

San Miguel Consolidated Fire Protection District
Regular Meeting of the Board of Directors
Wednesday, January 11, 2023, 5:30 pm
2850 Via Orange Way, Spring Valley, CA 91978

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

(Agenda items shall be addressed in the published order unless a member of the Board or a member of the public requests a specific item be taken out of order and the Board agrees to do so.)

PUBLIC COMMENT

The public may bring an item not on the agenda forward; however, the Board will not be able to take any action at this meeting. If appropriate, the item will be referred to the Board and/or Fire Chief to determine if the item will be placed on a future Board agenda. Items from Board members or Staff may not be discussed by the Board, but, if appropriate, will be placed on a future Board agenda. To facilitate business proceedings, a three (3) minute period shall be allotted to each person addressing the Board. Any writings or documents provided to a majority of the members of the San Miguel Consolidated Fire Protection District regarding any item on this agenda will be made available for public inspection in the San Miguel Consolidated Fire Protection District Headquarters located at 2850 Via Orange Way, Spring Valley, California, during normal business hours.

Compliance with the Americans with Disabilities Act (US Code Title 42) – Assistance for Those with Disabilities: If you have a disability and need accommodation to participate in the meeting, please call (619-670-0500) or email (info@sanmiguelfire.org) and Recording Secretary Shayna Rians will make necessary arrangements.

SPECIAL PRESENTATION

Chief Brainard will acknowledge the service of outgoing Director Jim Ek.

San Miguel Leadership will conduct the following, with an intermission to follow:

- Badge-pinning for Fire Personnel
- Badge-pinning for Reserve Firefighters

CONSENT AGENDA ITEMS

1. Approve the Minutes - Regular Meeting of December 14, 2022
2. Approve Board Member Stipend Payments.

INFORMATIONAL AGENDA ITEMS

3. Facilities Condition Assessment – Operations Division Chief Browning will discuss the Facilities Condition Assessment that was received and completed by the consulting firm Jorgensen FM.

ACTION AGENDA ITEMS

4. Board Committee Selections – The Board President will make the committee selections for calendar year 2023.
5. Refurbish San Miguel Fire & Rescue Headquarters – The Board of Directors may take action based on a recommendation for the refurbishment of headquarters located at 2850 Via Orange Way, Spring Valley, CA 91978.

REPORTS

6. Committee Reports
7. Directors' Reports
8. Chief's Report
9. Association of San Miguel Chief Officers Communications
10. Association of San Miguel Firefighters Communications
11. Correspondence

CLOSED SESSION AGENDA ITEMS

12. Closed Session – Conference with Labor Negotiator (Government Code §54957.6)
Agency Negotiators: Directors McKenna, Robles, & Attorney Joseph Sanchez
Employee Organization: Association of San Miguel Firefighters IAFF Local 1434
13. Closed Session - Conference with Labor Negotiator (Government Code §54957.6)
Agency Negotiators: Directors McKenna, Robles, & Attorney Joseph Sanchez
Employee Organization: Chief Officer's Association of San Miguel
14. Closed Session - Conference with Labor Negotiator (Government Code §54957.6)
Agency Negotiators: Directors McKenna, Robles, & Attorney Joseph Sanchez
Unrepresented Employees: Division Chief, Deputy Fire Marshal, Administrative Officer/Finance Officer, Administrative Analyst, Human Resources Specialist, Accounting Specialist, Administrative Assistant, Fire Inspector(s), Fire Services Officer
15. Closed Session – Liability Claim
(Section 54956.95 of the Government Code)
Kevin Clark and Robert Pumphrey

ACTION AGENDA ITEMS

16. Resolution 23-01 – A Resolution of the Board of Directors of the San Miguel Consolidated Fire Protection District Relating to the Industrial Disability Retirement of Captain Kevin Clark – The Board of Directors will consider adopting this resolution.
17. Resolution 23-02 – A Resolution of the Board of Directors of the San Miguel Consolidated Fire Protection District Relating to the Industrial Disability Retirement of Engineer Robert Pumphrey – The Board of Directors will consider adopting this resolution.

ACTION PLAN RECAP

NEXT MEETING – Regular Meeting, February 8, 2023, 5:30 pm, District Headquarters
ADJOURNMENT

**San Miguel Consolidated Fire Protection District
Regular Meeting of the Board of Directors
Wednesday, December 14, 2022, 5:30 pm**

MINUTES

President McKenna called the meeting to order at 5:30 pm.

BOARD MEMBERS PRESENT Directors McKenna, Muns (*left meeting at 6:19pm*), Nelson, Pierce, Raddatz, Robles, Woodruff

BOARD MEMBERS ABSENT None

STAFF PRESENT Fire Chief Brainard, Division Chiefs Browning and Lawler, Administrative Officer/Finance Officer (AO/FO) Harris, and Deputy Fire Marshal Newman

APPROVAL OF AGENDA

By Board Consensus, the agenda was approved with consent agenda item #2 pulled from the

The Agenda for the Regular Meeting of December 14, 2022, was posted at District Headquarters on Friday, December 9, 2022, at 5:00 pm.

Director Pierce led the Pledge of Allegiance.

SWEARING IN CEREMONY

District 1 Vice Chair Vargas presided over the swearing in of new Director Edward Woodruff and re-elected Directors Theresa McKenna, Harry Muns and Christopher Pierce.

PUBLIC COMMENT

None

SPECIAL PRESENTATION

Chief Browning led the badge pinning ceremony. Chief Quinlan asked Firefighter Paramedic Mancillas and McNew, and Engineers Doudna and Hamel to come forward to be pinned by a family member. Deputy Fire Marshal Newman asked newly hired Fire Inspector Jennifer Lyons to come forward to be pinned by a family member.

Director McKenna called an intermission following the special presentations and re-opened the meeting at 5:57pm.

CONSENT AGENDA ITEMS

Upon a motion by Director Raddatz, second by Director Robles, and vote (unanimously in favor), the Consent Agenda was approved with item #2 pulled for further discussion by Director McKenna.

1. Approve the Minutes - Regular Meeting of October 12, 2022
Special Meeting of October 17, 2022
Special Meeting of October 28, 2022
2. Approve Board Member Stipend Payments (*pulled for further discussion*).

3. Approve Combined Tax Report submitted by SCI Consulting Group.

ACTION AGENDA ITEMS

Consent Agenda Item #2

Director McKenna asked that consent agenda item #2 Approve Board Member Stipend Payments be pulled and requested that Director Robles's total amount for October 2022 be updated \$619.75 for equity of payments between directors.

Upon a motion by Director McKenna, second by Director Raddatz, and vote (unanimously in favor), the approval of the board member stipends was approved.

4. Election of Board Officers – The Board will elect Board Officers pursuant to Board Policy Manual item 2.1. The Officers of the Board are President, Vice President, and Secretary.

A nomination for Director Robles for President was announced by Director McKenna. By consensus, **Director Robles will serve as Board President.**

Director Robles took over presiding the meeting as Board President.

A nomination for Director McKenna for Vice President was announced by Director Robles. By consensus, **Director McKenna will serve as Board Vice President.**

A nomination for Director Pierce for Secretary was announced by Director McKenna. By consensus, **Director Pierce will serve as Board Secretary.**

5. Resolution 22-23 A Resolution of the Board of Directors of the San Miguel Consolidated Fire Protection District to Allow Participation in the County of San Diego Neighborhood Reinvestment Program.
Upon a motion by Director Nelson, second by Director Raddatz, and vote (unanimously in favor), Resolution 22-23 was approved.
6. Resolution 22-24 A Resolution of the Board of Directors of the San Miguel Consolidated Fire Protection District to Allow Participation in the County of San Diego Community Enhancement Program.
Upon a motion by Director Pierce, second by Director Raddatz, and vote (unanimously in favor), Resolution 22-24 was approved.
7. District Owned Property & Information Technology Policies – The Board of Directors may take action to adopt a Board Policy related to Directors' use of District electronic equipment specific to District business (brought forward from November 9, 2022, regular meeting).
Upon a motion by Director McKenna, second by Director Pierce, and vote (unanimously in favor), the District Owned Property & Information Technology Policy was approved with final edits as discussed.

INFORMATIONAL AGENDA ITEMS

8. Annual Report Presentation – Fire Chief Brainard will present the Annual Report to the Board of Directors.

Chief Brainard presented the Annual Report and answered questions received by the Board of Directors.

REPORTS

9. Committee Reports

Director Raddatz shared that he attended the last CSA 69 meeting and it is now dissolved. Input will come from Chief Brainard through the Board of Chiefs.

Director Robles shared that the Finance Committee met and all the financial policies continue to be reviewed and will be brought forward toward the end of the fiscal year.

Director Robles shared that the Negotiations Committee has been meeting with all associations and Chief Brainard met with Unrepresented personnel.

Director Pierce shared that he attended the quarterly CSDA meeting with Chief Lawler and AO/FO Harris. There was a special presentation on homelessness in San Diego County and the impacts of homing issues.

10. Directors' Reports

Director McKenna thanked Chief Brainard and staff regarding the Annual Report. Director McKenna also shared about the incident in her neighborhood with a difficult access point and the crews did a fantastic job. She also wanted to give a shout out to Chief Blunt (IC on incident) and Deputy Fire Marshal Newman for their work. She will be volunteering at Noah Homes for its First Responder Night and which is still looking for volunteers for those who are interested.

Director Robles thanked Chief Brainard and everyone involved in giving back to the community through the boot and toy drives.

Director Woodruff thanked Chief Brainard for taking him to the fire stations and for all the personnel being welcoming to him as a newly elected Board member.

11. Chief's Report

Chief Brainard thanked Captain Lieberman and Engineer Pumphrey for their work on the Annual Report, and everyone who contributed time and information to make the report a success.

Action Plan Recap from October 12, 2022, Board Meeting

- Staff to post Ordinance 2022-1 and 2022-2 as required by law – Completed
- Chief Brainard to meet with labor regarding Task Books – in progress

Hospital System Stressed – COVID and flu simultaneously

Type 1 Pierce refurbish option

- Chief Browning has researched options for refurbishing Type 1 vs. new engine
- Goals are to provide information and options to the Board of Directors early Spring
- Initial process looks favorable, less money and time vs. new engine

Comprehensive facilities report

- Staff is reviewing the contractor's report for completeness
- Chief Browning will report out to the Board of Directors in January

Loving 4 San Miguel Families

- Present wrapping and food allocations Thursday noon at the Brainard's residence
- Delivery of presents, food, and gift cards Saturday morning to all four families

CSA 115 Ad-Valorem

- No additional taxes are available per County of San Diego

CSA 69 – Dissolved Lakeside and Santee JPA

CARES Audit – Still waiting results

Two incendiary/arson fire series

Significant Incidents

- Willow & 125/54 areas have had 20+ fires last several months
- Device found at one scene
- SDSO, CalFire and Fish & Wildlife investigations
- Oct 16, Bluestone Ct, Tree Rescue for injured worker
- Oct 20, Willow Glen / Jamacha Wildland Fire #9
- Nov 2, 1900, Helix Structure Fire – contained to garage – animals rescued
- Nov 18, Faraday/Stonefield – High Wildland – 10 acres, one structure loss
- Nov 25, 1200, Graves – Storm Drain Fire
- Dec 4, 735 Sacramento - Large Vehicle/Structure Fires
- December 7, 325 Kempton – Vehicle Rescue from large pool

12. Association of San Miguel Chief Officers Communications

Battalion Chief Quinlan thanked Director McKenna for serving as Board President. He also thanked Director Ek for his service as a Board member and helping the District become a stand-alone agency again. He stated that members of their association will be participating in the boot drives and volunteering at Noah Homes. Chief Quinlan explained that the District is working on a new incident review process, led by Chief Lawler.

13. Association of San Miguel Firefighters Communications

Captain Hays introduced himself as the new Local 1434 Association Executive President. He addressed the incident regarding a firefighter paramedic that was hit by a car and the incident review. He discussed the toy drive and the work that has gone into it, along with the four families they are participating in helping. The Association will host a golf tournament on May 16, 2023, and are reaching out for sponsors.

Captain Grogger addressed the full Board of Directors and thanked them for the support with labor.

14. Correspondence

None

CLOSED SESSION AGENDA ITEMS

President Robles adjourned the meeting to Closed Session at 7:06 pm.

15. Closed Session – Conference with Labor Negotiator (Government Code §54957.6)

Agency Negotiators: Directors McKenna, Robles, & Attorney Joseph Sanchez
Employee Organization: Association of San Miguel Firefighters IAFF Local 1434

16. Closed Session - Conference with Labor Negotiator (Government Code §54957.6)
Agency Negotiators: Directors McKenna, Robles, & Attorney Joseph Sanchez
Employee Organization: Chief Officer's Association of San Miguel

17. Closed Session - Conference with Labor Negotiator (Government Code §54957.6)
Agency Negotiators: Directors McKenna, Robles, & Attorney Joseph Sanchez
Unrepresented Employees: Division Chief, Deputy Fire Marshal, Administrative Officer/Finance Officer, Administrative Analyst, Human Resources Specialist, Accounting Specialist, Administrative Assistant, Fire Inspector(s), Fire Services Officer

18. Closed Session – Conference with Legal Counsel – Potential Litigation
(Government Code §54956.9 Subdivision (b)) – Number of Cases: 1

19. Closed Session – Fire Chief's Performance Evaluation

President Robles reconvened the meeting to Open Session at 7:52 pm.

ACTION PLAN RECAP

None

*The next Board Meeting will be a Regular Meeting, **January 11, 2023, 5:30 pm**, District Headquarters*

President Robles adjourned the meeting at 7:54 pm.

Prepared and submitted by:

Leah Harris

Board Recording Secretary



San Miguel Fire & Rescue

Service Beyond Expectations

Staff Report

Date: January 11, 2023
To: Board of Directors
From: Shayna Rians, Administrative Assistant
Subject: Board Member Stipend Payments

Background

Effective January 1, 2015, a formal payment procedure was established to pay board members their monthly meeting stipends. To initiate the payment process, a stipend form for board meetings, training, and local meetings/events will be submitted.

Recommendation

Approve the attached board member monthly meeting stipend forms for December 2022.

San Miguel Consolidated Fire Protection District

Board Member Monthly Meeting Stipend Form

Name: Theresa McKenna

Month/Year: December 2022

Section I - Board/Committee Meetings

Date	Board/Committee Meeting Attended	Meeting Stipend \$173.25	Check box (x) if you do <i>not</i> want to be paid Stipend
12/12/22	Negotiations Meeting	\$173.25	x
12/14/22	Prepare for and attend Regular Board Meeting	\$173.25	x
TOTAL MEETING STIPEND		\$0.00	

Section II - Training and Local Meetings/Events

Date	Training/Local Meeting Attended	Days	Mileage (0.56 / Mile)	Amount
TOTAL MILES			0	\$0.00

Section III - Expense Claim Summary (Expense Report Form must be attached)

Date	Description	Amount

Section IV - Summary

Signature: _____ Date: _____	<table border="1" style="width: 100%;"> <tr> <td>Total Stipend Paid:</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Total Expense Claim:</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Total Mileage:</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Total Amount Due:</td> <td style="text-align: right;">\$0.00</td> </tr> </table>	Total Stipend Paid:	\$0.00	Total Expense Claim:	\$0.00	Total Mileage:	\$0.00	Total Amount Due:	\$0.00
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Total Amount Due:	\$0.00								
Approved at Board Meeting on: 1/11/2023 _____									

MAXIMUM OF 4 MEETINGS PAID PER MONTH

Forms are due the 1st of each month

Please submit to Shayna Rians

srians@sanmiquelfire.org

San Miguel Consolidated Fire Protection District

Board Member Monthly Meeting Stipend Form

Name: Harry Muns

Month/Year: December 2022

Section I - Board/Committee Meetings

Date	Board/Committee Meeting Attended	Meeting Stipend \$173.25	Check box (x) if you do <i>not</i> want to be paid Stipend
12/14/22	Regular Board Meeting (left meeting at 6:19pm)	\$0.00	x
TOTAL MEETING STIPEND		\$0.00	

Section II - Training and Local Meetings/Events

Date	Training/Local Meeting Attended	Days	Mileage (0.56 / Mile)	Amount
TOTAL MILES			0	\$0.00

Section III - Expense Claim Summary (Expense Report Form must be attached)

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Approved at Board Meeting on: <u>1/11/2023</u>									

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srians@sanmiquelfire.org

San Miguel Consolidated Fire Protection District

Board Member Monthly Meeting Stipend Form

Name: Jeff Nelson

Month/Year: December 2022

Section I - Board/Committee Meetings

Date	Board/Committee Meeting Attended	Meeting Stipend \$173.25	Check box (x) if you do <u>not</u> want to be paid Stipend
12/14/22	Regular Board Meeting	\$173.25	
TOTAL MEETING STIPEND		\$173.25	

Section II - Training and Local Meetings/Events

Date	Training/Local Meeting Attended	Days	Mileage (0.56 / Mile)	Amount
TOTAL MILES			0	\$0.00

Section III - Expense Claim Summary (Expense Report Form must be attached)

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Approved at Board Meeting on: 1/11/2023 _____									

MAXIMUM OF 4 MEETINGS PAID PER MONTH

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srians@sanmiquelfire.org

San Miguel Consolidated Fire Protection District

Board Member Monthly Meeting Stipend Form

Name: Christopher Pierce

Month/Year: December 2022

Section I - Board/Committee Meetings

Date	Board/Committee Meeting Attended	Meeting Stipend \$173.25	Check box (x) if you do <u>not</u> want to be paid Stipend
12/14/22	Regular Board Meeting	\$173.25	
TOTAL MEETING STIPEND		\$173.25	

Section II - Training and Local Meetings/Events

Date	Training/Local Meeting Attended	Days	Mileage (0.56 / Mile)	Amount
TOTAL MILES			0	\$0.00

Section III - Expense Claim Summary (Expense Report Form must be attached)

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Approved at Board Meeting on: 1/11/2023 _____									

MAXIMUM OF 4 MEETINGS PAID PER MONTH

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Please submit to Shayna Rians

srians@sanmiquelfire.org

San Miguel Consolidated Fire Protection District

Board Member Monthly Meeting Stipend Form

Name: Kim Raddatz

Month/Year: December 2022

Section I - Board/Committee Meetings

Date	Board/Committee Meeting Attended	Meeting Stipend \$173.25	Check box (x) if you do <u>not</u> want to be paid Stipend
12/14/22	Regular Board Meeting	\$173.25	
TOTAL MEETING STIPEND		\$173.25	

Section II - Training and Local Meetings/Events

Date	Training/Local Meeting Attended	Days	Mileage (0.56 / Mile)	Amount
TOTAL MILES			0	\$0.00

Section III - Expense Claim Summary (Expense Report Form must be attached)

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MAXIMUM OF 4 MEETINGS PAID PER MONTH

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Please submit to Shayna Rians

srians@sanmiquelfire.org

San Miguel Consolidated Fire Protection District

Board Member Monthly Meeting Stipend Form

Name: Edward Woodruff

Month/Year: December 2022

Section I - Board/Committee Meetings

Date	Board/Committee Meeting Attended	Meeting Stipend \$173.25	Check box (x) if you do <u>not</u> want to be paid Stipend
12/14/22	Regular Board Meeting	\$173.25	
TOTAL MEETING STIPEND		\$173.25	

Section II - Training and Local Meetings/Events

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srians@sanmiquelfire.org



San Miguel Fire & Rescue

Service Beyond Expectations

Fire Chief's Report

Date: January 11, 2023
To: Board of Directors
From: Criss Brainard, Fire Chief
Subject: Administrative Offices Refurbishment and Information Technologies Upgrades – Approval of Change Order Based on No Competitive Advantage Finding

Background

At the September 14, 2022, Regular Board Meeting, approval was given to allocate \$250,000 for the refurbishment of the second-floor administrative offices' portion of Headquarters. With the refurbishment of Station 15 nearing completion, under its existing construction contract, the District can option to proceed with second floor renovations via a change order addition to the current refurbishment contract. There are several reasons that exercising this option will benefit the District:

- Ongoing economic environment continues to show significant difficulty getting qualified contractors to bid on projects
- Minimize further delays and additional costs associated with producing another RFP
- The Station 15 RFP only had one responsive bidder and this option is substantially smaller making it less attractive to contractors
- Cost savings for the District and the onsite contractor by exercising a change order and not incurring the expense for the District and contractor of producing, letting and awarding a separate contract
- Current contractor has demonstrated consistent high-quality workmanship and ability to stay on or ahead of schedule
- Contractor is currently on-site with employees and equipment which further reduces costs associated with a new delayed contract

Discussion

District staff has thoroughly reviewed the options for potentially completing this work consistent with the applicable requirements for public entity projects, including, but not limited to potentially separately bidding this work. In addition, we have discussed this project and this proposed modification with legal counsel and identified the change order as the most advantageous option for the District based on the totality of the facts.

Given the District's need to complete this work in a timely manner, and minimizing the disruption of an active ongoing staff that will continue to work during construction, this contractor has a proven track record of working around on-duty firefighters and meeting timelines. Not exercising this legal and most advantageous option would unnecessarily delay the completion of the project and increase costs.

Accordingly, under California law, the District may utilize the exception to the bidding requirements typically applicable to District construction projects and approve the change order where the facts demonstrate that there is no competitive advantage to be gained by the public entity in further bidding such additional construction work. (See Graydon v. Pasadena Redevelopment Agency, et al. (1980) 104 Cal. App 3d 631, 635.)

Also approved in the FY22/23 budget are monies to repair, refurbish and upgrade necessary IT capabilities and equipment in the Board and Conference Rooms. Not only are these IT capabilities needed to improve our ability to communicate for Board meetings, Closed Sessions, Staff meetings and Training classes, making these changes during the second-floor refurbishment is necessary to save the cost of duplicative work to open walls and ceiling spaces to establish various connections, later. These type of IT installations are approved for ARPA funds, which have to be expended by June 2024.

Fiscal Impact

District HQ Renovation – \$250,000 per facilities replacement/renovation finalized Fiscal Year 2022/2023 budget.

Board & Conference Rooms IT Equipment - \$200,000 per facilities replacement/renovation finalized Fiscal Year 2022/2023 budget.

Recommendation

Approve the administrative offices refurbishment, utilizing our current contractor as a change order as a continuation to the current refurbishment we have in progress based on a no competitive advantage finding and authorize the Fire Chief to execute the change order following all District procurement processes.

Approve the IT upgrade and authorize the Fire Chief to execute an agreement following all District procurement processes.

Resolution 23-01

A Resolution of the Board of Directors of the San Miguel Consolidated Fire Protection District relating to the Industrial Disability Retirement of Fire Captain Kevin Clark (Section 21156, Government Code)

Whereas, the San Miguel Consolidated Fire Protection District (hereinafter referred to as the District) is a contracting agency of the Public Employees' Retirement System;

Whereas, the California Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he is classified as a local safety member, is disabled for purposes of the California Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law;

Whereas, an application for industrial disability retirement of Kevin Clark employed by the District in the position of Fire Captain, has been filed with the California Public Employees' Retirement System and was received by the District on August 5, 2022; and

Whereas, the Board of Directors has reviewed the medical and other evidence relevant to such alleged disability at the Board meeting conducted on January 11, 2023.

Now, Therefore, be it Resolved, that the Board of Directors finds and determines that Kevin Clark is incapacitated within the meaning of the California Public Employees' Retirement Law for performance of his usual duties in the position of Fire Captain effective September 1, 2022.

Be it Further Resolved that the Board of Directors finds and determines that such disability is a result of injury or disease arising out of and in the course of employment as a local safety member.

Be it Further Resolved that neither Kevin Clark nor the District has applied to the Workers' Compensation Appeals Board for a determination pursuant to Government Code section 21166 whether such disability is industrial.

Be it Further Resolved that the member performed in a light duty capacity, not performing the duties of a Fire Captain from May 23, 2022 to August 31, 2022, after expiration of his rights under Government Code section 21164 and that no dispute as to the expiration of such leave rights is pending. Kevin Clark's last day on pay status was August 31, 2022.

Be it Further Resolved that there is not a possibility of third-party liability.

Be it Further Resolved that the District is not aware of Kevin Clark pursuing any claim against any person or entity for the same injuries that also entitle Kevin Clark to a disability retirement from CalPERS.

Be it Further Resolved that Advance Disability Pension Payments will not be made.

Be it Further Resolved that the District certifies under penalty of perjury that this determination was based on competent medical opinion.

Be it Further Resolved that there is competent medical opinion certifying that the disability is expected to be permanent.

Be it Further Resolved that the District certifies under penalty of perjury that this determination was not used as a substitute for the disciplinary process.

Be it Further Resolved that Kevin Clark has filed a Workers' Compensation Claim for his disabling condition and the claim was accepted by the insurance carrier.

Be it Further Resolved that Kevin Clark is competent to act on his own behalf in legally binding retirement matters.

PASSED AND ADOPTED by the Board of Directors of the San Miguel Consolidated Fire Protection District this 11th day of January 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

Jesse Robles, Board President

Resolution 23-02

A Resolution of the Board of Directors of the San Miguel Consolidated Fire Protection District relating to the Industrial Disability Retirement of Fire Engineer Robert Pumphrey (Section 21156, Government Code)

Whereas, the San Miguel Consolidated Fire Protection District (hereinafter referred to as the District) is a contracting agency of the Public Employees' Retirement System;

Whereas, the California Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he is classified as a local safety member, is disabled for purposes of the California Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law;

Whereas, an application for industrial disability retirement of Robert Pumphrey employed by the District in the position of Fire Engineer, has been filed with the California Public Employees' Retirement System and was received by the District on November 9, 2022; and

Whereas, the Board of Directors has reviewed the medical and other evidence relevant to such alleged disability at the Board meeting conducted on January 11, 2023.

Now, Therefore, be it Resolved, that the Board of Directors finds and determines that Robert Pumphrey is incapacitated within the meaning of the California Public Employees' Retirement Law for performance of his usual duties in the position of Fire Engineer effective November 1, 2022.

Be it Further Resolved that the Board of Directors finds and determines that such disability is a result of injury or disease arising out of and in the course of employment as a local safety member.

Be it Further Resolved that neither Robert Pumphrey nor the District has applied to the Workers' Compensation Appeals Board for a determination pursuant to Government Code section 21166 whether such disability is industrial.

Be it Further Resolved that Robert Pumphrey temporarily performed in a light duty capacity, not performing the full duties of a Fire Engineer from April 8, 2021 to October 31, 2022, after expiration of his rights under Government Code section 21164, and that no dispute as to the expiration of such leave rights is pending. Robert Pumphrey's last day on paid status was October 31, 2022.

Be it Further Resolved that there is not a possibility of third-party liability.

Be it Further Resolved that the District is not aware of Robert Pumphrey pursuing any claim against any person or entity for the same injuries that also entitle Robert Pumphrey to a disability retirement from CalPERS.

Be it Further Resolved that Advance Disability Pension Payments will not be made.

Be it Further Resolved that the District certifies under penalty of perjury that this determination was based on competent medical opinion.

Be it Further Resolved that there is competent medical opinion certifying that the disability is expected to be permanent.

Be it Further Resolved that the District certifies under penalty of perjury that this determination was not used as a substitute for the disciplinary process.

Be it Further Resolved that Robert Pumphrey has filed a Workers' Compensation Claim for his disabling condition and the claim was accepted by the insurance carrier.

Be it Further Resolved that Robert Pumphrey is competent to act on his own behalf in legally binding retirement matters.

PASSED AND ADOPTED by the Board of Directors of the San Miguel Consolidated Fire Protection District this 11th day of January 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

Jesse Robles, Board President