BEFORE THE BOARD OF SUPERVISORS
COUNTY OF SUTTER, STATE OF CALIFORNIA
SESSION OF NOVEMBER 6, 2018

The Sutter County Board of Supervisors of the County of Sutter, State of California, met on the above date at 3:00 p.m. in Regular Session and in Closed Session in the Board of Supervisors Chambers located in the Hall of Records Building at 466 2nd Street, Yuba City, CA.

3:00 P.M. REGULAR MEETING/CALL TO ORDER

Chairman Flores called the meeting to order at 3:00 p.m.

<table>
<thead>
<tr>
<th>Attendee Name</th>
<th>Title</th>
<th>Status</th>
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<tbody>
<tr>
<td>Ron Sullenger</td>
<td>District 1</td>
<td>Present</td>
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<tr>
<td>Dan Flores</td>
<td>Chairman, District 2</td>
<td>Present</td>
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<td>Larry Munger</td>
<td>District 3</td>
<td>Present</td>
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<tr>
<td>Jim Whiteaker</td>
<td>District 4</td>
<td>Present</td>
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<tr>
<td>Mat Conant</td>
<td>Vice Chairman, District 5</td>
<td>Present</td>
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PLEDGE OF ALLEGIANCE

Marni Sanders, Executive Director Yuba-Sutter Chamber of Commerce, led the Board and the Audience in the Pledge of Allegiance.

INVOCATION

Bill Lloyd led the Board and the audience in an invocation.

SPECIAL PRESENTATIONS AND ANNOUNCEMENTS

Chairman Flores presented a Gold Resolution to Michele Blake, Executive Director, Children and Families Commission, in recognition of the 20\(^{th}\) Anniversary of the Sutter County Children and Families Commission.

Ms. Blake thanked the Board for the recognition.

Chairman Flores presented a 10-year Service Award Certificate to Tejinder Kaur, Library Assistant II, and recognized Ms. Kaur for being a recipient of Congressman Garamendi’s 2018 Women of the Year award.

James Oschner, Director of Library Services, recognized Ms. Kaur for her hard work in the Citizenship Program.

Chairman Flores presented Certificates of Appreciation to the Yuba-Sutter Election Forums Committee.
Marni Sanders, Executive Director of the Yuba-Sutter Chamber of Commerce, thanked the Board of the recognition and the volunteers for their hard work.

PUBLIC COMMENT

A member of the public spoke about the Child Protective Services Department.

Members of the public spoke about the homeless encampment and the location of the proposed homeless shelter.

A member of the public spoke about the Yuba City Master Tax Agreement.

CONSENT CALENDAR

The Board adopted the Consent Calendar with Consent Item Nos. 1 and 6 removed for discussion, and as follows:

<table>
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<tr>
<th>RESULT:</th>
<th>ADOPTED [UNANIMOUS]</th>
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<tr>
<td>MOVER:</td>
<td>Jim Whiteaker, District 4</td>
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<tr>
<td>SECONDER:</td>
<td>Mat Conant, Vice Chairman, District 5</td>
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<tr>
<td>AYES:</td>
<td>Sullenger, Flores, Munger, Whiteaker, Conant</td>
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Board of Supervisors

1. ITEM REMOVED FOR DISCUSSION: Authorization to re-open the noticing period to accept applications for two Natomas Basin Conservancy Board of Director positions from November 7, 2018 to November 26, 2018

Child Care Planning Council

2) Approval of the appointment of Carla Olmstead-Newman to the Child Care Planning Council of Yuba and Sutter Counties as a Discretionary Representative

Child Support Services

3) Approval for the Interim Director of Child Support Services to sign the 2019 California State/Local Child Support Agency Plan of Cooperation (A18-201)

Clerk of the Board

4) Approval of the Minutes of the Board of Supervisors October 23, 2018 Regular Session

5) Authorization to prepare a proclamation for the California Clerk of the Board of Supervisors Association (CCBSA) declaring November 26-30, 2018 California Clerk of the Board Week

County Administrative Office

6. ITEM REMOVED FOR DISCUSSION: Authorization for the County Administrator to advertise a Request for Qualifications for a consultant to assist in tax sharing negotiations with the City of Yuba City

Development Services

7) Approval of a Reimbursement Agreement with the Sutter Butte Flood Control Agency with a not-to-exceed amount of $475,701; approval of an Independent Contractor Agreement with GHD, Inc. in the amount of $57,230 for the design of the Laurel Avenue Reconstruction Project; and authorization for the Director of Development Services to execute all contract documents (A18-202) (A18-203)
Health and Human Services

8) Approval of an agreement with Placer County for purchase of bed days on the Sutter Yuba Behavioral Health Psychiatric Health Facility for Fiscal Years 2018-19 and 2019-20 for potential additional revenue up to $120,000 per year (A18-204)

9) Approval of an agreement for mental health rehabilitation center services and institution for mental disease services with Telecare Corporation for Fiscal Year 2018-19 in an amount not to exceed $450,000 (A18-205)

Human Resources

10) Approval of Job Description and Salary Recommendation for the New Classification of Deputy Director

11) Approval of various position changes in the Human Resources Department

Library

12) Approval to participate in the Fiscal Year 2018-19 Sutter County Children and Families Commission Mini-Grant process for “Road to Reading” and authorization for the Director of Library Services to sign the agreement (A18-206)

13) Approval to participate in the 2018 Library Innovation Lab Grant program of $5,000 and authorization for the Director of Library Services to sign the grant application, acceptance and agreement (A18-207)

Sheriff-Coroner

14) Approval of an amendment to the Fiscal Year 2018-19 Adopted Budget to appropriate funds to transfer from the Sheriff’s Fed Asset Seizure (Fund 0285) to the Public Safety (Fund 0015) for the purchase of $6,455 in additional LPR Camera Equipment and communication boxes (4/5 vote required) (FT2019015)

Special Districts

15) Approval of the minutes of the October 8, 2018 meeting of the following Special Districts: a) Sutter County Flood Control and Water Conservation District; b) Sutter County Water Agency; and c) Water Works District No. 1

Consent Item No. 1

Authorization to re-open the noticing period to accept applications for two Natomas Basin Conservancy Board of Director positions from November 7, 2018 to November 26, 2018

Donna M. Johnston, Clerk-Recorder/Registrar of Voters/Clerk of the Board, discussed the item and recommended action.

A discussion and question/answer period was held.

The Board denied the request to re-open the noticing period to accept applications for two Natomas Basin Conservancy Board of Directors positions from November 7, 2018 to November 26, 2018.

RESULT: ADOPTED [4 TO 1]
MOVER: Jim Whiteaker, District 4
SECONDER: Larry Munger, District 3
AYES: Ron Sullenger, Dan Flores, Larry Munger, Jim Whiteaker
NAYS: Mat Conant
Consent Item No. 6

Authorization for the County Administrator to advertise a Request for Qualifications for a consultant to assist in tax sharing negotiations with the City of Yuba City

A member of the public spoke about the recommended consultant agreement.

The Board authorized the County Administrator to advertise a Request for Qualifications for a consultant to assist in tax sharing negotiations with the City of Yuba City.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Jim Whiteaker, District 4
SECONDER: Ron Sullenger, District 1
AYES: Sullenger, Flores, Munger, Whiteaker, Conant

APPEARANCE ITEMS

16) Approval of Memorandum of Understanding (MOU) for General, Supervisory and Professional Units; Salary and Benefit Agreement for the Confidential Unit; Salary and Benefit Agreement for Deputy County Counsels and Assistant County Counsel; Letter of Agreement with the Probation Officers Safety Unit; and adoption of a resolution amending benefits for Management employees (A18-208, A18-209, A18-210, A18-211, and A18-212)

Gina Rowland, Director of Human Resources, discussed the item and recommended action.

A member of the public spoke in opposition to the addition of new holiday hours in employee agreements.

A member of the public spoke in support of the recommended employee agreements.

The Board: 1) approved a Memorandum of Understanding (MOU) for General, Supervisory and Professional Units; 2) approved a Salary and Benefit Agreement for the Confidential Unit; 3) approved a Salary and Benefit Agreement for Deputy County Counsels and Assistant County Counsel; 4) approved a Letter of Agreement with the Probation Officers Safety Unit; and 5) adopted RESOLUTION NO. 18-064, A RESOLUTION OF THE SUTTER COUNTY BOARD OF SUPERVISORS AMENDING BENEFITS AND RULES GOVERNING EMPLOYEE COMPENSATION, BENEFITS, AND WORKING CONDITIONS FOR MANAGEMENT EMPLOYEES as appears in the office of the Clerk of the Board in Resolution Book No. 61 at page 265 to which record reference is hereby made for further particulars and by such reference incorporated herein and made a part hereof.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mat Conant, Vice Chairman, District 5
SECONDER: Larry Munger, District 3
AYES: Sullenger, Flores, Munger, Whiteaker, Conant

17) Follow-up report and announcements

Scott Mitnick, County Administrator, updated the Board on upcoming agenda items.

CORRESPONDENCE

18) Report on Actions of Planning Commission meeting of October 17, 2018
19) Report from the Treasurer’s Office regarding the Investment Portfolio as of September 30, 2018
OTHER BUSINESS – BOARD OF SUPERVISORS

Memory Adjournments and direction of a letter of condolence from the full Board sent to the family:

Motioned by:    Seconded by:    Vote:     In Memory of:

Supervisor Munger    Supervisor Whiteaker    Carried    Shyrlie Jean Emery
Supervisor Munger and full Board    Supervisor Whiteaker    Carried    Ann Conant
Supervisor Conant    Supervisor Whiteaker    Carried    Oscar Diessner III

CLOSED SESSION

Chairman Flores called the Closed Session to order noting the purpose of the meeting:

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL
Consideration and possible action on arbitrator’s decision regarding discipline and/or dismissal of a county employee. Pursuant to Government Code § 54957(b)(1)

Supervisor Whiteaker recused himself from the Closed Session and left the meeting.

Members of the public spoke in opposition to the reinstatement of Jason Parker as an employee of the Sutter County District Attorney’s Office.

Following the Closed Session, the Chairman announced the following:

The Board adjourned into Closed Session pursuant to Government Code Section 54957(b)(1) of the Brown Act to consider the Proposed Decision of Administrative Law Judge Coren D. Wong in the Matter of the Termination of Employment of Jason Parker OAH No. 2018040883.

Supervisor Whiteaker recused himself and did not participate in the Closed Session.

Supervisors Flores, Munger, Sullenger and Conant were present.

The Board voted to reject the Proposed Decision and the Proposed Order of Administrative Law Judge Wong.

The vote was as follows: AYES: Supervisors Sullenger, Flores, Munger and Conant; NOES: None; RECUSED: Supervisor Whiteaker

We considered the following documents prior to the vote:


We also considered the Public Comment made by the District Attorney Staff and the citizenry at this Board Meeting.

We received no recommendations from Sutter County staff including County Counsel.
We agree with a number of the findings from the Administrative Law Judge’s Summary. We also considered and agree with Findings of the Investigator from the Oppenheimer firm:

1. We affirm the Administrative Law Judge’s Summary, CAUSE FOR DISCIPLINE, INSUBORDINATION, #68 which states: 68. County proved by a preponderance of the evidence that Ms. Hopper issued respondent a directive on July 17, 2017, to ensure Senior Investigator Whiteaker was assigned to an office, as opposed to a cubicle, as explained in Factual Findings 55 through 58. She repeated her directive the following morning during a meeting with respondent and Mr. Black. Respondent failed to comply with both directives. Such failure constitutes insubordination and establishes cause for discipline pursuant to Sutter County Personnel Rules and Regulations Section 18.5 (A)(d).

1.a. We also considered the Findings of the Investigator from the Oppenheimer Firm. She found that a preponderance of the evidence indicated that Parker ignored a directive from DA Hopper to place Senior Investigator Whiteaker in an office rather than a cubicle or open workspace.

2. We affirm the Administrative Law Judge’s Summary, CAUSE FOR DISCIPLINE, FAILURE TO COOPERATE WITH AN INVESTIGATION, #69 which states: 69. County proved beyond a preponderance of the evidence that respondent failed to cooperate with County’s investigation into his July 18, 2017 complaint and subsequent written grievance by refusing to submit to an interview by Mr. Trostle as explained in Factual Findings 59-62. Such failure constitutes the failure or refusal to cooperate in an investigation being conducted by County and is grounds for discipline pursuant to Sutter County Rules and Regulation Section 18.5 (A)(s).

2a. We also considered the Findings of the Investigator from the Oppenheimer Firm. She found that a preponderance of the evidence supported a finding that Mr. Parker declined to participate in the investigation conducted by Kirk Trostle.

3a. We also considered the Findings of the Investigator from the Oppenheimer firm. The investigator found that by a preponderance of the evidence in August of 2016 Parker said words that constituted a threat to Mr. Fomin while transporting him.

We affirm the Administrative Law Judges Conclusions in part:

4. We affirm the Administrative Law Judge’s Conclusion #9 which states: County established by a preponderance of the evidence that respondent failed to comply with Ms. Hopper’s directives to assign Senior Investigator Whiteaker to an office as explained in Factual Findings 55 through 58 and 68. His conduct constituted insubordination and is grounds for discipline pursuant to Sutter County Personnel Rules and Regulations Section 18.5 (A)(d).

5. We affirm the Administrative Law Judge’s Conclusion #10 which states: County established by a preponderance of the evidence that respondent failed to submit to an interview with Investigator Trostle as explained in Factual Findings 59-62 and 69. His failure to or refusal to cooperate in an investigation being conducted by County, and is grounds for discipline pursuant to Sutter County Personnel Rules and Regulations Section 18.5 (A)(s).

6. We affirm the Administrative Law Judge’s conclusion # 11 which states: Lastly, County established by a preponderance of the evidence that respondent threatened Mr. Fomin’s life as explained in Factual Findings 63 through 66 and 70. His conduct constituted unsatisfactory
performance and discourteous treatment of the public and is grounds for discipline pursuant to Sutter County Personnel Rules and Regulations Section 18.5 (A)(b) and (j).

7. We disagree with Administrative Law Judge Wong’s Conclusion #13 which states:13. When all admissible evidence is considered, the appropriate discipline for respondent’s violation of Sutter County Personnel Rules and Regulations Section 18.5 (A) is to demote him to the position of Senior Criminal Investigator as explained in Factual Findings 71-76. Therefore, he should be reinstated to the employ of Sutter County District Attorney’s Office, but to the position of Senior Criminal Investigator as set forth in the Order below.

We disagree with Conclusion #13 because: when all admissible evidence was considered by this Board the appropriate discipline for respondent’s violation of Sutter County Rules and Regulations justifies termination.

By rejecting the discipline recommended by the Administrative Law Judge we sustain the Action of the Appointing Authority and deny Mr. Parker’s appeal of his termination.

ADJOURNMENT

With no further business coming before the Board, the meeting was adjourned at 5:44 p.m.

______________________________
DAN FLORES, CHAIRMAN

ATTEST:
CLERK RECORDER
DONNA M. JOHNSTON,

BY:
Alicia Draves, Deputy

(A recording of the meeting can be heard/viewed from the Board of Supervisors webpage at: http://suttercountyca.iqm2.com/Citizens/default.aspx and DVDs of the meeting are available for citizens to check-out from the Sutter County Library at 750 Forbes Avenue, Yuba City, CA.)