

RESOLUTION NO. 2024/2025-6

**A RESOLUTION OF CENSURE ADOPTED BY THE
BOARD OF TRUSTEES OF THE TULARE PUBLIC
CEMETERY DISTRICT REGARDING THE CONDUCT OF
TRUSTEE AVILA**

WHEREAS, it is the policy of the Tulare Public Cemetery District (the “**District**”) Board of Trustees (the “**Board**”) to: (a) promote the highest standards of behavior for District leaders; (b) maintain an environment that fosters the public’s trust and confidence in the District; and (c) ensure to its customers, residents, employees and those who conduct business with the District that the District is a public agency that emphasizes values in public service, leadership and decision-making; and

WHEREAS, it is the further policy of the Board to maintain the highest ethical standards and ensure that its Board members and employees maintain the highest standard of personal honesty and fairness in carrying out their respective duties; and

WHEREAS, the Board owes a duty to constituents of the District, the Board Trustees, and District personnel to ensure that the laws of the State of California and the rules, regulations and policies of the District are followed by all Trustees and that all Trustees demonstrate the highest level of professionalism and respect while acting in the course of their duties; and

WHEREAS, the Board publishes its Rules of Decorum / Addressing the Cemetery Board / Trustee Conduct Policy on the final page of each agenda for each regular meeting of the Board of Trustees to reinforce its commitment to the ethical execution of the District’s mission; and

WHEREAS, under the Policy, Board members are required to act in a matter that is independent, impartial, and responsible to the people whom they represent, and are obligated to conduct themselves in a manner that is above reproach; and

WHEREAS, under the Policy, Board members are responsible to adhere to, implement, and hold each other accountable for compliance with the Policy; and

WHEREAS, conduct need not arise to a violation of the law before the Board may take corrective action; unethical conduct, even if not rising to the level of a legal violation, has the purpose or effect of unreasonably interfering with the performance of the District or creating an intimidating, hostile, or offensive working environment; and

WHEREAS, the Board may address violations of the Policy by such methods as are available to the District by law, including, but not limited to, taking Board action to express disapproval of Board member conduct and imposing sanctions regarding the same; and

WHEREAS, Board members who fail to observe minimum behavior requirements may be reprimanded or formally censured, lose seniority or committee assignments, have official travel restricted, etc.; and

WHEREAS, the Board has become concerned with conduct and statements made by Trustee Avila that violate the word and the intent of the Policy; and

WHEREAS, the District recognizes its obligations to take prompt and appropriate action to avoid or minimize the adverse impacts of Board member misconduct; and

WHEREAS, the Brown Act requires that this matter be addressed in open session; and

WHEREAS, after publishing notice of the agenda and giving notice to Trustee Avila, the Board considered the information and comments presented in support of the allegations for censure, the comments and response by Trustee Avila, and comments by the public; and

WHEREAS, the Board finds it necessary and prudent to declare its distress, disapproval, and disavowal of Trustee Avila's conduct as a way to, among other things, protect the District's Board members, officials, and employees and prevent future conduct of this nature from Trustee Avila or any other Board member; and

WHEREAS, the Board further determines that adoption of this Resolution is necessary to affirm that such conduct will not be tolerated and to prevent such conduct from being repeated; and

WHEREAS, the Board further determines that it is necessary to demonstrate to the public that improper behavior and misconduct by public officials will be addressed in an open and transparent manner, while protecting the privacy of District employees, in order to preserve public trust in the community and investment in the District.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF TRUSTEES OF THE TULARE PUBLIC CEMETERY DISTRICT AS FOLLOWS:

1. Incorporation of Recitals The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

2. Statement of Allegations The following is a summary of the allegations surrounding the Tulare Public Cemetery District Special Meeting on January 17, 2025.

- 2.1. The District held a Special Meeting on January 17, 2025 for the purposes of a closed session which began at 5:30pm at the District office.
- 2.2. All Trustees were present for the closed session special meeting.
- 2.3. During the closed session Trustee Avila with a raised voice and argumentative and highly aggressive tone declared his disagreement with the opinions and actions taken by Trustees Hitlin and Lima which were allowed under their positions as Trustees.
- 2.4. During the closed session Trustee Avila with a raised voice and argumentative and highly aggressive tone declared his unwillingness to

drop topics not present on the agenda or move forward on the agenda against the direction of the Board Chairman and Trustee Ramos.

- 2.5. During the closed session Trustee Avila with a raised voice and argumentative and highly aggressive tone declared his unwillingness to take advice from the District's general counsel to consider his aggressive tone when addressing the other Trustees on the Board and reiterated his determination to continue on his current path.
- 2.6. Chairman Presant advised Trustee Avila that his actions were a willful and actual disruption of the proceedings and that if they continued he would be asked to leave.
- 2.7. Trustee Avila summarily refused to comply with the request to abide by proper rules of procedure and decorum and continued to disrupt the meeting such that the proceedings were physical and completely halted.
- 2.8. Chairman Presant directed Trustee Avila that he must leave the meeting.
- 2.9. Trustee Avila summarily refused to comply.
- 2.10. Chairman Presant advised Trustee Avila that if he did not leave that the Police would be directed to come to remove him.
- 2.11. Trustee Avila verbally accepted having the police called as he was not inclined to abide by the order of the Chairman to leave the meeting.
- 2.12. Chairman Presant called the police. The police arrived and Trustee Avila was officially removed by the police from the meeting.

3. Findings of the Board The Board hereby finds the following:

- 3.1. *Conduct of Trustee Avila.* The Board finds that Trustee Avila has engaged in unacceptable conduct in violation of the stated Policy, as described in the Recitals above, which has set a minimum standard of behavior for the District's appointed officials; and
- 3.2. *Public Interest.* The Board finds that Trustee Avila's conduct, as described above, is contrary to the public interest and falls below the minimum standards of a District's appointed official; and
- 3.3. *Censure.* The Board hereby finds that censure of Trustee Avila is the most appropriate form of recourse for the District and hereby censures Trustee Avila and expresses the strongest possible distress, disapproval, and disavowal of the conduct described above.

4. Orders of the Board The Board hereby orders the following:

- 4.1. *Relieved of Assignments.* The Board hereby directs that Trustee Avila be relieved of his appointment on any District committee and of any other assignment that he might have for the District and that Trustee Avila is no longer eligible for the privilege of holding any District committee position or assignment through the duration of his current term; and
- 4.2. *Ineligible for Officer Position.* The Board hereby directs that Trustee Avila is no longer eligible for the privilege of holding any District Board officer position through the duration of his current term; and
- 4.3. *No District-paid Expenses.* The Board hereby directs that the District not pay for Trustee Avila to attend any District meeting or to attend any conference or other meeting or event or for any other expense, except as might still be required by law. The Board does not authorize Trustee Avila to incur any travel or other expense on District's behalf.

5. Cease and Desist. The Board admonishes Trustee Avila to exercise caution and to seek advice regarding the requirements of the code of conduct and his office. The Board directs Trustee Avila to cease and desist from further violations of the District's Code of Conduct Policy, rules of order, and any other pertinent District procedure, rule, or practice.

5. Effective Date The Chairman of the Board shall sign this Resolution and the Secretary of the Board shall attest thereto, and this Resolution shall be in full force and effect immediately upon adoption.

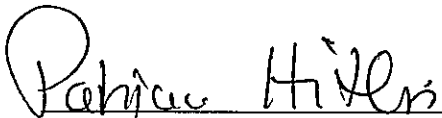
6. Severability If any section, subsection, clause or phrase in this Resolution is for any reason held invalid, the validity of the remainder of this Resolution shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof be held invalid.

ADOPTED AND APPROVED this 23 day of January, 2025.

AYES: 4 NOES: 0 RECUSED: 1 ABSTAIN:


Stephen Present, Board Chairman

ATTEST:


Patricia Hitlin, Board Secretary