September 9, 2014

TO: Members, District Advisory Council (DAC) of the Conejo Valley Unified School District

FR: Cathy Carlson, resident Thousand Oaks CA

RE: Brown Act violations during May 13, 2014 DAC meeting and subsequent cover up and false minutes

This memo is to explain why you must object to the approval of the subject minutes, as written. In your own best interest, please recommend that the minutes remove any false reference to a non-existent “reopening” and “second adjournment”. These minutes are a permanent record of a government standing committee. It is unethical and illegal to include “ex parte” comments. My comments must not be part of the official record.

This morning DAC will be asked to approve the second draft (newly revised) of the minutes of May 13, 2014. Below is an account of what really happened, not the “revisionist history” version. You need to find out who authored the last few lines, perhaps a case of damage control by the district lawyers. Are you aware that the penalty for interfering with public access to speak at open meetings under the Brown Act can result in a $1,000 fine and/or 6 months in jail? Your DAC was reprimanded by the Ventura County District Attorney’s office, and given 2 months to correct the violations, fix any illegal bylaws and standing rules, provide multiple opportunities for public comment, and provide speaker cards and clear instructions. This “remedy” to the violations is instead of a fine and jail time.

The notes about my arrival time are incorrect. I arrived at 11:18, not “at the last minute”. I was there before Item #5 Public Comments was to be heard. But the Chair and Vice Chair refused to let me speak and would not take from my hand the “card” I had to fashion myself, as there were no formal speaker cards provided. (Another violation.) Then the Vice Chair, Denise Reader, screamed at me, pointed to a notebook, and said there were bylaws requiring a person to submit a request “prior” to the meeting.

Such secret rules, hidden in Standing Rules, and referring to non-agendized items would not pertain to public comments anyway, since Public Comments was an agendized item, and listed as #5 that day. Also, there were no rules posted on the agenda that was found on the internet. And there were no instructions for the public when I arrived. This is contrary to the spirit and letter of the Brown Act which requires Open Meetings to be welcoming of the public.

To make matters worse, the Chair, Rocky Capobianco, wrote me an email that night telling me that he would not allow the DAC to be a forum for my criticism of the board, the superintendent, or policies. The DA’s office has this email and had to set him straight on this under California law. Another violation.

When a government meeting in California is adjourned, it cannot be reopened. A private club could do such “bending of the rules”, but not a chair of a government meeting. The way that the 5/13/14 draft minutes are now written indicates that business was being officially conducted. That would constitute a new meeting, which would have to be agendized and noticed 72 hours in advance. The lawyers can’t have it both ways. They want it to manipulate the minutes to show that I was allowed to speak, and the Brown Act was not violated. Yet, if the minutes are approved, then the minutes contain evidence of a blatant Brown Act notice violation.

The solution is to remove the “ex parte” comments, and remove the false notes on the so-called reopening and second adjournment, which didn’t really happen, and would have been illegal actions anyway.

I was not welcome to speak. The Chair should have listened to Trustee Pat Phelps who was in attendance and to her credit called out “Let her speak” around 11:22 am. The Assistant Supt Bob Iezza or the Parliamentarian also could have called out “Point of order”, but they didn’t. I whispered to Bob Iezza to please tell Rocky not to break the law and let me speak. However, the damage was done when the gavel came down without item #5 ever being called. Another violation. Item #5 was skipped entirely.

The description that the meeting was adjourned and immediately reopened at 11:30 is false. After the gavel came down at 11:28 am there was much noise and talking as the group started to rise and gather their things. It was at that point, after adjournment, (which permanently dissolved the official meeting), that I spoke out above the noise, saying “You didn’t call for Public Comments”. Then Bob, Rocky, and Denise conferred. It was not immediate. Then Bob suggested 3 minutes. Then Rocky said OK, let her talk. No one said words like “The meeting is reopened/called to order”. The truth is nowhere near the scene described in the falsified minutes. Those minutes were clearly written by someone not in the room that day. The evidence points to someone in the law firm trying to do damage control. Who did this?

What could have happened prior to a final adjournment could have been a recess, then a discussion, then a motion to have Public Comments out of the agendized order. But Rocky and Denise had made it clear that I was not welcome to speak during the meeting. They were packing up their things when I spoke out. I didn’t “demand” to be heard. I was pointing out that they skipped Item #5. They were caught with their pants down.

The illegality of continuing a dissolved meeting after adjournment was explained to me by an expert on Roberts’ Rules, a registered parliamentarian from Simi Valley. He was recommended by the California Republican Party in Sacramento. He was unavailable to attend today, but he is interested in coming to a DAC meeting after the state elections in November. I recommend hiring him for the training, instead of lawyers who were involved in this damage control after the multiple Brown Act violations.

I will be telling him what transpires today, and getting his advice on filing a complaint, should DAC unwisely approve the falsified minutes. That would mean that the Chair Rocky Capobianco held a DAC meeting without proper notification and posting, 72 hours prior. The truth is, my comments were “ex parte”. I did nothing illegal. Members had been dismissed. A few left as I was speaking. The cover up is the problem.

I have been advised to file a request for Open Records Act information to find out:

A: The name of the person/persons who authored the false account of my comments, and the false “reopening” and “second adjournment”.

B: How much the CVUSD was charged by the law firm to re-write the minutes.

C: The name of the person in the district who made the request for the law firm to do the damage control.

If you find the actions of the law firm to be questionable, you as DAC members or private citizens can contact the CVUSD Board by email, or speak at a public meeting and bring this to their attention. The CVUSD trustees are the ones who can cancel the contract with this firm.