

DAVID H. DUN
(dhd@dunmartinek.com)

DAVID E. MARTINEK
(dem@dunmartinek.com)

PAMELA GIOVANNETTI
(pam@dunmartinek.com)

RANDALL H DAVIS
(rhd@dunmartinek.com)

SHELLEY C. ADDISON
(sca@dunmartinek.com)

DUN & MARTINEK LLP
ATTORNEYS AT LAW
2313 I STREET
EUREKA, CALIFORNIA 95501
TELEPHONE: (707) 442-3791
FACSIMILE: (707) 442-9251

MAILING ADDRESS
P.O. BOX 1266
EUREKA, CALIFORNIA 95502

LEGAL ASSISTANTS

JO-ANNE STEVENS
(jaf@dunmartinek.com)

RUTH A. JOHNSON
(raj@dunmartinek.com)

JUDITH A. WYLAND
(jaw@dunmartinek.com)

May 27, 2011

Steve and Sharon Wolff
3 Painter St.
Rio Dell, CA 95562

Re: Public Records Act Request

Dear Mr. and Mrs. Wolff:

This is in response to your letter of May 8, 2011. I appreciate your patience.

As I have indicated previously, in my opinion no "action" by a legislative body is needed when an employee simply quits. My understanding is that both Ms. Flemming and Mr. Hale quit.

There are two ways to "accept" a resignation. One, the legislative body of the employer can formally vote on an "action" to accept the resignation. Two, the legislative body of the employer can simply "accept" the resignation in the sense of wishing the person well in the future, etc., without need for formal action.

I can find nothing in Rio Dell's ordinances, resolutions, personnel rules or the like that would require the City Council to formally vote to accept a resignation of an employee.

Your request refers to "Brown Act Section 11125.2" which I am unable to find. In this and in prior correspondence, I refer to the Brown Act as it is codified in the California Government Code. If you have pertinent authority you think is not codified in California law, please provide a copy.

In Ms. Flemming's case, I note the agenda for the council meeting of July 7, 2009 scheduled a closed session under Government Code Section 54957 to consider the employment

of the city manager. I believe that is the session during which she quit. I note the passage of almost two years since this meeting, but this comports with my understanding. There is nothing in this situation I can see that required re-agendizing the matter as an action to accept a resignation, nor any other action by the city council.

Report out of a closed session on July 14, 2009 reflects the hiring of Graham Hill as Interim City Manager at an annual salary of \$62,000.

In Mr. Hale's case, Mr. Hale was placed on administrative leave and some months later, he quit. There is nothing I have reviewed that required the city council of Rio Dell to agendize this, nor vote to accept his decision to quit. As I indicated before, unless there is some governing legal principle that requires a formal act by the legislative body, the act of quitting is self-effectuating.

A great deal of your correspondence consists of quotes in the press. I was neither participant nor observer of those interviews and a great deal of time has passed. I have no basis upon which to comment on press statements.

Regarding your discussion of the special audit report, I'm not aware of a special audit. Your letter refers to minutes of a special meeting on January 20, 2009. The minutes of that meeting indicate discussion regarding hiring of a CPA firm to do a special audit, but there was no vote authorizing this hiring.

With respect to the 08/09 audit, I understand you confirmed receipt by email on May 17, 2011. That part of your letter of May 8 appears therefore to be moot.

So, to summarize:

1. There was no "action taken" with respect to Mr. Hale, since he quit.
2. There was no "action taken" with respect to Ms. Flemming since she quit.
3. Nothing in Rio Dell's governing documents requires the city council to take action to accept a resignation; personnel matters do not require a vote by the city council.
4. Any documents regarding employment status are personnel records and in addition are not disclosable under Government Code Section 6254(c).
5. You have already received employment agreements, so I do not understand your continued citations to Government Code Section 6254.8.

Please be advised that I have attempted to answer your questions and concerns as a courtesy, even though any time to object under the Brown Act has long since expired. Please see Government Code Section 54960.1. If this matter proceeds further, I reserve the right to object to your claims based on the attorney-client privilege, personnel record privilege, Government Code Section 54960.1 and Government Code Section 6254 and any other pertinent authority. On behalf of my client, I reserve all rights under Government Code Section 54960.1.

Steve and Sharon Wolff

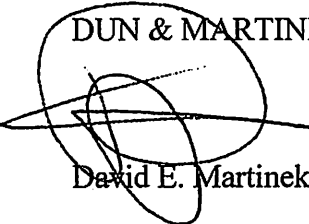
May 27, 2011

Page 3

Please also be advised that I will be out of the office until June 20, so if you wish to pursue our discussion further, I will not be able to respond until after that date.

Very truly yours,

DUN & MARTINEK LLP



David E. Martinek

cc: Client