

Meeting Minutes for Sambrito Mutual Domestic Water Consumers Association Board Meeting followed by Annual Meeting

President: Mike House
Secretary: Cherie Young

Date: November 3, 2021
Time: 6:00 PM

BOARD MEETING:

Attendees: Mike House (President), Kyle Guire (Vice-President), Debbie Holder (Treasurer), Cherie Young (Secretary), Rick Neuenschwander (member at large), Germaine Chappelle (Legal Counsel) Doug Windolph, Sandra Windolph, Vivian Hanson, Chris Huber, John Dustin, Leslie McGowand, Dan Verniero, Dennis Walker, Martha Walker, Ursula S Davies, Mary Serrano, Cassandra Sanchez, Christina Dunn, Clare Wingfield (phone in), Zar Neuenschwander, Janet Garret (phone in), Kristi Valesques, Gerald Valasquez

Meeting was called to order by President Mike House. All board members were present and a quorum was established.

Approval of Minutes: Motioned by R. Neuenschwander, Seconded by C. Young. Approved.

Approval of Agenda: Motioned by K. Guire, Seconded by R. Neuenschwander. Approved.

Discussion of By-Laws:

Since 2019, the Board was created for a Community Association, not a Mutual Domestic. It was not until December 2020 that articles were filed to establish a Mutual Domestic.

To be clear regarding the bylaws, we will walk through and review some past discussions as well as regulations. After this we will take a vote.

Ms. Chappelle had a conversation with RJV (Phelps) stipulating that board members need to live in the community, to which the Phelps agreed. They understood that regulators have a concern that the Phelps, being past owners of the system, may potentially cause confusion regarding private owners having access to public funds. Mr. Dustin disputed what was just said. He asserted the Mutual Domestic was formed late in 2019 and that decisions were made as a Mutual Domestic in 2019. He stated he had documents to prove that but did not have the documents with him. He said he would email the documents to the Board.

Ms. Chappelle asked at what meeting did this occur, and Mr. Dustin said there was a memo from Ms. Chappelle to PRC that back up his claim. Ms. Chappelle clarified again that at that point the organization

was an Association, not a Mutual Domestic. She also stated this type of argument is not productive and prohibits moving forward and further that approving the bylaws would in effect cure the confusion.

Mr. Dustin said this goes to the issues of transparency and full disclosure to make sure everything is above board and according to state law.

Ms. Holder asked what decisions were made and Mr. Dustin replied that the September 2019 Agenda was alarming. A look at the 2019 Agenda, however, mentions discussion of the bylaws but does not settle whether the board was meeting as an Association vs the Mutual Domestic. However, the status report to PRC was an overview indicating that the Association had met and was moving forward with establishing the Mutual Domestic. Due to Covid and confusion at the state level on what is required for the formation of a Mutual Domestic, incorporation of Sambrito occurred many months later.

In those early days of establishing our Community Water Association, there was a lot of conversation and confusion as to what exactly was happening. Many of our members indicated interest in filing a lawsuit against RJV, however, after several meetings a consensus developed that it would be better to form a Mutual Domestic. There were at least ten meetings and door to door conversations regarding the pros and cons of the options and making sure that folks were included in the decision. In 2019 there was a meeting that lasted the entire day. At that time, we went through the statutes, and we were a Community Association. The discussion included whether we should become a Mutual Domestic or continue as an Association.

Included in the discussions was a tutorial on The Open Meetings Act, Corporations, Non Profit Law, Water and Utility Laws, PRC, and NMED. This was a very in depth meeting to determine whether the community wanted to take on the responsibility of a Mutual Domestic.

The bylaws were drafted from another Mutual Domestic, which included how to deal with and/or who should be a board member. This resulted in articles and a good idea of the bylaws going forward.

At this point the Covid Pandemic arrived which resulted in our articles being bounced from PRC to the Secretary of State. Mutual Domestic are a rarity, which could account for some of this.

Following the development of the articles, transfer discussions began with RJV. Ms. Chappelle reminded us that there were delays and she had to have several conversations with the Secretary of State Office, which ultimately resulted in incorporation as a mutual domestic.

What all this means is that ultimately, we are a valid entity in New Mexico with Articles. Now we need to vote on our bylaws. To clarify: the articles are the governing document; the bylaws are the internal rules to follow.

Mr. Dustin again disputed what was said and suggested he had an affidavit proving his contentions. Ms. Chappelle asked why he would suggest she is not acting in the best interests of the community. She also asked if there were other members of the community who were at earlier meetings and willing to give their input. She asserted that the Board should be run by the community it serves. When Ms. Chappelle asked Mr. Dustin again what affidavit he was referring to, because she never signed an affidavit. At this point Mr. Dustin recanted and admitted it was not an affidavit but a status report.

At this point, Ms. Chappelle stated the original board was elected to serve an Association, not a Mutual Domestic and understands Mr. Dustin's confusion. This was rectified at a past meeting.

Mr. House stated that Ms. Chappelle explains everything, but we need people to show up at the meetings and that we are trying to do right by this community. He asked what more transparency do we need. Mr. Dustin said he will send documents as he feels we are going in circles.

At this point, Ms. McGowan thanked the board for their work and said it is nice to see the transfer is moving forward which will hopefully be resolved soon. She stated , though, that on September 14, 2019 we voted on the bylaws. She said there was a discussion regarding members who wanted to serve regardless of whether they lived in the community or not. Ms. McGowan wanted the board to have 2 members from each subdivision. She also stated that as a substantial number of residences that are owned are rented out, she feels the property owners should have the option to serve on the board.

Ms. McGowan then proposed an amendment to the bylaws as follows:

“I would like to propose an amendment to the bylaws under Article VI, Section 2, B:

That one member of the Board should be represented by a property owner who, either, has a rental property or is a seasonal resident.

A substantial portion of properties located in the 2 subdivisions fall under this category and those property owners should have representation by a peer. This would also cover any member who may change their residency from living her full time to either a seasonal residence or a future rental potential.

Since the number of people who are eligible to run for board seats is already a small number, we should focus on property owners who are willing to help and who have the time. This may bridge the current division between the 2 subdivisions and create the inclusivity that is necessary for the success of Sambrito. Granted this potential board member should adhere to the regulations in place regarding “conflict of interest” in Article VI, Section 2, #C.”

She the suggested we consider Mr. Dustin for the board. Mr. House felt a board member should own and live in the community because 1) we have water leaks which are addressed by board and community members and 2) we have meters read also by board and community member volunteers.

Ms. Dunn appreciated that Ms. McGowan was speaking up and feels she should be heard. However, she felt this issue should be for a focused brain storming session. After which, as this is not the time, the board could present the results to the community. Mr. Neuenschwander said we need to decide or at least agree to table the discussion for a more appropriate time.

Ms. Chappelle clarified the renter aspect and agrees there is tension in the statute. The Sanitary Project Acts stipulates land owners as part of ownership and liability. However, they will allow another committee or brigade. The reason being that board of non owners create liabilities for owners. Ms. McGowan clarified that she did not speak of renters but of landlords. Mr. House said board members need to be in the community because they are required to be available to check the wells and at this point we do not have the funds to hire someone to check wells and pumps. To which Ms. McGowan replied this was a temporary situation. Ms. Chappelle said receivables cannot pay for a full time operator, which leaves a volunteer board to do the work. Ms. McGowan responded that the funds will be available at some point. The plan is to use the Souder Miller operator as core/mentor operator, but once we have our home grown operators, we will not need him. Ms. McGowan was happy to hear this, but in the meantime feels we should be able to nominate non resident landowners.

Mr. Windolph wished to confirm we have ample people from both subdivisions and wants to ensure there is no segregation between communities. He mentioned negative comments on Facebook and the Arboles page suggesting the board is not doing anything and not answering questions. He said the board members have worked days to keep the community in water and although not looking for accolades, would

appreciate some understanding. He said it is a shame this is happening where these negative comments are causing division.

Ms. McGowan confirmed there are few people willing to give time and participation. Mr. Windolph suggested we get our neighbors involved. Mr. Dustin mentioned as a practical consideration that the number of people who are eligible may be around 60 and Ms. Chappelle said it was less, so why are we trying to divide it up by dividing up neighborhoods and requiring 2 board members from each subdivision. Regarding negative comments, Ms. McGowan suggested setting precedents moving forward which would include property owners and thinks it is important to have varying perspectives on the board.

Ms. Serrano mentioned that absent landowners have no idea what is going on in the neighborhood. Even so, as a homeowner, they can still call in and voice their opinion and vote.

Ms. McGowan said Phelps would have a conflict of interest, but Ms. Chappelle disputed that and said if non resident landowners could sit on the board, then Phelps could also sit on the board. This was a concern with PRC. Further, due to their various individual and business ownerships, they would have a controlling interest if they were allowed to run for the board. Ms. Chappelle then asked if there were other members with similar positions as Ms. McGowan and Mr. Dustin.

At this point Ms. Holder acknowledges validity of these discussions but suggests we table these concerns for a future meeting. At this point, one absent landowner should not hijack the rest of the community. The consensus was a board member should be an owner and resident and it was noted that other boards, ie. School boards, require residency to serve.

Ms. Wingfield (phone in attendee) agreed with Ms. McGowan and Mr. Dustin's perspective.

After close of discussions, the board unanimously voted to retain the bylaws and recommend adoption at the membership meeting.

MEMBERSHIP MEETING

Roll Call as per Board Meeting

Officer Reports

President

We are still hauling but not having to pump as much in upper subdivision. Leak on 4028 and one by RJV shop; there have been many repairs helping to hold water in a stable and consistent condition, although with low pressure. Concern of 4024 is no way to flush out and silt is present.

Ms Chappelle said it is possible to flush pipes, but we will need to have the operator to do this.

President reported operator of Souder Miller was on it and mentioned no clean outs in system. He confirmed all of our concerns.

Ms. McGowan mentioned only late Sunday to early Monday outages.

Mr. Windolph mentioned the leak by RJV's yard caused us to lose 6-9 thousand gallons. Found 3 places that cleanouts could be put in and that 4024 system would have priority.

Check valves not working, so possible a lot of water is going back to aquifer.

Treasurer

For the last six months, Ms. Holder has compiled income information as follows:

Billed out \$34k but only \$23 received. \$5k this month. \$23k for hauling water, but this can't be sustained. Basically, we are \$35k in debt at the moment and owe Mountain Man over \$5k.

San Juan county gave us a half ton truck. Mr. Walker asked if we can negotiate. RJV donated a trailer, but all needs to be retro'd and then we need to get a water certified hauler.

Mr. Walker wondered if we could do it ourselves; Ms. Holder said we need to fix, insure, and get a driver...gas, etc. so at this point, it is not feasible to go this route.

Current cash position \$1500 which does not include what we still owe Mountain Man over \$4k and State of New Mexico gross receipts tax

The faster we can move thru the transition, the faster we can access funds

Mr. Dustin mentioned lack of working capital is a problem. He got certified over a year ago to access USDA grant program which goes to rural entities which are affected by the drought. Mr. Dustin wants to go for this, but Ms. Chappelle said we need to work closely with Souder Miller.

Mr. Windolph asked if that money is available, would it jeopardize other grants, to which Ms. Chappelle replied it would not.

Timing is better now since we are closer to transfer.

Mr. Dustin offered to go thru this. It was agreed he would pursue these funds, but we would need a committee.

Secretary

Lack of transparency has been a consistent complaint with not answer phone or emails. Sambrito will not answer Facebook to encourage consistency in communications. There have been comments that the website is not easy to navigate, but Ms. Chappelle did some work on it to make it easier to find information.

Questions regarding meter reading: Can air in the line cause the meter to run? Souder Miller operator confirmed it actually works in the favor of owner. When community has opportunity to meet operator, they will be able to hear it from him more clearly. His assistant is a grant writer and has expertise.

TRANSITION UPDATE REPORT

The two big items (surveys and San Juan Requirements for transfer of land for asset) two big parcels 1.5 acres across from shop where we could put our own shop/office. Second 15 acres wedge shape by knob hill....can be community space/garden.

Five year exemption – if you want to subdivide you have to go through zoning, etc. However, both of these properties qualify for expedited process. All is required is a survey and then 2 weeks for approval. Currently, all surveyors are swamped. Souder Miller finally worked us in. They were up last Thursday/Friday surveying. Also surveyed elevation up by tank so operator can ensure head needed to make that gradient and may not need a booster pump. Should have transfer of property in 3 weeks.

Other item is transfer of water rights. PRC agrees we need to have that. Apparently RJV's water rights are not in the wells, but they need to be in the wells. RJV is still in the process which is lengthy. Their lawyer is attempting to streamline the process so we can move forward. PRC won't release RJV until they and we do what we have to.

In addition, there is a list of repairs RJV agreed to perform prior to transfer. They appear to be working on those.

We were happy to hear from Souder Miller's operator that we were correct in our assessment of the system, and it won't take a ton of money to upgrade/repair system.

Mr. Dustin asked if Souder Miller offered any thoughts on expansive soil in our area which could cause shifting of buildings and potential damage to pipes. Souder Miller needs plans for the pipes to facilitate automation of the system. Pumps are either tripping or not adequately sized. We need to do well studies. We also have a livestock well which at some point we will convert. The well which tested high in Selenium is off line. If we want to use it in the future, we can use filtration systems.

Ms. Dunn asked that since in the past the well with high selenium count and the well with high fluoride count were being mixed and thus considered acceptable. Would we now be getting too much fluoride?

Ms. Chappelle replied that Standards are now getting more conservative, which is why that well was shut down. If there is high fluoride, the same will apply.

Mr. Walker asked what is tank capacity? Ms. Chappelle replied that because of gradient and check valve issues, we cannot keep much water in top tank. Tanks are 16,800 gallon tanks.

Not knowing HP of pumps, we don't know if it is pump capacity or some other issue. At this point it appears no water is making it to the upper tank.

When operator is back up here, community should be able to meet him.

Mr. Dustin said that the Moulson Corbin report of two years ago suggested approx 56k gallons both tanks. This was refuted by Mr. House who said the tanks have nowhere that capacity. That report gave wrong dimensions, which is why we have not gone back to them. Mr. House will check for actual capacity of tanks.

Ms. Chappelle noted that RJV has worked well with us the past few months and this needs to be noted. On website, there are lots of documents there now on the transfer and attachments which show what we are getting. Ms. Chappelle will be adding more documents from PRC, etc. As we move forward, it will be easier for folks to have an understanding of what is happening.

Also, we ask for people to sign up for alerts. This is a great way to get info out fast.

FORMATION OF COMMUNITY VOLUNTEER BRIGADE

President asks who wants to volunteer and lead? The idea is we have a group that volunteer when you have time. We are stretched so it is difficult to coordinate volunteers. Mostly we need meter readers.

Cassandra and Mary offered to read meters.

Cassandra agreed to be organizer. Nominated by Cherie, seconded by Rick, voted and agreed.

DISCUSSION AND VOTE ON BYLAWS

Ms. McGowan motioned 1 member of board should be a landowner or seasonal resident. Mr. Dustin seconded.

Motion struck down by vote

Mr. Dustin moved that every member should be entitled to run and that if you are a member in good standing, you should be entitled to run for the board. Mr. Dustin feels there are people that have skills to contribute and should be able to run. Ms. Sanchez suggested we move forward since we voted on Ms. McGowan's motion.

Mr. Dustin suggested there should be no eligibility requirements for running for the board except those posted by the state. Mr. Dustin moved; Ms. McGowan 2nded. The motion was voted down.

Ms. McGowan had questions regarding easement and eminent domain. The Utility Act stipulates an easement is a necessity but must further needed interest. At this time there may be adjustments and fine tuning of easements to improve access. Ms. McGowan's easement has not been delineated but has been there for 20 years. Ms. Chappelle will work with them regarding surveys and actual easement.

A good survey of the easements will be completed once we have ownership. We need to address security, access, and erosion issues. Also perhaps privacy fences.

Ms. McGowan still has an old ditch with on her property which she has asked RJV to address. This is the only thing RJV has left on that property.

Ms. Germaine asked if there were any other questions on the bylaws.

The President asked for a vote:

The following members voted yes to the bylaws:

Debbie Holder, Christina Dunn, Cassandra Sanchez, Mary Serrano, Ursula Davies, Dennis Walker, Leslie McGowan, Chris Huber, Dough Windolph, Kyle Guire, Cherie Young, Mike House, Rick Neuenschwander, Vivian Hansen

The following member abstained:

John Dustin

Bylaws voted in.

NOMINATION AND VOTE OF BOARD MEMBERS

There were 3 positions appointed due to resignations:

Deb Holder as Treasurer

Cherie Young as Secretary

Kyle Guire as VP

Board suggested we retain these positions and vote them in.

John Dustin was Nominated, but as bylaws were voted in, he is disqualified.

The following members voted to retain all three:

Deb Holder, Christina Dunn, Cassandra Sanchez, Mary Serrano, Ursula Davies, Dennis Walker, Leslie McGowan, John Dustin, Chris Huber, Doug Windolph, Vivian Hansen, Rick Neuenschwander, Cherie Young, Kyle Guire

The Board voted in as stands.

SET DATE FOR NEXT ANNUAL MEETING

Mr. Dustin moves first Wednesday after first Monday of November of 2022 which would be:

November 9th - 6:00 PM

John Dustin agreed to get a grant committee. The committee will consist of:

John Dustin, Germaine Chappelle, Deb Holder, Leslie McGowan, Cherie Young. The committee will be called the Grant Subcommittee.

A motion to adjourn was submitted by Vivian Hansen and 2nded by Cherie Young

The meeting was adjourned at 8:45 PM

Minutes submitted by Cherie Young, Secretary