

May 30, 2010

 CONFIDENTIAL

President Bob Harrison,

This letter is in direct response to the Board's will to hear from me in regards to the February 19, 2010 report findings investigating Steve Brinkman's claim of Hostile Workplace Environment, Racial Discrimination; Perceived Uncivil Treatment (Board Policy 1313); and Defamation, against me.

From the very outset, the investigation was one-sided and the investigator's own words demonstrate a highly subjective and political end product. Political, because the initial claim is meant to silence an elected official, a board member who is publicly critical of a how the administration executed board policy and board values of diversity and equity. Despite the subjective lenses and overreach on the part of the investigator, the report found no "actionable claim of harassment, hostile workplace environment and racial discrimination." None. Absolutely none. But, this same report stated that I "arguably" violate the District's policies prohibiting uncivil treatment." In other words, the report did not find a definitive finding - "arguably" is not a clear finding.

At no point does the investigator find that I made any ad hominem attacks, or personal slurs of any kind. There was no finding of micro-management, no finding that my criticisms were inaccurate. Yet my criticism of the performance of public employees is found by the investigator "rude and insulting" and an "arguable" violation of District policy. For the record, that District policy applies to employees of the District but as a matter of First Amendment law does not and cannot apply to an elected official in the performance of his or her duties. As an elected official I have a duty to criticize performance which I find objectionable. It is beyond the scope of any investigator's duty to make what is in essence a policy decision as to whether and to what extent the performance of public official merits sharp rebuke by the elected officials who oversee their conduct.

Furthermore, I assert that my position as an elected school board member has been undermined by Steve Brinkman, a person who has a prior pattern of intimidating a Latino school board member on the Gilroy Unified School Board with a civil lawsuit. As you will recall, I submitted to the board last year a newspaper article and a letter written by Mr. Brinkman's lawyer threatening to sue in civil court the Latino school board member who dared to criticize his handling of a high school construction project because it ran out of money.

Mr. Brinkman has a history of being thin-skinned, rude and of attempting to intimidate board members who question his judgment and performance.

In my letter I will directly respond to Mr. Brinkman's sixteen point claims against me. In addition, I will ask this board to investigate my assertions and interview people so the whole board can appreciate a 360 degree view of this claim.

Let me start with one of the most relevant people that this investigator should have interviewed, Esteban Lizardo. Mr. Lizardo had the same issues with Mr. Brinkman that I find myself having with him. For starters, while a school board member, Mr. Brinkman repeatedly tried to marginalize Mr. Lizardo's role as a policy maker. As told directly to me by my predecessor, Mr. Brinkman made culturally insensitive remarks in his presence while he was a school board member. It is important to interview Mr. Lizardo, the former PUSD board president to establish my claim that this is not a personal issue between Mr. Brinkman and myself, but rather a larger problem. Mr. Brinkman has demonstrated time after time, his insensitivity to people of color and his inability to accept criticism from policy makers.

In the past, I never really understood the public friction exhibited between Mr. Lizardo and Mr. Brinkman during of the Master Facilities Planning Committee until now. Mr. Brinkman ignored Mr. Lizardo's recommendations and intellectual arguments. I request that the board interview Mr. Lizardo if it truly wants to understand this perspective. After all, it is more than an awkward coincidence that the former and current Latino school board members have the same opinion about the Chief of Facilities. It is troubling to note that the same board members who ignored Mr. Lizardo's complaints about Mr. Brinkman are also Brinkman's current admirers.

Summary of the Complaint (Mr. Brinkman's claims) – Responses (Mr. Miramontes):

1. May 12, 2009 – Mr. Brinkman takes issue with me interrupting him and stating, "you're not in Gilroy." I did say this and it was in direct response to him skirting the issue of not supporting a local hiring policy. Prior to my election onto the board and assignment as chair to the subcommittee, the board had directed Brinkman to develop a local hiring program for the work associated with Measure TT. It had been nearly six months and Mr. Brinkman kept arguing reasons why such a policy was not necessary. When I asked him when we could expect policy language based on the values of the committee members, he completely ignored the question and started to list the ways he conducted outreach in Gilroy, thus prompting my comment. This so upset community members, that Tecumseh Shackelford, a well known community leader in Altadena blasted Mr. Brinkman by stating, "Mr. Brinkman, I don't see people who look like me, working on these jobs," many people in the audience agreed and applauded Mr. Shackelford's comments.

I eventually wrote the policy language without the help of the staff.

I want the board to carefully evaluate the following statement -- During this same meeting I arranged for a representative from the Los Angeles Unified School



District's Small Business Enterprise Program (a nationally recognized small business outreach program developed by LAUSD and highly respected by the Hon. Margarite P. La Motte & Supt. Cortines) to make a presentation to the subcommittee regarding how LAUSD helps local small businesses competitively bid for construction contracts. After the presentation, Mr. Brinkman approached the presenter Michael Bejarano, the assistant manager for the program, and said the following "Can you believe he [Mr. Shackelford] said that?" Mr. Bejarano further stated to me that Mr. Brinkman was very upset that a community member would speak to him in that tone. Furthermore, Gerald Schober and Mr. Brinkman stated to him, as they walked out of the meeting, "We do not believe local contractors can do the job" and "we already have companies in mind that will do the work."

Let us stop for a moment and appreciate what this means. It means that Mr. Brinkman and his leadership team already had a prejudice for companies they preferred to award construction jobs to. This is why I used the term "good ole' boy network" to describe how staff see no obligation to aggressively invite new proposals. This is very troubling because local contractors would like to have a fair chance at some of the smaller jobs from Measure TT work.

Once again, I request the board to open an investigation with a different firm and look into these claims and interview Mr. Bejarano and the others identified in this letter.

2. June 23, 2009 - My response in item 1 explains partially what I meant by "...You just don't get it." Unless, this Board interviews Mr. Lizardo and asks him for his experience regarding Brinkman's inability to listen and adjust to community input, this Board will never truly understand the way Mr. Brinkman conducts himself with board members who have a different opinion than his.

I take issue with subjective interpretation of my mannerism and volume. That Mr. Brinkman claims the statements were directed at him in an "aggressive tone," is highly questionable. If he refuses to look at me and his style is to ignore suggestions and just roll right through his presentations, I find raising my voice to get his attention a necessary tactic. The fact is, a white audience, white board members and white staff members attend almost all the meetings and Mr. Brinkman was not conscious of how he was disrespecting me at these committee meetings. --Where is the jury of my peers?

Mr. Brinkman has disrespected several residents and stakeholders. It is relevant to bring these incidents up at this point because he has claimed he is the target of disrespect and not the one disrespecting our stakeholders. Take for instance what he did against Ed Barnum. Mr. Brinkman actively worked to keep him off the Citizens Oversight Committee because he asked too many questions...again, we need an independent investigator to interview him. He did the same against Mr. Shackelford, actively advising him not to accept the nomination to the COC.



Dr. Hutchinson is a local resident and holds a PhD in chemistry and was one of the first African American scientists to graduate from graduate school from Cal Tech. Dr. Hutchinson called me around this time to report Mr. Brinkman to me. He stated that when he went up to him at Pasadena High School when they unveiled the new field, he approached him and asked him why PUSD was building a new middle school at Blair. As directly told to me by Dr. Hutchinson, Mr. Brinkman insulted him, was rude and very dismissive of his very presence. I find this to be a pattern of behavior of Mr. Brinkman.

Again, I request an independent firm interview this local resident and others to hear how this employee that represents our school district has treated them. I have Dr. Hutchinson's contact number and will gladly forward it to an investigator.

3. At this agenda meeting Mr. Brinkman was not looking at me when I was addressing him. The report states "one individual who was interviewed observed that it did not appear the complainant [Brinkman] was looking at Miramontes." I assert that Mr. Brinkman was unprofessional and disrespectful to me because he was addressing everyone else in the room (all white males) except for me. Once again, whose cultural norms take priority? I only raised my voice after Mr. Brinkman ignored my request.

4. I stand by my statement and it further demonstrates that Mr. Brinkman is thin-skinned and the truth bothers him. The "your executive team is not diverse" remark has already been echoed in the Pasadena Journal and I'm not alone in this public observation.

5. The local hiring resolution clearly articulated a 45 day report to the Board. My comment referring to "staff attitude" reflects Mr. Brinkman's initial and persistent disdain for the policy. He is obligated to execute on the policy, he did not --this is why the Board approved a RFP to hire firms to do the work.

6. Again, this is more proof that Mr. Brinkman is overly sensitive and incapable of accepting the role of the elected official to comment on staff's execution on board policy. My comments reflect my frustration with Mr. Brinkman's slow pace with the implementation of the local hiring program.

7. Employee matters are discussed in closed session.

8. Mr. Brinkman is now commenting how the chair should report out to the full board. He is clearly out of his place to do so and is trying to deflect the justified criticism regarding the mishandling of the implementation of the resolution. He is a chief and exercises broad powers on day-to-day operations and should expect board members to push back on accountability issues. I exercised my right as an elected official to ask for accountability in regards to this resolution.



9. This claim is so absurd that it doesn't merit a response. Mr. Brinkman is so sensitive that I now he takes issue with how a busy person gets off a call. There are several occasions when Mr. Brinkman has ignored me and refused to say hi to me. Again, let us have an independent investigator so they can interview my witness on this item.

10. The report finds no "defaming and slandering" in his claim.

11. Mr. Brinkman finds it troublesome for elected officials to answer questions from the press. I find this worrisome on his part. Once again, the report found no defamation.

12. Mr. Brinkman totally disregards the fact that a community group attended the board of education committee and presented a letter criticizing his handling of local hiring and vendor contracts. Charles Bryant, a member of the Citizens Oversight Committee, led this group and they voiced concrete and valid concerns. The community (people of color) tried to make him accountable for his performance.

13. Knowing that a community group was attending the BOE meeting and was presenting a letter criticizing him, Mr. Brinkman orchestrated a presentation of his staff to show he hires a diverse pool of people. This was a total political move on his part and I just observed the fact he had not hired any Latinos in his office. I stand by my comments, which are factual. I did not direct him to hire Latinos in the future but to "take into consideration" when hiring in the future. Had he not hired any African Americans or women my comments would have reflected that observation.

14. Mr. Brinkman at this point is full of conspiracy theories. My words are very clear and my motives are grounded in my beliefs that in order to engender trust in the process, we need to incorporate "knowledgeable community volunteers to read bid proposals." This is a direct response to the community's petition at the December 8<sup>th</sup> BOE meeting. So, therefore, Mr. Brinkman ignored the recommendations and instead has positioned himself to block any such inclusionary measures. This is very damning for the Board and the District. Yet again, we have proof that Brinkman is suspicious of the motives of people of color. The fact is that the committee that interviewed the firms for the lease-lease back contract was comprised of all white males! No women and no people of color.

I call for an investigator to interview Charles Bryant and ask him a series of questions about Mr. Brinkman and how he has treated him and others.

15. Again, this item is so disturbing to me. What is Mr. Brinkman inferring when he states that I want to "create a senior position for Miramontes and Renatta for the review of RFQ submittals?" Is this code for Affirmative Action positions on the interview/scoring committees? He is clearly prejudicial against the African American and Latino board members being able to attend such activities. I stand by

my comments and offer them as proof positive as to my commitment to diversity and equity.

16. This email is in response to Mr. Diaz and Mr. Brinkman's attempt to sweep Mr. Brinkman's community relations mistakes and opposition to the local hiring policy under the rug. Mr. Diaz tried to cast me as the board member who was uniquely dissatisfied with Mr. Brinkman's performance.

I stand by this email and challenge the Board to investigate the assertion I make in the email about Mr. Brinkman pressuring the Personnel Commission's staff to alter exams to benefit his wife and family friend. The executive director of the Personnel Commission provided me with emails and testimony. In fact, I am not the only board member who is aware of how Mr. Brinkman pressured staff.

Brinkman told Cy that he was in disagreement with Diaz's hire of the new M&O Director because he ruled that he was not qualified for the position. This whole episode is tainted with racial overtones and needs to be investigated.

Again, this Board must investigate if they think I am out of line with my assertions. The Board has an obligation to investigate this claim.

I have served as the chair of the Facilities and Capital Projects subcommittee for a year now and I think it best to hand over the position to another board member. I am pleased with the accomplishments of this committee and plan on being a member for this upcoming year. Since January of 2010, Mr. Brinkman and I have been cordial and have conducted the business of the committee in a professional manner.

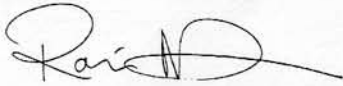
Nonetheless, there are three conclusions that I draw from all of this.

1. Mr. Brinkman has (a) on more than one occasion failed to execute Board Policy and directives; (b) consistently acted in a manner disrespectful to individual board members if not the board itself; and (c) carried out his duties in a manner discriminatory to people of color and women. Accordingly, please consider this response a written complaint, under District policies, against Mr. Brinkman for race and gender discrimination on the basis of the facts set forth above. Should other forms need to be filled out (and they better be the same as any forms Mr. Brinkman was required to fill out) please have staff inform me of such other forms and I will complete them.
2. Mr. Brinkman's written complaint against me, the investigator's report and this response are public records. Accordingly it is my intention to release them to the press after the board has had a reasonable amount of time to digest my response;



3. The current administration has targeted and attempted to silence me as a vocal and critical school board member. I we should have an open discussion regarding the roles of board members and staff leadership using this claim as a platform for transparent discourse and adjudication. I reserve the right to place this matter on the agenda at an upcoming board meeting.

Sincerely,



Ramon Miramontes, PUSD Board member

