether took his personal belongings, turned in his EVCD keys, provided the codes for computer access to the Board, said have a good day and left the premises.

M. Blake was asked to come into the meeting. Chair Snyder informed him that J. Kuether was terminated and that M. Blake was being placed on paid administrative leave. He was very surprised and there was a brief discussion about when he would leave. Mr. Cavanaugh emphasized that M. Blake was being placed on administrative leave with pay pending a Compensatory Time-off investigation and was asked to sign a “Notice of Placement on Paid

Administrative Leave” document, prepared a copy and was given the copy for his records, asked to take his personal belongings and leave the premises. M. Blake asked the Board who was going to answer phones, run the district, and help families. The Board reassured him that it would be taken care of. They asked him to gather his personal belongings, turn in his keys, and leave the premises.

Counsel Cavanaugh asked M. Blake to provide the codes for the computers, and to advise S. Garcia (paralegal) how to access the computers and emails for daily use. The meeting continued as M. Blake showed S. Garcia the computer information. At approximately 1:00p.m. M. Blake shared with S. Garcia that he had an exam for a class and that he had to leave for school. He left at 1:05p.m.

The grounds men were invited into the Board meeting after J. Kuether and M. Blake left the grounds. They inquired about what was going on. Chair Snyder informed them that J. Kuether was no longer with the District and that Denice would be back as Interim District Manager on Friday, March 01, 2019, and they all broke into smiles and seemed very relieved. The grounds men confirmed to the Board that a bicycle had been taken from their area during the burglary on January 04, 2019. There was also some money stolen off a desk during the break-in. The Board asked the grounds men if there were any problems and or concerns? They replied: One year ago, we asked to replace the Kubota cart and we need maintenance on some of the heavy equipment. Chair Snyder told them to contact Denice Enochs directly on Monday and let her know about the items. The grounds men then left the office.

Counsel Cavanaugh told the Board that S. Garcia would help out with the office functions i.e.; phones, while the rest of the Special Board Meeting was completed.

X. BOARD COMMENTS – Trustee Underdown says that you now hold the record for the longest board meeting. NONE

XI. ADJOURNMENT – Next Regular Board Meeting for the Board of Trustees is scheduled for Thursday, March 14, 2019, at 10:00a.m.

Trustee Underdown motioned to adjourn the meeting at 1:35p.m. Trustee Jackson seconded the motion (5-0).

Signed: _____ Date: _____