

NORTH VALLEY LABOR FEDERATION

A partnership of the MERCED-MARIPOSA | SAN JOAQUIN-CALAVERAS | STANISLAUS-TUOLUMNE Labor Councils

April 19, 2011

Hon. Mayor & City Council
425 N. El Dorado Street
Stockton, CA 95202

Dear Mayor and Council:

We write to express our concern with regards to this evening's closed session "performance evaluation" of City Manager Bob Deis (Closed Session Agenda Item 2.03).

While we understand and respect that it is the Council's right under the Brown Act to conduct a performance evaluation of the City Manager, we want to alert both the Council, and the City Manager, of our concern that this closed session not be used to continue discussion and/or provide direction over the item that allegedly triggered the need for this "performance evaluation." Such policy discussions should happen in full public view. Disagreement is not a reason to retreat behind closed doors to reach agreement, build consensus or provide direction.

The Council is holding a special meeting tonight on one topic alone: sewer and water connections outside the City limits. This issue is the exact issue that triggered the need for the performance evaluation. The linking of the evaluation and the policy issue are especially concerning.

Mr. Deis' remarks in today's Record article add to our concerns. Frankly, they're troubling. He states that the closed session meeting will focus on "how the council works among themselves and what that means for me."¹ The Council is holding a special meeting tonight on one topic alone: sewer and water connections outside the City limits. This issue is the exact issue that triggered the need for the performance evaluation.

How the City Council works amongst themselves is not a permitted item under the Brown Act and any such conversations would seem to violate State law. The relevant section of the Brown Act, as cited on your Council Agenda states (California Government Code 54957):

(b) (1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another

¹ "Review of Deis set for tonight: Closed-door session arose from exchange with council members," Stockton Record, April 19, 2011.

person or employee unless the employee requests a public session. (emphasis added).

This evaluation also comes on the heels of an apparent “after hours” talk with members of the Council who disagreed with the Manager’s approach as reported in today’s Record.

While we realize that disagreement in public may be uncomfortable for the individuals involved, it is a necessary component of the public governing process—and it’s the law. Without debate and dissent, our community is robbed of the benefit of conflicting points of view and our public policy making process will suffer over the long term.

Obviously, the public will not be privy to this evening’s discussion. We are confident you will keep the public’s trust by ensuring your conversation remains strictly focused on the evaluation of Mr. Deis’ performance and not on the substance of issues that will appear before the Council.

Sincerely,

**North Valley Labor Federation
San Joaquin Calaveras Central Labor Council**



Marcie T Bayne
Executive Director
Secretary Treasurer