

SAN MIGUEL COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS
MARCH 28TH, 2019 REGULAR MEETING MINUTES

MEETING HELD AT DISTRICT OFFICES
1150 MISSION STREET
SAN MIGUEL, CA 93451

- I. Meeting Called to Order by President Green – 6:30 p.m.
- II. Pledge of Allegiance lead by Director Green.
- III. **Roll Call:** Directors Present: Green, Sangster, Parent, and Palafox
Directors Absent: Kalvans
District Staff in attendance: Rob Roberson, Tamara Parent, Kelly Dodds, Paola Freeman and District General Counsel Seikaly
District Staff Absent: District Engineer Dr. Blaine Reely

IV. Adoption of Regular Meeting Agenda:

Motion by Director Sangster to adopt Regular Meeting Agenda.

Seconded by Director Palafox Motion was approved by Vote of 4 AYES and 0 NOES and 1 ABSENT

V. ADJOURN TO CLOSED SESSION:

Closed Session convened at 6:33 p.m.

- 1. **CONFERENCE WITH LABOR NEGOTIATORS** (Pursuant to Government Code Section 54954.5(f) and Government Code Section 54957.6)

A. CLOSED SESSION AGENDA:

Unrepresented Bargaining Units: Non-Management Non-Confidential Unit and Non-Management Confidential Unit

- 2. **CONFERENCE WITH DISTRICT GENERAL COUNSEL-ANTICIPATED LITIGATION**

Initiation of litigation pursuant to [paragraph \(4\) of subdivision \(d\) of Section 54956.9](#):(1 case)WO

- 3. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

(Pursuant to Government Code §54957)

Title: Fire Chief

4. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Pursuant to Government Code §54957)

Title: Assistant Fire Chief

VI. Call to Order for Regular Board Meeting/Report out of Closed Session: 7:06 P.M.
Report out of closed session by District General Counsel Seikaly: No reportable action.

VII. Public Comment and Communications for matters not on the Agenda: None

VIII. Special Presentations/Public Hearings/Other: None

IX. STAFF & COMMITTEE REPORTS:

1. San Luis Obispo County Sheriff No Report
2. San Luis Obispo County Board of Supervisors No Report
3. San Luis Obispo County Planning and/or Public Works No Report
4. **San Miguel Area Advisory Council** Verbal
Nanette Roe, San Miguel Advisory Council Secretary voiced that the Peoples Self Help Housing has started to move families into the second phase of the development. Mrs. Roe voiced that the SLO County Sherriff said that February had 144 calls in San Miguel. Camp Robert's 70th Birthday celebration.
5. Camp Roberts—Army National Guard (LTC Kevin Bender) No Report
6. **Interim General Manager:** Interim General Manager/ Fire Chief Rob Roberson, Verbal report updating the Board of Directors that the FY17-18 Audit is completed and approved at the March 13 Special Meeting. Interim General Manager spoke of setting a financial meeting as soon as the Directors are available. Mr. Roberson spoke about the District Investment and changes in the Districts 5-year CD's. Annual 700 forms are due April 1st and to see the Board Clerk for any questions. Mr. Roberson asked for any questions.
Board Comment: None
Public Comments: Owen Davis, San Miguel resident voiced that he has concerns about the Paychex system and how the staff will account for their tasks during work time. Discussion ensued about hours and tasks worked daily.
7. **District General Counsel:** Presented by Counsel Seikaly. ChurchwellWhite, LLC.
Counsel Seikaly reminded the Directors that she had sent out the final version of the Personnel Policy and wanted to hear from each director, then she will send final copy to District Staff.
Board Comments: None.
Public Comments: None
8. **District Engineer:** Written report submitted as is. Dr. Blaine Reely is absent
Board Comments: None
Public Comment: None
9. **Director of Utilities:** Written report submitted as is. Director of Utilities Kelly Dodds asked for any questions on either Utilities or Engineer Report.
Board Comment: None.

Public Comments: Owen Davis, San Miguel resident voiced that he has concerns about the Paychex system and how the staff will account for their work time. Discussion ensued about hour worked.

Fire Chief: Fire Chief Rob Roberson, updates the Board of Directors that he had a meeting with the Battalion Chief from Cal Fire regarding mutual aid agreement they reviewed. The Location that the Cal Fire is at is taxing them, and discussion ensued about the agreement and response. Chief Roberson asked for any questions.

Board Comments: None

Public Comment: None

X. CONSENT ITEMS:

1. Review and Approve Board Meeting Minutes

a) 2-28-2019 Regular Board Meeting Minutes

2. County of San Luis Obispo Notice of Interest or Objection: Not Interested in purchasing Parcels and does not object to sale of any parcels. (No San Miguel Properties on list) Due 3-31-2019

3. Review & Approve **RESOLUTION 2019-16** Dissolving the Personnel Committee

Motion by Director Sangster to Approve Consent Item #2 and #3 and pull item #1 asked that an amendment be made to the 2-28-19 meeting minutes for Item 4 with it reading Director Buckman seconded.

Seconded by Director Parent. Motion was approved by Vote of 4 AYES and 0 NOES and 1 ABSENT.

Board Comment: None

Public Comment: Owen Davis San Miguel Resident asked what the amendment would be, he was informed that the Video will be looked at and the minutes will be revised.

XI. BOARD ACTION ITEMS:

1. Review, Discuss, Receive and File the Enumeration of Financial Report for January 2019.

Interim General Manager/ Fire Chief Rob Roberson reminded the Board that this was tabled last meeting and asked for any questions

Board Comment: None

Public Comment: None

Motion by Director Sangster Receive and File the Enumeration of Financial Report for January 2019.

Seconded by Director Parent. Motion was approved by Vote of 4 AYES and 0 NOES and 1 ABSENT.

2. Review, Discuss, Receive and File the Enumeration of Financial Report for February 2019 (Freeman)

Item presented by Interim General Manager/ Fire Chief Rob Roberson asking for any questions.

Board Comments: None

Public Comments: None

Motion by Director Sangster to Receive and File the Enumeration of Financial Report for February 2019

Seconded by Director Parent, Motion was approved by Vote of 4 AYES and 0 NOES and 1 ABSENT.

3. First reading of proposed ORDINANCE 01-2019 SMCS D Water Code

Item was presented by Director of Utilities Kelly Dodds explaining that the Water Code is the first Water Code for the District and it is an all-encompassing document that has every aspect of what the District does in regard to Water. The Code is more legally binding and gives resident and builders more structured outline and will help with enforcement of health and safety issues.

Board Comments: Director Parent asked if there was anything that has changed that is not current practice. Director of Utilities Kelly Dodds explaining the only added a section that allow for retrofit for low flow in the future and it spells out the processes for Will Serves and complaints.

Director Green asked if there was anything in the Water Code that will affect a resident that is just currently living here? Director of Utilities Kelly Dodds explaining that there is a provision explaining how to apply for a rebate for retrofitting. The Code does provide a clear path to inspect Back-Flow devices, and a minor provision for conservation in case of a drought. Discussion ensued about conservation and how the provision was taken from the State practice. Director Green and Parent went over section 4.3 with Mr. Dodds. Discussion ensued.

Public Comment: Nanette Roe asked for the Code number, it was explained that what was in discussion was the District first reading of the District Water Code.

Board Comments: Director Kalvans is out of town but sent in comments that are read into record.

“1. With regards to the water code and conservation section: it might be helpful to have a section regarding water conservation for development. i.e. drought tolerant landscaping for new construction, and or the use of rain barrels for collection of water for irrigation on properties larger than .25 acres.

I also had a question with regards to the viability and use of grey water for landscaping irrigation on private properties. Is that legal to encourage and is it an effective tool for conservation. If these

items are acceptable I would ask for their consideration to be included into the water code.

Also do, we have a standard for potable AG water? Not the purple pipe system but AG water that is supplied via our drinking water distribution network. Also, what standard if any are we proposing with regard to chemicals and pesticides use in the district. I am concerned about the use of chemicals and pesticides getting into the water supply. Will that be covered under the GSP?"

Director of Utilities Kelly Dodds explained that Conservation for development is already done through the County. Also, in regard to rain barrels the County has a policy on rain barrels and grey water, but as Director of Utilities I would not put a section in this water code at this time because it causes a cross connection/vector issues that we are not prepared to deal with. Director Green voiced that he feels that Director Kalvans was speaking more about grey water. Discussion ensued about cross connection and backflow. Pesticides are regulated by the County and homeowners would have to get the Pesticides at a local store that is regulated by the County. The Pesticide question about it being covered in the GSP (*Groundwater Sustainability Plan*), was explained that the GSP will not have a section regarding pesticides. Purple Pipe will have its own section but will have to be brought back to the Board in a revision of the Water Code and the District at this time doesn't have agriculture users. We do have parks in town but not agriculture irrigation and doesn't see it coming into the District anytime soon. Discussion ensued about the District boundaries and who might in the future use District water, it was also explained that the Water Code can be amended.

Interim General Manager read aloud the process of adopting of a District Ordinance.

Board Comment: Director Palafox asked if the Document could be translated into Spanish? Staff explained that they are looking into translation services and that we do have a Spanish speaker at the front office, but she doesn't have time to translate a 60-page document. Staff did explain that the District does have a water conservation flyer in Spanish, and all doorhangers/notices are always in Spanish and English.

Director Sangster voiced that 2.2 2.23.2 last sentence refunds wording need to be changed. Director Sangster voiced that he would sent email out to Kelly Dodds with typing errors. Director Sangster asked for clarification on section 5.3 and questioned if it was referring to lot size or square foot.

Public Comment: Owen Davis San Miguel resident asked if the code was available for the public. Staff asked Mr. Davis to come into the office and they would have a printed copy for him. Mr. Davis voiced that he was concerned that Mr. Dodds said "enforce" Director of Utilities Kelly Dodds explained that he meant, to enforce the code so the District can protect the Health and Safety of the community.

Nannette Roe San Miguel resident asked about the Code and enforcement and tried to explain to Mr. Davis that no one was trying enforcing anything.

Scott Young voiced that the he agreed with Director Palafox to have a Spanish version of each code.

Motion by Director Sangster for first reading and introduction, reading by title only, an ordinance of the district establishing a water code

Seconded by Director Parent, Motion was approved by Vote of 3 AYES and 1 NOES and 1 ABSENT.

4. First reading of proposed ORDINANCE 02-2019 SMCSD Fire Code

Item presented by Fire Chief Rob Roberson and Fire Prevention Office Scott Young.

Board Comments: Director Green asked that Director Kalvans questions be read aloud. “With regards to fire code, and the section regarding the sale and use of safe and sane fireworks. I don't know if I missed it or not, but I wasn't clear on the use dates of fireworks. It looked like it must be set by the board of directors, but I also read that the standard was a cleared area and water supply. If the case is only certain dates. I would like to request that the dates include July 4th. December 31st to 12:30am January 1st and the date of the lunar new year.”

Mr. Young voiced that the Fireworks dates are established by the local ordinance and if Mr. Kalvans would like to use fireworks on any other day he would have to become a pyrotechnician.

Director Green asked if he was correct that if you have left over fireworks after the fourth of July you would be in violation. Mr. Young explained that yes, per the District Ordinance you can't store explosives within the boundaries of the CSD.

Director Sangster thanked Mr. young for his explanation and dose not support having fireworks on any other days.

Public Comments: Nannette Roe San Miguel resident thanked Mr. Young for his clarification and does not support fireworks on any other date.

Owen Davis San Miguel resident voiced that he agreed and asked for clarification on State Fire Code dates, not state fire code but the local ordinance.

Motion by Director Sangster for first reading and introduction, reading by title only, an Ordinance of the San Miguel Community Services District Board of Directors adopting and amending the 2019 edition of the California Fire Code including Articles, Appendices, Amendments, and Errata of California Building Code Section 7A

Seconded by Director Parent, Motion was approved by Vote of 4 AYES and 0 NOES and 1 ABSENT.

5. Discussion on status of Machado Wastewater Treatment Facility expansion and aeration upgrade project.

Item presented by Director of Utilities Kelly Dodds explained that this is an informational item only. Mr. Dodds informed the Board of Directors that he will be starting the CEQA with the current grant and that should be coming to the Board of Director should see the information in May. Director of Utilities explained that the flows from February for an average day was at 74% hydraulic design capacity and on the max day the plant was at 100.1% hydraulic capacity. It was explained that the project has spent just under 100k of the 170k grant for the engineering study and engineering for the recharge study and the Board should see in May. Utilities has also been working on the revolving fund grant for 250k and the application has been accepted. Discussion ensued about the District Bonds. We are at about two years out for estimated completion of the WTF.

Board Comment: Director Sangster asked what got us to the 100.1%? D.O.U Kelly Dodds explained that it is around 200,295 gallons and it is possible, that it could be from a rainy day and it was explained that it is calculated as an average.

Public Comment: Nannette Roe, San Miguel Resident asked the D.O.U if the District Bonds are something the tax payers have been paying for or is the District holding the monies. Mr. Dodds explained that the Bond that he is speaking of was assumed in 1981. Mrs. Roe voiced that she was talking about the \$170k Grant. It was explained that it was a grant and will not have to be payed back but will be reimbursed for the monies paid out. Discussion ensued about the AB bonds for the terrace.

Owen Davis San Miguel Resident voiced that it sounds like the District is paying someone a lot of money to design the new facility and voiced that he feels the people that have the pumps can do the design because they have all the specs. Director of Utilities Kelly Dodds explained that the cost that the District has paid for “The Engineering Study” design is to decide what is the most feasible and cost effective and still meet the State requirements. Discussion ensued.

Information Item only

6. Review and approve RESOLUTION 2019-14 adopting an updated District Reserve Policy for the San Miguel Community Service District.

Item presented by Interim General Manager / Fire Chief Rob Roberson explaining that the District Reserve Policy has not been looked at since 2016 and needed to be updated.

Board Comment: Director Palafox asked about the funds and Audit. Mr. Roberson explained that it was more about the District financial accounts and what each fund is used for. The reserve policy is more like what amount of funds should each fund should have in savings and what it is designated for. Interim General Manager / Fire Chief Rob Roberson explaining that in the past and with the old policy, funds were being used to support other funds and were not tracked properly. The new policy will help with accounting of the funds and for auditing purposes.

Director Sangster voiced that it also stipulates that if funds are used to support other funds that an agreement will be made to pay back that fund.

Director Green voiced that he was told that it was not legal to borrow from other funds. Counsel Seikaly it is not good practice and would not be recommended.

Public Comment: Nanette Roe San Miguel resident voiced that she wanted to make sure that the District has funding for education for staff and wanted to make sure that the funds for education is split. It was explained that it is in the Budget and employee’s contracts.

Motion by Director Sangster to approve RESOLUTION 2019-14 adopting an updated District Reserve Policy for the San Miguel Community Service District.

Seconded by Director Parent, Motion was approved by Vote of 4 AYES and 0 NOES and 1 ABSENT.

7. Review and approve a RESOLUTION 2019-13 updating the District Timekeeping Policy for District personnel.

Item presented by Interim General Manager / Fire Chief Rob Roberson explaining that the Timekeeping Policy had to be updated for Paychex and to meet the new needs of the District.

Board Comment: Director Green asked counsel if the policy reflects that the District still reserves the rights to track time as they see fit. Counsel Seikaly explained that yes, and it looks like the policy is the current practice and has only made changes due to using Paychex. Timekeeping is at the management's discretion.

Director Parent asked if staff was getting the reports that they need from the Paychex System. Staff explained that it is a work in progress and is working with the CPA to get information into the Black Mt. system

Public Comment: Owen Davis San Miguel resident voiced that there will be a need to go through someone phone record? Interim General Manager Rob Roberson explained that it can be looked at on a computer, each employee has a time card that must be approved by supervisor then approved by the General Manager before payroll can be processed. Discussion ensued about work production.

Nannette Roe San Miguel resident voiced she was concerned that if an employee's phone was dead, how would they clock in and out. Interim General Manager explained the process of clocking in or out on computer laptop. Discussion ensued about ways to clock in and clocking out.

Motion by Director Parent to approve a RESOLUTION 2019-13 updating the District Timekeeping Policy for District personnel.

Seconded by Director Palafox, Motion was approved by Vote of 4 AYES and 0 NOES and 1 ABSENT.

8. Review & Approve RESOLUTION 2019-17 Appointing the Interim General Manager, Rob Roberson, and the District's General Counsel, as the San Miguel Community Services District's Labor Representatives for the Purposes of Negotiating Future Collective Bargaining Agreements.

Item presented by District Counsel Seikaly explaining that this is the start of the process, and Counsel Seikaly and Interim General Manager Rob Roberson would sit down with union represented then bring back to the Board of Directors for discussion then ratification.

Board Comment: Director Green voiced that he would like to be part of the negotiation team. Counsel Seikaly voiced that he is part of the Board and it is not common practice to have an elected official be part of the negotiation team and would never recommend as counsel for a Director to sit and negotiate with the employees; there needs to be a separation. Director Green told her that he had been part of the negotiation team in the past. Counsel Seikaly explained that at the time the District did not have a General Manager but now does and would like to keep the Board of Director out of the negotiation to keep it clean and not have any retaliation. Discussion ensued about the process.

Director Green asked what the consensus of the Board was.

Director Sangster voiced that because we are a public entity he liked the separation because it does limit us as a Board for liability reasons.

Director Green voiced that last time they negotiated the General Manager signed the agreement before the board even saw it. Counsel voiced that she did understand.

Director Parent voiced that last time the agreement never got voted on and agrees with Counsel Seikaly that they need to keep a separation.

Director Sangster voiced his trust in the General Manager and District General Counsel.

Public Comment: Owen Davis San Miguel resident voiced that he feels that the Board represents the community and needs to be in negotiations. Counsel Seikaly reexplained the process, that the Board will be informed every step of the way and have final decision.

Nannette Roe San Miguel Resident voiced that she would like to see Director Green be a negotiator and feels that the directors are paid and have a level of responsibility to the community. Counsel Seikaly explained that it is not commend practice, and that the entire Board will be asked and have final say on each part of the negotiations.

Michelle Hido San Miguel resident asked for clarification from District Counsel about the process. District Counsel explained that they will sit down with the representative from the collective bargaining unit in a private session. Then the items that are negotiated will be brought to the Board of Directors in closed session for discussion with all the Directors. When everyone is okay with the agreement the agreement will be brought in open session for ratification. Discussion ensued. Government code section 3500.05 ratification process. Owen Davis voiced that the District needs to be run like a business and feels that you guys have to take ownership because you are representing the communities. We pay you we pay the employee and we don't want the employee demanding anything. Mr. Davis voiced that he likes what Director Green does on the Board.

Director Parent voiced that the past MOU was not passed because of boot allowance and cost of living. Discussion ensued about the District receiving a PERB charge with a cease and desist order.

Motion by Director Parent Approve RESOLUTION 2019-17 Appointing the Interim General Manager, Rob Roberson, and the District's General Counsel, as the San Miguel Community Services District's Labor Representatives for the Purposes of Negotiating Future Collective Bargaining Agreements.

Seconded by Director Sangster, Motion was approved by Vote of 3 AYES and 1 NOES and 1 ABSENT.

9. Review & Approve RESOLUTION 2019-15 Certifying the Secret Ballot Election of the San Miguel Employees' Association and Recognizing the San Miguel Employees' Association as the Exclusive Bargaining Agent for the Newly Formed Bargaining Units to Be Known As the Non-Management Confidential Unit and the Non-Management Non-Confidential Unit.

Item presented by District General Counsel voiced that around two weeks ago the San Miguel Employees' Association (SMEA) voted in a private ballot. The District Board Clerk counted the votes, and this resolution is to certify the vote and Recognizing the San Miguel Employees' Association as the Exclusive Bargaining Agent for the Newly Formed Bargaining Units to Be Known as the Non-Management Confidential Unit and the Non-Management Non-Confidential Unit. They will officially be recognized as SMEA.

Board Comment: None

Public Comment: None

Motion by Director Sangster to Approve RESOLUTION 2019-15 Certifying the Secret Ballot Election of the San Miguel Employees' Association and Recognizing the San Miguel Employees' Association as the Exclusive Bargaining Agent for the Newly Formed Bargaining Units to Be Known As the Non-Management Confidential Unit and the Non-Management Non-Confidential Unit.

Seconded by Director Palafox, Motion was approved by Vote of 4 AYES and 0 NOES and 1 ABSENT.

XII. BOARD COMMENT:

Director Parent voiced that he has full confidence in management to come up with an agreement with SMEA.

Director Green asked about scheduling a financial meeting. Discussion ensued.

Director Green voiced that he would be absent in the April and May Board meetings.

Director Green asked about the changes to the upstairs and would discuss with Interim General Manager Rob Roberson.

Public Comment: Jose San Miguel Resident, new resident in San Miguel and wanted to know if they could get speed bumps in the new PSHH. He was informed to contact SLO County Public Works Department. Directors apologized for having him wait.

XIII. ADJOURNMENT TO NEXT MEETING 4-25-2019 Regular Meeting:

approximately 9:10 PM