

TESTIMONY AT THE CITIZENS' EQUAL OPPORTUNITY COMMISSION (CEOC) MEETING

EOC staff was requested to distribute this document to CEOC members & include it in the archived record of the meeting.

This document was submitted to the members of the City of San Diego Citizens' Equal Opportunity Commission during an August 5, 2015 meeting. Portions of the document were read and others were referenced during the testimony.

THIS DOCUMENT WAS REVISED ON AUG. 6, 2015 TO CORRECT A REFERENCE TO HOURS ON PAGE 2, PARAGRAPH 2. THE CORRECTED REFERENCE IS TO DAYS, RATHER THAN HOURS. I APOLOGIZE FOR THE ERROR.

My name is Rosalind Winstead, and I am the Principal of a consulting firm that, for the past 25 years has contracted with local public agencies. I have also been a citizen-advocate engaged in promoting business inclusion and equality of opportunity for some 20 years. In the mid-1990s, I was appointed to the City of San Diego MBE/WBE Task Force that recommended commissioning of the only disparity study the City has conducted -- which determined that the City was, at least, a passive participant in discrimination.

My experience affirms that, while our beautiful City --with its near perfect weather and rich diversity, also has a well-documented "Good Ole Boy" culture -- and a history of corruption. Those of you that remember the *Enron by the Sea* era may recall the negative impacts of a City government that lacks transparency, particularly as it relates to the City's finances.

I am here today because I am concerned about: **(1)** the treatment of Mr. Dennis Gakunga, the former Director of the City of San Diego Purchasing & Contracting Department; **(2)** the negative impacts of staff turnover in departments tasked with monitoring and reporting the contract award data; and **(3)** to encourage the CEOC to take a more proactive role in advising the Mayor and Council on important Equal Opportunity Contracting issues. I will not have time to discuss all of the issues in detail and have prepared a document for your review and consideration.

While checking emails in the afternoon of July 16, I was stunned by a *Voice of San Diego* headline -- "**Mayor Fires Leader of Cursed City Purchasing Department.**" After reading the article, and its hyperlinked City Auditor's report and City Management Memorandum, I was disturbed by the allegation of the abuse of leave policy and the potential inference that it was intentional. I was also concerned about the impact the article would have on Mr. Gakunga's future career if the assertions of wrong doing were substantiated.

Having known Mr. Gakunga family members for many years -- and having met him shortly after his arrival in San Diego in early 2013, I did not find the suggestion of deliberate wrong doing credible. In fact, I have come to believe Mr. Gakunga was served a great injustice by the City's current administration -- but not because he was terminated. As an "at will" employee, termination is always an option any employer can exercise, but I believe Mr. Gakunga was callously and irresponsibly **defamed** by the use of innuendos alleging abuse of the City's leave policy.

The timing, details, and comprehensive media coverage within a few hours of Mr. Gakunga's termination are troubling -- and suspect. My experience indicates that personnel matters are generally managed with some respect for confidentiality, but this was obviously not the case with regard to Mr. Gakunga's termination. Comment from the Mayor's Communications staff were reportedly declined, but I am confident Mr. Gakunga did not notify the *Voice of San Diego* of his termination; and can only speculate about who did, and why. What is certain is that the allegation of leave abuses could undermine confidence in Mr. Gakunga's professional integrity and impact both his career -- and the economic stability of his family.

More detailed information and analysis is provided below:

The Auditor's "Hotline Investigation of Under-recorded Leave Time" response described a Fraud Hotline report that had been investigated and substantiated; and confirmed "...50 days of absences without leave recorded in SAP for one salaried employee, and 5 days for a second salaried employee." The Auditor's report also references confidentiality provisions in the California Government Code Section 53087.6 -- which I thought were ironic.

For the record, I am advised that Mr. Gakunga had approved leave forms and misreported a total of 5 days of leave after 2 years, 2 months and 16 days of City service.

During the Auditor's investigation three **internal control weaknesses** were noted:

- (1) Payroll Specialist entered & approved payroll data that violates the City's Internal Control Standards.
- (2) Some salaried employees did not routinely enter their own time in SAP to assure the accuracy of their annual leave balance.
- (3) Some salaried employees did not review or approve the leave time entered into SAP for staff they supervised; but relied upon Payroll Specialists

The results of the Auditor's investigation confirm Mr. Gakunga was clearly not alone in his misreporting of leave and that more widespread and substantive issues exist with regard to SAP entries – and internal controls.

The Auditor's report also included 4 recommendations:

- (1) The Assistant Chief Operating Officer is recommended to review evidence, interview the employees involved and take appropriate disciplinary action with respect to the two identified employees.
- (2) The Assistant Chief Operating Officer is recommended to discuss the internal control violations with the Office of the City Comptroller to identify a more effective means to prevent and/or detect the situation in which a Payroll Specialist *enters and approves the same time entry in SAP*.

The remaining two Auditor recommendations and City Management's memorandum confirm there are more pervasive issues as both documents identify specific measures and timelines, including an updated *Guidebook for New Department Heads & Unclassified Management*, the Comptroller's issuance of memorandums, training, and changes in procedures to ensure accurate time entries are properly recorded in SAP. In addition, City Management added a "new step" that requires written confirmation from employees that the time entered on their behalf is accurate and complete.

City Management concurred with the Auditor's recommendation to ensure that all departments (or Citywide) employees, including salaried employees, are instructed on the requirement to enter their own time in SAP; and that Supervisors are instructed and approve the time entries in SAP for each employee supervised for every pay period. Clearly these measures suggest problems in City departments not identified as a result of the Fraud Hotline investigation and suggest the misreporting of leave hours is a much more significant issue; and one that would not necessarily warrant termination.

For the record, I am advised that Mr. Gakunga was hired in April 2013 and at no time received formal training on SAP payroll entries. The Assistant Chief Operating Officer's (City Management) response

sheds light on training that was provided to department heads hired in 2014; and notes updates to the *City of San Diego Guidebook for New Department Heads & Unclassified Management* in March 2014. An additional update was to have been distributed to new and promoted employees in July 2015.

The Auditor's report references the "Potential risk" of unreported time upon termination. It also states that payments were not converted to cash, eliminating any risks or impacts

- If, after the Commission's review of the available documents, you share my concerns, I would ask that you refer the matter to the Civil Service Commission or other appropriate agencies of City government for further review.
- Given the ongoing staff turnover at the City, I would ask the Commission to consider action that proactively communicates a "vote of confidence" for current EOC staff. I have worked with EOC Program Managers since 1990 and believe Mr. Foster's experience, knowledge of construction and relevant City administrative processes is a valuable asset in the management of the City's EO functions. I also believe Mr. Foster enjoys the respect of his peers and stakeholders, including contractors, vendors, and professional services firms, making his input to other agencies and groups helpful in advancing business inclusion.
- Given the CEOC's apparent challenges in securing comprehensive contract award and spend data, request, in writing, a brief summary from all procuring City departments identifying the contract award data they routinely collect, what they actually track and monitor; and the systems and processes they use to collect, verify and report the data. The request should be segregated by contract type, i.e., construction, professional services and goods/services -- with written responses due within a 30-day period of receipt by City staff.
- Request a report on any technical assistance being provided by the City of San Diego to assist interested SLBEs/ELBEs in addressing certification, marketing, business management and other technical assistance needs; and in preparing construction contractors to meet new SB854 DIR registration requirements for prevailing wage-designated projects.

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- Voice of San Diego - <http://www.voiceofsandiego.org> -

Mayor Fires Leader of Cursed City Purchasing Department

Posted By [Scott Lewis](#) On July 16, 2015 @ 6:04 pm In [Government, Purchasing and Contracting](#) | [No Comments](#)

Last year, the city's long-troubled Purchasing and Contracting Department [was looking](#) ^[1] at a bright new future of increased efficiency and stable leadership.

Now city leadership has ousted the department's latest director, Dennis Gakunga. [Kristina Peralta](#) ^[2], a program manager tapped as interim leader, will become its fifth director in seven years as the city mounts yet another nationwide search to fill the lead role permanently.

Gakunga is the senior city staff member referenced in [this investigative report](#) ^[3] released in late June by the city auditor that alleged abuse of the city's leave policy.

"Specifically, we confirmed 50 days of absences without leave recorded in SAP for one salaried employee, and five days for a second salaried employee. The combined cash-equivalent value of the under-recorded annual leave hours is over \$25,000," the auditor's report states.

Calls to Gakunga were not immediately returned.

The mayor's office confirmed Peralta was taking over the department but wouldn't elaborate.

"Because this is a personnel matter, the city will not be providing further comment," wrote the mayor's chief of communications, Matt Awbrey.

Last year, [a consultant's report](#) ^[4] about the city department concluded that staff was demoralized.

Also at the time, a mysterious "personnel matter" within the department led to [a botched contract](#) ^[5] to overhaul all the city's parking meters. (The city was forced to go through the city of Sacramento to purchase the new parking meters that now operate throughout the city center.)

In January, the city auditor, Eduardo Luna, issued [a separate report](#) ^[6] that "found significant deficiencies in the manner in which the city oversees and monitors citywide goods and services contracts."

Luna said he is continuing to investigate the department.

Former Mayor Jerry Sanders began reforms of the Purchasing and Contracting Department almost a decade ago when he first took over as the city's first elected chief executive since the 1930s. [Here's how I described the constant turnover and trouble at the department last year:](#) ^[5]

Sanders cut 17 full-time jobs and closed two warehouses. He also announced that his team would begin actively monitoring all of the city's 3,435 contracts at that time. That the city had no idea how many contracts it had out was a minor controversy in the press.

Sanders' team imposed several other reforms on the department.

Everything was supposed to speed up and the mayor set new performance standards.

Then Sanders fired Lance Wade, who ran the department.

In 2008, Sanders hired Hildred Pepper to run the department. It did not go well. The Union-Tribune [revealed](#) ^[7] that Pepper had been the subject of critical audits when he ran the same functions at Detroit Public Schools.

In 2011, a frustrated Sanders took street repair and capital projects contracting away from the department.

Later that year, Voice of San Diego [revealed](#) ^[8] that the city was struggling to spend money from a \$100 million bond it had issued to repair streets. City officials claimed at that time that an inefficient bureaucracy was making it hard to get contracts out the door. But now, they claimed to have fixed it.

Pepper [resigned](#) ^[9] in 2011. No explanation was offered. Scott Reese took over the department temporarily.

Then Ed Plank, a well-regarded staffer who bounced around to different jobs after two decades at the city, became interim director. But he left in February 2013, shortly after then Mayor Bob Filner took office.

Filner hired Gakunga and after Filner left, the city pushed through a major reform to streamline tedious contracting review for small purchasing efforts. It would allow the staff to work on more important, major efforts.

Now the department is back in flux.

"Over the next 12 months, Kristina [Peralta] will be working with her Purchasing and Contracting Department staff to accomplish significant procedural and software improvements that will address previously identified deficiencies and improve overall contract management," a memo from the city's deputy chief operating officer reads.

Article printed from Voice of San Diego: <http://www.voiceofsandiego.org>

URL to article: <http://www.voiceofsandiego.org/topics/government/mayor-fires-leader-of-cursed-city-purchasing-department/>

URLs in this post:

[1] was looking: <http://www.voiceofsandiego.org/purchasing-and-contracting-2/the-citys-new-plan-to-loosen-the-chokehold-on-purchasing/>

[2] Kristina Peralta: <http://www.voiceofsandiego.org/wp-content/uploads/2015/07/peralta.pdf>

[3] this investigative report: http://www.sandiego.gov/auditor/reports/fy15_pdf/hotline/15-019_Investigation_Under-Recorded_Leave.pdf

[4] a consultant's report: <http://voiceofsandiego.org/wp-content/uploads/2014/04/HuronPCReport.pdf>

[5] a botched contract: <http://www.voiceofsandiego.org/smart-parking-meters/major-parking-meter-overhaul-botched-by-personnel-matter/>

[6] a separate report: http://www.sandiego.gov/auditor/reports/fy15_pdf/audit/15-012_Memo_Citywide_Contract_Oversight.pdf

[7] revealed: <http://www.utsandiego.com/news/2009/May/07/1n7pepper00546-questions-trail-citys-contracting-a/>

[8] revealed: <http://voiceofsandiego.org/2011/10/09/for-san-diegos-broken-roads-broken-promises-too/>

[9] resigned: <http://www.utsandiego.com/news/2011/Nov/14/san-diegos-purchasing-director-resigns/>