

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 6/8/2022

Staff Report No. 22-346

TO: AC Transit Board of Directors
FROM: Jill A. Sprague, General Counsel
SUBJECT: Report of Investigation Findings

BRIEFING ITEM

RECOMMENDED ACTION(S):

Consider receiving a report of investigation findings related to public statements made at the December 8, 2021, Board meeting regarding the AFSCME Collective Bargaining Agreement (CBA) and former AFSCME president, Shellie Beck.

STRATEGIC IMPORTANCE:

There is no strategic importance to receiving this report and clarification regarding Article 4 of the AFSCME CBA.

BUDGETARY/FISCAL IMPACT:

There is no budgetary or financial impact from receiving this report.

BACKGROUND/RATIONALE:

On December 9, 2021, the General Counsel's Office received a complaint from employee Shellie Beck, alleging that statements made by AFSCME business agent Lisa Harlow and certain AFSCME members during an AFSCME membership meeting and a public AC Transit Board of Directors meeting on December 8, 2021, violated the District's policies against harassment (BP 213) and bullying (BP 201). Specifically, Ms. Beck took umbrage with statements that (1) as President of AFSCME, she and the prior business agent had bargained away AFSCME's meet and confer rights in Article 4 of the 2017-2020 Collective Bargaining Agreement (CBA); (2) that she was corrupt with regard to the 2017 contract negotiations; and (3) that she benefitted from a *quid quo pro* with respect to her negotiation of the contract in exchange for a promotion with the District.

In response to the complaint, the General Counsel's Office conducted an investigation into the veracity of the statements referenced above and whether, if false, they violated District Board Policies. General Counsel Jill Sprague reviewed hundreds of pages of documents and interviewed thirteen witnesses.

Based on a review of the evidence collected through documents and witness interviews, the following factual conclusions were reached:

- Allegations that the union's meet and confer rights were eliminated from Article 4 of the AFSCME CBA

by Ms. Beck and the prior AFSCME business agent Tina Acree during the 2017 CBA negotiations are false. A review of prior CBAs conclusively demonstrates that there was never meet and confer language in Article 4, and that the changes to that article in 2017 gave the union additional notice and review rights that did not previously exist. On December 9, 2021, AFSCME leadership, including business agent Lisa Harlow, were provided with a direct comparison of the Article 4 language in the 2014 and 2017 contracts, demonstrating that meet and confer language was not removed. Despite having clear evidence that the allegations levied against Ms. Beck and Ms. Acree with regard to Article 4 of 2017 CBA were false, AFSCME leadership has done nothing to correct or clarify the false statements - no public acknowledgement has been made and AFSCME leadership has not provided its membership with a clarification.

- There is no evidence to support statements that Ms. Beck was corrupt with respect to the 2017 CBA, or anything else in her capacity as AFSCME President. Specifically, there is no evidence that Ms. Beck's handling of the 2017 contract negotiations departed from past practice and accepted norms. A thorough review of Ms. Beck's communications regarding the 2017 contract demonstrate an intent to be transparent and to provide the membership with sufficient information to make a decision regarding ratification of the contract. A parallel investigation by AFSCME Council 57 similarly concluded that the AFSCME membership had all the relevant information to make a decision regarding the 2017 contract. The allegations regarding corruption by Ms. Beck and/or Ms. Acree were false and malicious.
- Allegations regarding a *quid pro quo* agreement with respect to Ms. Beck's current position as Trends Analysis Program Administrator are not supported by evidence and were admittedly speculation on the part of the AFSCME business agent. There is no causal or temporal nexus between the 2017 CBA ratified by the membership in April 2017 and approved by the Board in May 2017, and the recruitment and hiring for the trends analysis position posted almost 18 months' later in November 2018. As stated above, there is no evidence to support a finding of "backroom dealing" with respect to the 2017 CBA, and the recruitment documents and witness interviews demonstrate a competitive recruitment for the trends analysis position. The statements regarding Ms. Beck's hiring for the position were speculative, misleading and false.

The false allegations made during the December 8, 2021, Board meeting damaged Ms. Beck's reputation and interfered with professional relationships. The failure to correct the record further perpetuates a toxic work environment. Board Policy 201 prohibits abusive conduct toward employees and is defined as including "repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance." The false, misleading and malicious allegations about Ms. Beck violated BP 201. Because the false statements were made during a public Board meeting, these findings are being shared publicly with the Board of Directors to correct the record.

ADVANTAGES/DISADVANTAGES:

There are no advantages or disadvantages to receiving this report.

ALTERNATIVES ANALYSIS:

No alternatives were considered.

PRIOR RELEVANT BOARD ACTION/POLICIES:

None

ATTACHMENTS:

None.

Prepared by:

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Approved/Reviewed by:

Sebron Flenaugh III, Executive Director of Human Resources

Linda A. Nemeroff, District Secretary

Michael A. Hursh, General Manager