

# Transit board upholds firing

By KAREN CLARK  
Sentinel staff writer

SANTA CRUZ — Metro transit board members officially washed their hands of former project manager Sean Mooney on Friday, unanimously denying his termination appeal.

The vote came on the same day the board accepted a settlement agreement with former redevelopment director Ed van der Zande, who also lost his job in the wake of the FEMA overpayment scandal.

The Santa Cruz Metropolitan Transit District agreed to pay van der Zande nearly \$35,000 to step aside quietly, giving up his right to appeal his termination. The agreement stipulates that neither side admits liability in the case.

A third district employee, General Manager Scott Galloway, also accepted a financial settlement to step aside after the board held him ultimately responsible for the scandal because of his position as head of the district.



Mooney

"Mooney was offered a settlement and refused to accept it," said Santa Cruz City Councilman Mike Rotkin, chairman of the transit board. "He demanded an open public appeal hearing."

Instead of listening to Mooney's appeal themselves, directors paid former appellate court Justice Harry Brauer \$275 an hour to conduct a hearing. Brauer determined that the Santa Cruz Metropolitan Transit District was justified in firing Mooney, and that decision was accepted by the board.

"I'm quite convinced by everything I read that Justice Brauer's decision was correct," said Santa Cruz Vice Mayor Celia Scott, a member of the board who reviewed the hearing documents.

Rotkin added that he doesn't have "any doubts that we're making the right decision."

Mooney's attorney, Brenda Malloy of San Jose, made a final appeal for her client, who did not attend Friday's hearing.

"It is still my position that Mr. Mooney's termination is not warranted by the facts," said Malloy. "You acted on inadequate information from an incomplete investigation."

Margaret Gallagher, attorney for the transit district, has bristled at the suggestion her investigation was not complete, noting that she produced some 8,000 pages of documents and offered to open the district's files for Malloy to find any additional information she might need.

Malloy's criticism, however, also centered on the fact that the three managers caught up in the scandal aftermath were not allowed direct access to the board once Gallagher's investigation began in 1996.

But it was the board that directed Gallagher to conduct the investigation once Federal Emergency Management Agency officials notified the district that discrepancies had been discovered.

Ultimately, the district was forced to return some \$3.1 million in disaster-relief funding for the clean-up of a diesel tank leak that actually occurred before the 1989 earthquake. Documents revealed that district employees had said the leak occurred during the quake.

The district also must pay a \$1.5 million fine over four years for its wrongdoing.

Mooney was project manager of the district's FEMA program, reporting to van der Zande. No evidence tied Galloway to any wrongdoing, but his role as head of the district led directors to pass a vote of no confidence.

Rotkin said the district agreed to settle with van der Zande to avoid another costly appeal.

"Fundamentally, this was cheaper for us than going through a hearing process, so I think the public is well-served by that," said Rotkin.

A final accounting of the cost of Mooney's appeal to the district still is being formulated. It will include a \$34,000 bill from Brauer to hear the appeal, but that doesn't take into account such things as Gallagher's time and a court reporter's fee.